

THE POLITICS OF ABORTION AND THE RISE OF THE NEW RIGHT

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ABSTRACT

JENNIFER DONNALLY: “The Politics of Abortion and the Rise of the New Right”
(Under the direction of Jacquelyn Hall).

The Politics of Abortion and the Rise of the New Right argues that pro-life activists were pivotal to both the demise of the liberal New Deal Coalition and the rise of a conservative Reagan Coalition in the United States between 1973 and 1983. Prior to *Roe v. Wade*, the anti-abortion movement was single-issue. It sought to defend criminal abortion statutes and Republicans, Democrats, liberals and conservatives made up the small and predominantly Roman Catholic movement. After *Roe v. Wade*, the United State’s largest anti-abortion organization, the National Right to Life Committee, pursued two campaigns to overturn the decision. One campaign sought to establish fetal personhood through a Human Life Amendment. This amendment granted fetuses the rights of citizenship from the moment of conception. Fetal personhood was a new legal concept that would revolutionize American law, science, medicine and society. The other campaign sought to restrict abortion access within the confines of the decision, narrowing the window in which a legal abortion could be performed with the ultimate goal of making most abortions illegal. This campaign drew on a longer history of abortion opposition that sought to regulate women’s bodies and sexuality.

The two campaigns generated a heated conflict over strategy within the National Right to Life Committee that propelled the movement’s growing alliance with conservatives mobilizing in the Republican Party. Using the Human Life Amendment as a campaign litmus test, one group created a single-issue anti-abortion voter constituency and used that

constituency to polarize the American party system. When the Republican Party endorsed the Human Life Amendment in 1976, these activists then sought to shift Roman Catholics and Evangelical Protestants out of the Democratic Party and into the Republican Party. The other pro-life activists championed abortion restrictions that regulated underage, single and poor women's sexual practices and mobilized previously apolitical conservative Protestants. These two competing pro-life groups united to cut federal funding of abortions for women on public assistance. Through this anti-funding campaign, pro-lifers championed an anti-government ethos and defended their rights as taxpayers, paving the way for the social and economic conservative alliance that characterized the winning Reagan coalition of 1980.

*For Dad,
The best listener and most humble person I know*

*For Mom,
Thanks for your curiosity, open mind and willingness to talk to anyone*

*For my Family,
For keeping me grounded*

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Cynthia Greenlie, Sarah McNamara and Jessie Wilkerson for their friendships and their work on the Long Women's Movement. Our conversations about women's social and political activism have enriched my life and my work. The members of the Working Group in Feminism and History have inspired and informed me throughout my graduate school career. To my study partner Tim Cupery, thanks for being there to answer "Does this sound right?" more than I care to admit. Finally to my writing partner Cecelia Moore, I don't know if I would have finished the dissertation had we not joined forces. You saw the promise in lousy drafts and were an island of calm for me in the rush to finish. I treasure your friendship and your wisdom. Thanks to Melody Ivins for revising the work in its final stages.

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conservative men while expressing their frustration with sexism within the movement.

Thomas Connelly and Richard Carey helped explain the role of clinic protests in creating movement consensus. Thank you.

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INTRODUCTION

“Trying to pick up the pieces”¹

Stuck in Boston traffic, right to life activist Tom Connelly tuned in to a local news radio program on the frigid morning of January 22, 1973. Just after 10:00 A.M., he heard an announcement of the Supreme Court's *Roe v. Wade* and *Doe v. Bolton* decisions. Shocked, Connelly pulled his car over to the side of the highway. “It was,” according to Connelly, “a day in which anything else I had on my agenda, everything was changed to be secondary.”²

A tall, robust young man with a promising future as a physician, Connelly had dropped out of Vermont Medical School three years earlier and moved into his parent’s house after he failed to stop a friend from having an illegal abortion. Now he spent his time protesting abortion services outside Boston City Hospital. When he arrived home from his drive, he telephoned other right to life activists he knew as well as boyhood friends from his Catholic school years.³ He quickly learned that Dr. Joseph Stanton, an associate professor of Clinical Medicine at Tufts University, was organizing a state right to life group. Within seven days of

¹ Alice Hartle, “Don't Confuse us with facts,” *NRL News* 1 (August 1974): 8

²Jennifer Donnally interview with Thomas Connelly, Jr., September 20, 2010.

³ I use the terms anti-abortion, right to life, and pro-life interchangeably. While some scholars prefer to use the term anti-abortion to describe the movement, activists insist that their movement goes beyond the abortion issue to examine larger issues of personhood and the legal protection of life at its various stages. More recent histories have also begun to adopt the language of right to life and pro-life to describe this movement. See Sara Dubow, *Ourselves Unborn: A History of the Fetus in Modern America* (New York: Oxford University Press, 2010); Leslie J. Reagan, *Dangerous Pregnancies: Mothers, Disabilities, and Abortion in Modern America* (Berkeley: University of California Press, 2010).

Roe, Stanton and his anti-abortion allies founded Massachusetts Citizens for Life, Inc.⁴

Once incorporated, the organization's founders analyzed the Supreme Court decisions and debated movement strategies at meetings that, according to one of the male founders, “lasted so long that the shag carpet actually grew.”⁵ One passage in *Roe v. Wade* alarmed them most. The opinion read, “the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn,” thus the court “need not resolve the difficult question of when life begins.”⁶ To many right to life activists these two sentences went to the heart of the matter. They believed a fetus was a person from the moment of conception and held a hardline: abortion was murder, no exceptions. These pro-lifers believed the only way to remedy the Court’s decision was to pass a Human Life Amendment that would grant fetuses from the moment of conception the rights of Americans already born.⁷

Fetal personhood from the moment of conception, however, was a new and revolutionary legal concept that a majority of Americans had never encountered prior to January 1973.⁸ The small portion of the 209.90 million Americans who were familiar with

⁴Jennifer Donnally interview with Philip P. Moran, September 10, 2010.

⁵Jennifer Donnally interview with Philip P. Moran, September 10, 2010.

⁶*Roe v. Wade*, 410 U.S. 113 (1973)

⁷Cynthia Gorney, *Articles of Faith: a Frontline History of the Abortion Wars* (New York: Simon and Schuster,1988): 163

⁸Americans’ relationship to and understanding of fetal subjects had been and continues to be fluid and ambiguous. This was due in part to the fact that humans lacked the technology to identify early fetal life until the twentieth century. For most of history, a pregnancy and therefore a fetus could only be proven to exist under the law at the point of quickening, when a fetal movement could be felt. Fetal movement often occurs in the second trimester, sometime after the fifteenth week of pregnancy. At the point of quickening, fetuses gained some legal rights under English Common law in the eighteenth century and in American law in the nineteenth and twentieth centuries, foremost of which was the right to inherit property. At the time of *Roe*, the legal status of fetuses and their rights were in flux and differed from state to state. For instance, criminal cases involving the injury of and death of pregnant women raised a number of questions concerning the legal status of a fetus until a federal law made the intentional killing of a pregnant woman a double homicide in 2004. While Marvin Olasky has argued that American doctors lobbied to pass criminal abortion laws to protect fetal life, both in its potential and actual form, the legal campaign to establish and protect fetal rights and personhood from the moment of

fetal personhood prior to *Roe v. Wade* were likely Roman Catholics or Protestants affiliated with the right to life movement. In 1973, Roman Catholic Church membership numbered between forty-eight and fifty million while the right to life movement numbered at best in the thousands, with a dedicated core of activists that numbered in the hundreds. Yet, when the Supreme Court announced the *Roe v. Wade* decision in 1973, a January 28 Gallup poll showed that as many as forty-five percent of Americans opposed legal abortion access compared to the forty-six percent of Americans who favored it.⁹ Clearly, some right to lifers observed, a set of issues beyond fetal personhood had informed American's opposition to abortion during the criminal era and would continue to inform opposition to abortion in the legal era. Rather than championing fetal personhood, many Americans supported criminal abortion statutes because they believed such statutes discouraged a woman's promiscuity and a litany of other undesirable behaviors that they associated with abortion while coercing a woman to accept what these Americans believed was a woman's most important role, motherhood.¹⁰

conception is grounded in the contemporary anti-abortion movement. Since *Roe v. Wade*, the campaign to establish fetal rights and personhood has touched upon many areas of science, medicine and law outside the abortion issue, including but not limited to in-vitro fertilization, birth control, artificial insemination, human cloning, surrogate motherhood, and research using fetal tissue. See Dubow, *Ourselves Unborn*; Cynthia Daniels, *At Women's Expense: State Power and the Politics of Fetal Rights*, (Cambridge: Harvard University Press, 1993); Ed Doerr and James W. Prescott, eds., *Abortion Rights and Fetal 'Personhood,'* (Long Beach, California: Centerline Press, 1990); Barbara Duden, *Disembodying Women: Perspectives on Pregnancy and the Unborn* (Cambridge: Harvard University Press, 1993); Steven Maynard-Moody, *The Dilemma of the Fetus: Fetal Research, Medical Progress, and Moral Politics* (New York: St. Martin's Press, 1995); Marvin Olasky, "The Doctor's Campaign in Context" in *Abortion Rites: A Social History of Abortion in America* (Wheaton, Ill: Crossway Books, 1992), 131-149; James Davison Hunter and Joseph E. Davis, "Cultural Politics at the Edge of Life" in *The Politics of Abortion and Birth Control in Historical Perspective*, ed. Donald Critchlow (University Park, Penn: The Pennsylvania State University Press), 105-6; Daniel Williams, "No Happy Medium: The Role of American's Ambivalent View of Fetal Rights in Political Conflict over Abortion Legalization," *The Journal of Policy History* 25 (January 2013): 42-61.

⁹ "Poll Reports Abortion Gains in Public Favor," *Los Angeles Times* (Jan 28, 1973): 6.

¹⁰ Histories of abortion in the criminal era have focused on questions of access, availability and safety and how states used abortion laws to regulate women's bodies and sexual practices. These same questions

This larger opposition to abortion for reasons other than fetal personhood led another contingent of pro-lifers to focus on *Roe v. Wade*'s division of pregnancy into trimesters. In the decision, the Court assigned each trimester of pregnancy a different legal frame for regulating abortion access. The court ruled that in the first trimester, "the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician." In the second trimester, "the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health." And finally, at the time subsequent to viability when a fetus could survive independent of a woman's womb, "the State . . . may . . . regulate . . . abortion except where it is necessary . . . for the preservation of the life or health of the mother."¹¹ Due to this trimester framing, the Court opened the possibility that state legislatures could continue to restrict abortion access at different stages of a pregnancy much as they had in the criminal abortion era. If pro-lifers pursued such restrictions, some movement leaders argued, they could test the limits of the court decision and build anti-abortion support amongst Americans who were tentative about establishing fetal personhood. These activists came to

continued to animate the debate over abortion policy in the legal era following *Roe v. Wade* thanks to incremental right to life efforts to restrict access during different points in the pregnancy and to the joint efforts of incremental and hard-line activists to place as many barriers as possible between a woman and an abortion provider. See David Cline, *Creating Choice: A Community Responds to the Need for Abortion and Birth Control, 1961-1973*, (New York: Palgrave Macmillan, 2006); Carol Joffe, *Doctors of Conscience: The Struggle to Provide Abortion before and after Roe v. Wade*, (Boston: Beacon Press, 1995); Ellen Messer and Kathryn E. May, eds., *Back Rooms: An Oral History of the Illegal Abortion Era* (New York: Simon and Schuster, 1988); James C. Mohr, *Abortion in America: The Origins and Evolution of National Policy* (Oxford: Oxford University Press, 1978); Leslie Reagan, *When Abortion was a Crime: Women, Medicine and Law in the United States, 1867-1973* (Berkeley: University of California Press, 1997); Johanna Schoen, *Choice and Coercion: Birth Control, Sterilization and Abortion in Public Health and Welfare* (Chapel Hill: University of North Carolina Press, 2005); Ricki Solinger, *The Abortionist: A Woman Against the Law*, (Berkeley: University of California Press, 1994); Solinger, *Wake Up Little Susie: Single Pregnancy and Race Before Roe v. Wade* (New York: Routledge, 2000); Solinger, *Pregnancy and Power: A Short History of Reproductive Politics in America* (New York: New York University Press, 2005).

¹¹*Roe v. Wade*, 410 U.S. 113 (1973).

champion a pragmatic and incremental strategy.

These differing reactions to the *Roe v. Wade* decision set up a strategy divide between hardline and incremental activists within the National Right to Life Committee, the nation's largest anti-abortion organization. The conflict boiled down to a question over movement priorities. Was this a movement that wanted to establish fetal personhood and citizenship rights from the moment of conception, a view that not only criminalized abortion but also set a legal precedent that would have a radical impact on American law, science, medicine and society? Or was this a movement that sought to restrict access to abortion, a view that could gradually narrow the window in which a legal abortion could be performed with the ultimate goal of making all, or at least most abortions illegal? For many pro-life activists, the two questions were irreconcilable. In February 1973, Massachusetts Citizens for Life chose the incremental route. Tom Connelly, who held a hard line on fetal personhood, left the organization. Connelly believed that if the right to life movement accepted the legal terminology of *Roe v. Wade* and its trimester framing in order to pass abortion restrictions, "then what you are doing is [accepting abortion rights supporters'] definition of what is going on."¹² He would not violate the principle of fetal personhood to save some fetuses' lives in the short term. These strategy divisions between incremental and hardline activists were so intense because both groups of right to life activists characterized abortion as murder. Put another way, pro-lifers couldn't agree on the answer to the one question they used to judge any strategy choice: What was the best way to save the most unborn babies' lives?¹³

¹²Jennifer Donnally interview with Thomas Connelly, Jr., September 20, 2010.

¹³ Oral histories and right to life organization papers show that activists themselves understood and continue to understand their movement and its alliance with the Republican Party in relation to the central tension between establishing fetal personhood and winning abortion restrictions. For three examples of National Right to Life Committee leaders reflecting on this division in the past and present, see Alice Hartle, "Don't Confuse Us With Facts," *NRL News*, 1 (August 1974): 8 and Author's notes from Burke Balch, "The History of

How pro-lifers answered this question at different times and places explains the movement's political trajectory between 1973 and 1983. Prior to *Roe v. Wade*, the pro-life movement was single-issue driven, made up of Republicans and Democrats, conservatives and liberals. This self-described motley crew banded together to defend state criminal abortion statutes against a movement made up of medical professionals, lawyers, feminists and population control advocates who wanted to reform and repeal state criminal abortion statutes. No American political party was closely identified with an abortion position. When the court released *Roe v. Wade* in January 1973, few pro-life leaders could have predicted the Republican alliance that most Americans assume today. Activists such as Thomas Connelly in Massachusetts fully expected that the pro-life movement would align with the Democratic Party because in 1973 more Democratic politicians identified with the anti-abortion position than Republicans. Even in 1976, sixty percent of registered Republicans supported legal abortion access.¹⁴

The division over fetal personhood and abortion restrictions that erupted in *Roe v. Wade*'s aftermath created two concurrent movement paths that had a direct impact on United States electoral politics. Hardline activists used the Human Life Amendment as a campaign litmus test for all politicians and created a single-issue anti-abortion vote constituency. During elections, they used this voting constituency to pressure politicians and parties to come out with a favorable anti-abortion position. Due to hardline pro-life organizing in both the Democratic and Republican Parties in 1976, the parties adopted competing abortion

the Pro-Life Movement: Lessons of the Future- Part 1” at the National Right to Life Convention, 2009, and Daniel Becker, *Personhood: A Pragmatic Guide to Pro-life Victory in the 21st Century and the Return to First Principles in Politics* (Alpharetta, Georgia: TKS Publications), 2011, 34-36.

¹⁴ Daniel K. Williams, “The GOP’s Abortion Strategy: Why Pro-Choice Republicans became Pro-Life in the 1970s,” *The Journal of Policy History* 23 (2011): 213.

platforms. In pro-lifers' own view, the Democratic Party became the party of death and the Republican Party became the party of life. Politicians and hardline pro-life activists then sought to realign the American electorate, shifting Catholics and Southern Evangelicals out of the Democratic Party and into the Republican Party. In contrast, incremental leaders compromised on fetal personhood in order to pursue abortion restrictions at the local and state level and recruit Protestants who were reluctant to take a hard line position on abortion and fetal personhood. They focused on building conservative coalitions by forging anti-abortion alliances across denominational lines, mobilizing previously inactive voting constituencies and cultivating ties with conservative leaders of the Republican Party. Thus both hardliners and incrementalists further propelled an alliance with the Republican Party, even as they attacked one another.

Whereas strategy divisions helped fuel the initial pro-life alliance with the Republican Party, moments of unity between incrementalists and hardliners solidified that alliance and ensured its viability for the long term. Between 1974 and 1981, all pro-life activists rallied behind a campaign to cut government funding of abortion at the local, state and national level. Whether right to life activists prioritized a constitutional amendment to establish fetal personhood or pursued abortion restrictions, they agreed that the government and their tax money should be kept out of what they called the abortion business. While many historians of abortion and conservatism have acknowledged the anti-abortion funding campaign, they have not fully explored it or its ramifications.¹⁵ This dissertation places the campaign to cut

¹⁵ For brief discussions of the Hyde Amendment, a ban on federal Medicaid funding of abortion and abortion referral services that first passed in 1976, see: Linda Gordon, *The Moral Property of Women: A History of Birth Control in America*, (Urbana and Chicago: University of Illinois Press, 2002), p 311-312; Connie Paige, *The Right to Lifers: Who they are, how they operate and where they get their money* (New York: Summit Books, 1983), 111-12; Robert Self: *All in the Family: The Realignment of American Democracy Since the 1960s* (New York: Hill and Wang, 2012); 289-291. The Hyde Amendment has received more attention in histories of the pro-choice movement and the contemporary feminist movement. These histories credit the

government funding of abortion at the center of conservative coalition building efforts in the 1970s. The campaign against government funding not only helped to indoctrinate single-issue pro-life activists who had supported the liberal consensus and the Democratic Party into a larger conservative worldview, but also generated and expanded the rhetoric, political strategies and networks that would come to characterize the winning Reagan coalition of 1980.

To ban government funding of abortion, right to life activists deployed two arguments. First, they defended their rights as taxpayers not to pay for a procedure they equated with murder. Second, they defined government abortion funding for women on public assistance as a population control measure and as a form of genocide against poor minority communities. The federal government, right to life activists charged, was more interested in getting rid of the poor and minorities than it was in helping them. Because both hard line and incremental activists agreed to pursue prohibitions on abortion funding, almost all pro-life activists adopted these arguments against the government regardless of their party affiliation or political ideology. Through the campaign to stop government funding of abortions then, pro-life activists came to view the federal government as a corrupt and overbearing institution. They also learned to champion a conservative anti-tax and anti-elite ethos.

These pro-life arguments against the government and in defense of taxpayer's rights

funding ban for mobilizing the contemporary pro-choice movement to defend abortion access in the aftermath of the *Roe v. Wade* decisions. See Merle Hoffman, *Intimate Wars: The Life and times of the woman who brought abortion from the Back Alley to the Board Room*, 2012; Jennifer Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003), Dorothy Roberts, *Killing the Black Body: Race, Reproduction and the Meaning of Liberty* (New York: Vintage Books, 1997); Suzanne Staggenborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (Oxford: Oxford University Press, 1991). For a more in-depth treatment of the Hyde Amendment, questions of access and the politics of the Right see Rosalind Petchesky, *Abortion and Woman's Choice: The State, Sexuality, and Reproductive Freedom* (Boston: Northeastern University Press, 1990).

converged with the anti-busing and anti-welfare rhetoric that was sweeping through American cities and suburbs in the 1960s and the early 1970s.¹⁶ At the local level, many white Americans responded to school desegregation by defending what they considered to be their rights as property owners and taxpayers. These rights included determining who attended which public school in their communities, regulating what was taught in the public schools, and defending residential segregation.¹⁷ Increasing numbers of urban working-class whites and suburbanites viewed their rights as property owners and taxpayers as superseding the rights that poorer Americans and minorities had just gained as part of the President Johnson's War on Poverty and the civil rights movement. These anti-government and pro-taxpayer rights arguments also resonated with the defense of a free market economy by conservative American businessmen who were organizing against federal government regulations in the early 1970s.¹⁸ Through the campaign against Medicaid funding of

¹⁶ The first scholarly accounts of the rise of the contemporary Right focused on the phenomenon of “backlash” politics and a “reactionary populism” of the white working class. These accounts examine how white working-class voters of the Rust Belt, Northeast and Deep South, once thought to be stalwarts of liberalism, increasingly voted for conservatives and the Republican Party in the 1970s and 1980s. For examples see: Ronald P. Formisano, *Boston against Busing: Race, Class, and Ethnicity in the 1960s and 1970s* (Chapel Hill, 1991); Thomas Byrne Edsall and Mary D. Edsall, *Chain Reaction: The Impact of Race, Rights and Taxes on American Politics* (New York: 1991); Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics* (New York: 1995).

¹⁷ In more recent histories of conservatism, scholars have focused on the phenomenon of conservative suburbanites in the Sun Belt states. These histories take conservatives at their word and explain the political strategies, ideas and organizations to better understand how the conservative movement coalesced in the post-1945 period. For examples, see Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton: Princeton University Press, 2007); Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton: Princeton University Press, 2005); Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006); Lisa McGirr, *Suburban Warriors: The Origins of the New American Right* (Princeton: Princeton University Press, 2001); Robert Self, *American Babylon: Race and the Struggle for Postwar Oakland* (Princeton: Princeton University Press, 2003); Thomas Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton: Princeton University Press, 1995). I'm drawing from both accounts to explain how the pro-life activists, who came from different class backgrounds and regions, began to adopt conservative arguments against the federal government and in defense of taxpayers' rights.

¹⁸ For histories of the economic right see Bethany Moreton, *To Serve God and Wal-Mart: The Making of Christian Free Enterprise* (Cambridge: Harvard University Press, 2009) and Kim Phillips-Fein, *Invisible Hands: The Making of the Conservative Movement from the New Deal to Reagan* (New York: Norton, 2009).

abortion, right to life further solidified alliances with conservative organizations mobilizing in the Republican Party and adopted the anti-tax and anti-government rhetoric that would come to characterize the Reagan Coalition.

This dissertation traces the history of the National Right to Life Committee in order to map the strategy divisions and consensus of the pro-life movement onto pivotal developments in the rise of American conservatism. While the National Right to Life Committee is the nation's oldest anti-abortion organization and was its largest and best known anti-abortion organization throughout the 1970s, no scholar has written an in depth history of it.¹⁹ Founded in 1968 by a handful of Catholic right to life activists and two priests, the National Right to Life Committee was first housed under the Family Life Bureau of the National Conference of Catholic Bishops. In the wake of *Roe v. Wade*, a group of state Protestant and lay Catholic leaders incorporated the National Right to Life Committee as a non-profit organization separate from the Catholic Church. In the 1970s, it evolved into one of the few social conservative organizations not led by conservative ministers or affiliated closely with any one religious institution or denomination. From 1973 on, its fifty-five member Board of Directors included a democratically elected representative from each of the fifty states and five at-large members from other national anti-abortion organizations. The

Molly C. Michelmore, "What have you done for me lately? The Welfare State, Tax Politics, and the Search for a New Majority, 1968-1980," *Journal of Policy History*, 24 no. 4, (2012) 709-740.

¹⁹ While no study has focused on the National Right to Life Committee, scholars and journalists have paid particular attention to the National Right to Life Committee. See Paige, *The Right to Life*; Neil Young, "We Gather Together:" Dallas Blanchard, *The Anti-Abortion Movement and the Rise of the Religious Right: From Polite to Fiery Protest* (New York: Twayne, 1994).

National Right to Life Committee also maintained a non-partisan political stance even though it increasingly developed close ties with Republican politicians. Today it still serves as the flagship organization of the mainstream pro-life movement.

By tracing the history of the National Right to Life Committee, I capture the strategy debates and pro-life campaigns from the grassroots to the national level. By focusing on developments in three states, Kansas, Massachusetts and North Carolina, I also compare and contrast state laws, political campaigns and political coalitions in a cross-regional context. The result challenges notions of Red State and Blue State divides while highlighting the importance of religion and local politics to the pro-life movement's development and the rise of modern conservatism. For example, Kansas Right to Life championed the hard line strategy early on and was one of the first state affiliates to attack Democrats and champion Republican candidates. Massachusetts Citizens for Life and North Carolina Right to Life, on the other hand, pursued incremental initiatives but drew their membership from different populations and formed different political alliances. In 1973, Massachusetts had one of the highest populations of Roman Catholics in the country; North Carolina had the lowest. Thus, activists in North Carolina Right to Life focused on recruiting conservative Protestants into the movement. The group's status and its ability to pass anti-abortion legislation at the state level rose with the consolidation of a pro-family social conservative base in the state's Republican Party. North Carolina's Republican Party, in turn, grew stronger as increasing numbers of former conservative Democrats joined its ranks and as increasing numbers of Southern Baptists became political. In Massachusetts, incremental activists built relationships with Roman Catholic Democratic politicians who ruled the state legislature. Massachusetts Citizens for Life's ability to pass legislation drastically decreased as feminists and Mass

Choice campaigned for Democratic candidates who supported abortion access. Feminists eventually won enough “pro-choice” Democrats to win the state party, forcing anti-abortion single-issue voters into the weaker state Republican Party.

Between 1973 and 1983, these differences in political alliances and strategies between state affiliates of the National Right to Life Committee resulted in a fractious and highly contentious Board of Directors. Incremental and hardline activists built coalitions and voting blocks to push their respective strategy preferences through, while conservative Republican leaders had to contend with more liberal Democratic leaders when shaping policy statements, allocating money and backing candidates. To build movement consensus amidst these divisions, the Board of Directors often turned to the grassroots. They referred resolutions and deferred votes until activists at the local and state level could resolve the strategy conflicts and create a grassroots consensus that trickled up to the National Board. At the same time, National Right to Life Committee lobbying campaigns for national policies were often coordinated top-down. The Washington, D.C. staff directed which state lobby group should lobby who and when.

A history of the National Right to Life Committee contributes to histories of abortion and scholarship on American conservatism in four significant ways. To date, histories of American conservatism have focused either on the grassroots and local contexts, telling a bottom-up story, or on the national organizations, institutions, think tanks and networks of conservative leaders, telling a top-down story. The unique organizational structure of the National Right to Life Committee allows for both bottom-up and top-down narratives that explain the shifting power dynamics between conservatives at the grassroots and national leaders in Washington, D.C. By telling local and state narratives in a comparative context

and integrating them into a national narrative, this dissertation provides a fuller, more complex and accurate accounting of conservative mobilization in America.

A history of the National Right to Life Committee also sheds light on the history of other pro-life organizations and their political priorities as well. Many of the other national anti-abortion organizations formed as a result of unresolved differences within the National Right to Life Committee, including American Citizens Concerned for Life and American Life Lobby. Many of these organizations' top officers found themselves out of favor with the grassroots and the National Right to Life Committee for championing a certain policy or for implementing a controversial strategy. In those cases, the Board of Directors voted the leaders out of office and out of power and those leaders responded by establishing their own national anti-abortion organizations. Other National Right to Life Committee leaders quit to found more autocratic organizations where power was more centralized and easier to wield. At the same time, many national leaders of other pro-life organizations found themselves on the National Right to Life Committee's Board of Directors as one of the five at-large board members. They then became embroiled in the same debates and divisions plaguing the organization. An in depth history of the National Right to Life Committee thus provides a window into the history of the entire movement.

Third, the National Right to Life Committee serves as an ideal case study to examine conservative organizations' relationships with and their response to the more radical and violent fringes of their respective movements. Between 1973 and 1983, actions against abortion providers at the local level generated the grassroots consensus that trickled up to the National Right to Life Committee board. Legal clinic protests and illegal clinic sit-sin helped fuel the movement's growing focus on shutting down abortion providers in the mid

1970s. Beginning in 1976, these protests against providers encouraged a small group of activists to use violence to intimidate abortion providers. Rather than a source of division, as some scholars have argued, protests against abortion providers and illegal clinic sit-ins and violence served as a common ground for the right to life movement.²⁰ The spaces outside an abortion provider's doors, both literally and figuratively, were often the one place where grassroots right to lifers could meet, debate and agree. Outside clinics, pro-lifers could agree that they should do whatever was legally possible to save as many babies as they could in the here and now while others engaged in illegal activities. Thus as levels of illegal activity and violence increased, the National Right to Life Committee correspondingly increased legal pressure on providers, introducing laws and regulations aimed at putting them out of business.

Finally, the story of the National Right to Life Committee highlights the important

²⁰ While scholars have argued that a proliferation of pro-life organizations and divisions fueled the national movement's growth and increase in political power between 1976 and 1980, many have analyzed clinic protests and the clinic sit-in movement as separate from the mainstream movement's focus on politics and education. These scholars correctly identify the impetus of the sit-in movement with a discontent over the mainstream movement's embrace of incremental strategies in 1975 and the Republican Party alliance in 1976. They then trace internal tensions and divisions within the sit-in or "direct action" stream of pro-life activism in order to explain how some activists began to engage in acts of anti-abortion violence and terrorism in the aftermath of the human life amendment failure in 1983. See Patricia Baird-Windle and Eleanor J. Bader, *Targets of Hatred: Anti-Abortion Terrorism* (New York: Palgrave, 2001); Zaid Munson, *The Making of Pro-Life Activists: How Social Movement Mobilization Works* (Chicago: University of Chicago Press, 2002); Jeffy Reiter, *Live from the Gates of Hell: An Insider's Look at the Antiabortion Underground* (Amherst, New York: Prometheus Books, 2000), James Risen and Judy L. Thomas, *Wrath of Angels: The American Abortion War*, (New York: Basic Books, 1998). These analyses centered on either on the clinic sit-in movement or the mainstream movement has deepened a strategy division within the pro-life movement to a level that the testimony and actions of national pro-life leaders and grassroots activists complicate. Through in-depth local case studies of pro-life activism and actions against local clinics, other scholars have shown that clinic protests have been and continue to be pivotal in forwarding mainstream activism. They argue the clinics are the frontline of the abortion wars, both in terms of public policy and protest. See Alesha E. Doan, *Opposition and Intimidation: The Abortion Wars and Strategies of Political Harassment* (Ann Arbor: The University of Michigan Press, 2007); Faye Ginsburg, *Contested Lives: The Abortion Debate in an American Community* (Berkeley: University of California Press, 1989); Cynthia Gorney, *Articles of Faith*; Sue Hertz, *Caught in the Crossfire: A Year on Abortion's Front line* (New York: Prentice Hall Press, 1991); Carol Joffe, *Dispatches from the Abortion Wars: The Costs of Fanaticism to Doctors, Patients, and the Rest of Us* (Boston: Beacon Press, 2009); Carol Mason, *Killing for Life: The Apocalyptic Narrative of Pro-life Politics* (Ithaca: Cornell University Press, 2002); Stephen Singular, *The Wichita Divide: The Murder of Dr. George Tiller and the Battle Over Abortion* (New York: St. Martin's Press, 2011).

contributions of conservative women to forging the winning conservative coalition under Reagan. Female National Right to Life Committee leaders such as Mildred Jefferson, Nellie Gray and Carolyn Gerster as well as state leaders such as Emma O’Steen and Patricia Goodson have been relegated to the margins of histories of American conservatism. While male leaders of the New Right, who authored some of the first histories of modern conservatism, acknowledged the contributions of conservative organizers and ideologues Phyllis Schlafly and Connie Marshner, they left out female leaders of the anti-abortion movement.²¹ This is so despite the fact that Mildred Jefferson and Carolyn Gerster often attended the same meetings and conferences as New Right leaders and were the brains behind the Hyde Amendment campaign, one of the most important social conservative policies and one of their few victories. In the same way, more recent histories of female conservatives have focused on all-female conservative organizations such as the women’s auxiliaries of the Republican Party, anti-communist organizations and the Eagle Forum. An in depth history of an organization jointly run by conservative men and women such as the National Right to Life Committees illuminates conflicts and negotiations between the sexes, the barriers conservative women broke through to gain leadership and power and how competing conceptions of gender roles informed the pro-life movement’s development.²²

²¹ Lee Edwards, *The Conservative Revolution: The Movement that Remade America* (New York: The Free Press, 1999), 183-193; Richard Viguerie, *The New Right: We’re Ready to Lead* (Falls Church, VA: Richard Viguerie Company, 1980), 51-81; George Nash, *The Conservative Intellectual Movement in America since 1945* (Wilmington, DE: ISI Books, 2006). Even male right to life leaders overlook the important contributions of female leaders at the national level and cite the contributions of male lawyers, physicians and theologians. See Jack Wilke, “A History of Pro-Life Leadership: For Better or Worse,” *Back to the Drawing Board: The Future of the Pro-Life Movement*, ed. Teresa R. Wagner (South Bend, Indiana: St. Augustine’s Press, 2003), 123-136.

²² Donald T. Critchlow, *Phyllis Schlafly and Grassroots Conservatism: A Woman’s Crusade* (Princeton: Princeton University Press, 2005); Catherine Rymph, *Republican Women: Feminism and Conservatism From Suffrage Through the Rise of the New Right*, (Chapel Hill: University of North Carolina Press, 2006); Ronnee Schreiber, *Righting Feminism: Conservative Women and American Politics* (Oxford: Oxford University Press, 2008); Donald G. Mathews and Jane Sherron De Hart, *Sex, Gender and the Politics of*

To better highlight the contributions of conservative women and the pro-life movement, this dissertation employs specific terms to refer to different groups of conservatives that aligned with the Republican Party to form the winning Reagan coalition of the 1980s. These terms are not definitive and many scholars have used them interchangeably to describe a fluid network of social conservative people and leaders. Indeed, many of the men and women who make up the modern conservative movement belong to numerous organizations and champion different conservative causes.²³ Other conservative organizers, however, are not so interchangeable. They may have begun their activism by championing a single cause and branched into other conservative activities, or they may not have. Employing terms such as the New Right, Christian Right and pro-family to refer to the same group of people has led some scholars to give modern conservatism a cohesion that does not accurately capture the conflicts and paradoxes undergirding various ideologies, belief systems and strategy priorities. Nor can such cohesion fully explain the differences and tensions between Republican Party leaders and conservative leaders. Moreover, blurring the

ERA, (Oxford: Oxford University Press, 1990); Kirsten Marie DeLegard, *Battling Miss Bolsheviki: The Origins of Female Conservatives in the United States* (Philadelphia: University of Pennsylvania Press, 2012); Michelle Nickerson, *Mothers of Conservatism: Women and the Postwar Right* (Princeton, NJ: Princeton University Press, 2012); Kathleen M. Blee, *Women of the Klan: Racism and Gender in the 1920s* (Berkeley: University of California Press, 1991) and Blee, *No Middle Ground: Women and Radical Protest* (New York: New York University Press, 1998); Kristen Luker, *Abortion and the Politics of Motherhood*, (Berkeley: University of California Press, 1984), Kim E. Nielsen, "Doing the 'Right' Right," *Journal of Woman's History*, 16 (Fall 2004), 168-172; Kim E. Nielsen, *Un-American Womanhood: Antiradicalism, Antifeminism and the First Red Scare* (Columbus: Ohio State University Press, 2001); Nancy MacLean, *Behind the Mask of Chivalry: The Ku Klux Klan in Indiana, 1921-1928* (Chapel Hill: University of North Carolina Press, 2007).

²³ Collapsing the differences between the New Right, Pro-family/pro-life movement and Christian Right is understandable when analyzing the larger Reagan coalition of 1980 and the wider streams of thought undergirding modern American conservatism. Reagan, according to Lee Edwards, brought together libertarians, neoconservatives, neoliberals, and social conservatives. Within this coalition, the New Right, Pro-Family and Christian Right made up the social conservative base whose policy goals were more about creating the City of God on earth and fighting back the government than pushing any one economic policy. See Lee Edwards, *The Conservative Revolution, 189-199* and Ryan Sager, *The Elephant in the Room: Evangelicals, Libertarians, and the Battle to Control the Republican Party* (Hoboken: Wiley, 2006).

distinctions between the New Right, pro-family movement and the Christian Right, especially in the 1970s, has caused scholars to focus on male conservative leaders who have left more archival records and wrote the first histories of their movement, while paying less attention to conservative women and the male and female leaders of the pro-life movement, too few of whom have placed their papers in archives. In oral interviews, conservative women have charged correctly that they were partners with male conservative leaders and that conservative Christian ministers often followed them into political activism, not vice versa.²⁴

This dissertation thus limits the networks of people who fall under each term in the 1970s, while also acknowledging that many conservative leaders came to see themselves as belonging to all three groups by the 1980s and 1990s. These terms thus refer to networks of people and a time and place between 1973 and 1983. Taken together, the New Right, pro-family movement and Christian Right came to make up a social conservative base in the Republican Party and a core component of Reagan's winning coalition. Thus by 1980, many journalists often saw these different groups of social conservatives as belonging to one "New Right" movement within the Republican Party.

"New Right" in this dissertation refers to the baby boomer generation of conservative activists that set out to revolutionize American politics in the 1960s and 1970s.²⁵ Many leaders of the New Right entered a larger conservative network through Young Americans for Freedom, a conservative organization founded in 1960 during a college students' retreat

²⁴ Interviews with Mildred Jefferson by Jennifer Donnally, October 22, 2007 and 21 September 2010, Interview with Anne Fox by Jennifer Donnally, 20 September 2010, Interview with Eleanor Raftery by Jennifer Donnally, 16 September 2010, Interview with Madeline McCormish, 20 September 2010, Interview with Ellen Meyers, 8 December 2009.

²⁵ Rebecca Klatch, *A Generation Divided: The New Left, the New Right, and the 1960s* (Berkeley: University of California Press, 1999) and Paul Lyons, *New Left, New Right and the Legacy of the Sixties* (Philadelphia: Temple University Press, 1996).

at the estate of conservative intellectual and commentator William Buckley, or through Barry Goldwater's 1964 Republican presidential campaign. Indebted to an older generation of conservatives who had organized against the New Deal in the 1930s and sought to create a more consistent conservative political ideology in the 1940s and 1950s, this generation of conservative activists sought to make a mark on politics through a more pragmatic and less intellectual endeavor.

They set out to create a conservative counterrevolution. To do so, they wanted to dismantle the New Deal political coalition that undergirded the Democratic Party's overwhelming electoral successes since 1932 and to defeat a Cold War Liberalism that had permeated the Republican and Democratic Parties in the 1950s and 1960s. Between 1973 and 1975, leaders of the New Right founded and led a number of conservative institutions, organizations and political committees, including the Heritage Foundation in 1973, the Committee for the Survival of a Free Congress and the Conservative Caucus in 1974, and the National Conservative Political Action Committee in 1975.²⁶ These organizations, along with a series of conservative media outlets, created a powerful conservative establishment that would help forge grassroots conservative groups across the United States into a national coalition between 1975 and 1980 and help ensure the conservative take over of the Republican Party.²⁷ Kevin Phillips, a political columnist and former analyst for the Nixon presidential campaigns, dubbed the men and women who led these organizations the "New Right" in 1975.²⁸ The term caught on and by 1980 became synonymous with Ronald

²⁶ Donald Critchelow, *The Conservative Ascendancy: How the GOP Right Made Political History*. (Cambridge: Harvard University Press) 129.

²⁷ Bruce J. Schulman and Julian E. Zelizer, "Introduction," *Rightward Bound: Making American Conservatism in the 1970s*, ed. Schulman and Zelizer, (Cambridge: Harvard University Press, 2008), 5-7.

²⁸ According to Richard Vigueire, the term "New Right" was first used by Lee Edwards in 1962 when

Reagan's rise to power both in terms of the political coalition and conservative establishment supporting his candidacy.

“Pro-family” applies to conservative organizations primarily led by women who had begun to organize around issues of gender and sexuality in the 1960s and early 1970s. These women consolidated their efforts into a coalition against the International Women's Year in 1977. At that time, the “pro-family” movement brought together Phyllis Schlafly's “Stop ERA” campaign, Anita Bryant's anti-gay “Save Our Children” campaign, the pro-life movement, state conservative women's caucuses, and various women's church groups. While conservatives had been rallying in defense of “family values” prior to 1977, women did much of the work in building a “Pro-family” movement with certain policy goals and political power in 1977 and 1978.²⁹ Once organized, they partnered with many of the male leaders of the New Right to back certain political candidates and government policies.

The “Christian Right” characterizes a group of evangelical and fundamentalist Protestant ministers who established a series of political organizations between 1975 and 1980. While Protestant ministers' engagement in politics had a long history in post-war conservatism due to their embrace of anti-communism, these ministers entered politics in a more overt way in the late 1970s at a time when evangelical and fundamentalist congregations were growing in popularity. To capitalize on the growing numbers of

he proposed a conservative platform for Young Americans for Freedom in *The New Guard*; in an article entitled “The New Right: Its Face and Future.” In 1969, conservative columnist M. Stanton Evans used the term to describe the emerging conservatism on college campuses, comparing it to the New Left. Kevin Phillips was the first to apply the term to this particular group of men in 1975. See Viguerie, *The New Right*, 55.

²⁹ For work on the family prior to and during the International Women's Year, see Matt Lasiter, “Inventing Family Values,” in *Rightward Bound: Making American Conservatism in the 1970s*, ed. Schulman and Zelizer, (Cambridge, MA: Harvard University Press, 2008), 13-28, and Natasha Zaretsky, *No Direction Home: The American Family and the Fear of National Decline, 1968-1980* (Chapel Hill: University of North Carolina, 2007).

evangelical and fundamentalist Christians and to exert influence in American society and politics, the ministers who made up the Christian Right led get-out the vote campaigns, organized rallies, and demanded that Republican politicians pay attention to the social policies and culture views they backed. Their issues included school prayer, abortion, gay marriage, pornography, and the Equal Rights Amendment.³⁰

Each chapter follows key moments of division and consensus in the National Right to Life Committee and follows the organization's role in the formation of the winning Reagan Coalition within the Republican Party. The chapters show how the pro-life movement held together despite divisions over fetal personhood and abortion restrictions, and how those divisions and consensuses shaped alliances with leaders and organizations of the New Right, the pro-family movement and Christian Right. Focusing on the how of conservative political coalition building, the chapter organization captures the uneasy and tenuous alliance undergirding the Reagan Coalition while also explaining in part, why electoral victories came more easily than policy victories for social conservatives in the Republican Party.

Chapter One, "The Disqualifying Issue," analyzes the establishment of the National Right to Life Committee, Inc between 1973 and 1974. At this point, hard line activists won the day. They made a Human Life Amendment the organization's top priority and directed state affiliates to use the amendment as the sole campaign litmus test for the upcoming 1974

³⁰ For work on the Christian Right, see Darren Dochuk, *From Bible Belt to Sunbelt: Plain-Folk Religion, Grassroots Politics, and the Rise of Evangelical Conservatism* (New York: 2011); William Martin, *With God on Our Side: The Rise of the Religious Right in America* (New York, 1996); Ann C. Loveland, *American Evangelicals and the U.S. Military, 1942-1993* (Baton Rouge, 1996); Kenneth J. Heineman, *God is a Conservative: Religion, Politics and Morality in Contemporary America* (New York: New York University Press, 1998); Susan Friend Harding, *The Book of Jerry Falwell: Fundamentalist Language and Politics* (Princeton, NJ: Princeton University Press, 2000); Axel R. Schafer, "The Cold War State and the Resurgence of Evangelicalism: A Study of the Public Funding of Religion since 1945," *Radical History Review*, 99 (Fall 2007); Steven P. Miller, *Billy Graham and the Rise of the Republican South* (Philadelphia: University of Pennsylvania Press, 2009); and Daniel K. Williams, "Moral Majority" in *God's Own Party: The Making of the Christian Right* (Oxford: Oxford University Press, 2010).

elections. In response, a group of incremental activists broke from the National Right to Life Committee, causing the first movement fracture. Despite the divisions, hard line activists in Kansas achieved the pro-life movement's first major electoral victory in 1974. Republican Senator Bob Dole defeated Bill Roy thanks in large part to the efforts of the state's single-issue anti-abortion voters.

Chapter Two, "Defend Edelin, Defend Your Rights," explores the re-unification of the pro-life movement through a series of campaigns against abortion providers, focusing on right to life activities in Boston, Massachusetts. In 1973, Thomas Connelly initiated a protest and secret investigation of abortion practices and medical research using fetal tissue at Boston City Hospital. This investigation of abortion providers generated two lawsuits in 1974 that garnered national attention. The first charged four physicians and medical researchers with violating a grave robbing statute because they used tissue from aborted fetuses. The second charged black obstetrician and gynecologist Kenneth Edelin with manslaughter for taking the life of a twenty to twenty-eight-week-old fetus during a legal abortion. While these two lawsuits were representative of similar grassroots protests against abortion providers throughout the country, they did more than any other activities against abortion providers to advance and solidify an incremental consensus in the National Right to Life Committee.

This consensus sought to restrict abortion access through three campaigns. First, pro-life activists worked to pass a federal ban on medical research using fetal tissue. The campaign helped to emphasize issues of fetal personhood and assigned a new status under the law to fetal subjects by regulating their use in research. Second, pro-life activists began to launch lawsuits against abortion providers willing to perform later term abortions at or near

the point of viability. Through these lawsuits, right to life activists hoped to intimidate and harass physicians into limiting abortion provision. These two strategies, in turn helped the movement to unite quickly behind a campaign to stop federal Medicaid funding of abortion for women on public assistance. The campaign to cut Medicaid funding of abortion helped align the pro-life movement with other conservative causes mobilizing in 1974 and 1975, including the anti-busing movement.

Chapter Three, “The Right to Life Revolution,” follows two anti-abortion initiatives directed by National Right to Life Committee President Mildred Jefferson. The first used the human life amendment as a litmus test to make abortion a pivotal electoral issue in the presidential primaries. This initiative helped to polarize the American party system. The second initiative united the movement to pass a federal ban on Medicaid funding of abortion. This campaign yielded the movement’s greatest legislative victory when the Hyde Amendment passed in September 1976 and further propelled the National Right to Life Committee’s growing alliance with leaders of the New Right. The Right to Life Revolution of 1976 thus succeeded in altering American politics by making the Republican Party the “party of life” and passing a funding ban that helped for further aligned social conservative organizations with one another and to the Republican Party.

Chapter Four, “This is War!” traces the rise of a pro-life consensus against feminism. In the aftermath of 1976, the National Right to Life Committee fractured again. Some pro-lifers wanted the movement to return its focus to issues of fetal personhood and the Human Life Amendment. Others resisted the alliance with conservatives mobilizing in the New Right. Two strategies emerged that undermined Mildred Jefferson’s presidency: a constitutional convention call for a Human Life Amendment and clinic sit-ins. In response,

Jefferson aligned the movement with an anti-feminist and pro-family coalition. A united pro-life movement emerged that applied the rhetoric of war and conflict generated by clinic sit-ins to declare a war on feminism and ensure the enforcement of the 1976 Hyde Amendment banning federal Medicaid funding and to secure the passage of a second Hyde Amendment in 1977.

Chapter 5, “The Split,” explores the expansion of a social conservative base in the Republican Party and its limitations under the Reagan administration. In 1978, the National Right to Life Committee launched a three-year campaign to pass a Human Life Amendment. By 1980, numerous Protestant and conservative organizations had joined the campaign. This unity between leaders of the pro-life movement and social conservatives, however, proved to be tenuous. In 1981, the pro-life movement faced its biggest schism over the role and status of fetal personhood. This time, unity proved elusive. Leaders and organizations took sides over whether to back a Human Life Bill that established fetal personhood or a Hatch federalism constitutional amendment that returned the power to regulate abortions back to state legislatures. Different pro-life, pro-family, Christian Right and New Right organizations lobbied against one another and as a result, the movement failed to pass any anti-abortion legislation between 1981 and 1983. In the aftermath of the schism, the National Right to Life Committee Board and its leaders abandoned the Human Life Amendment as their first priority. They opted instead to pursue incremental legislation and court cases. The conclusion, “Personhood is the Pro-Life Battleground of the Twenty-First Century,” evaluates the recent return of pro-life efforts to establish fetal personhood through state constitutional amendments and new movement consensus over abortion clinic regulations.

In 2003, Mildred Jefferson reflected on the turbulent years in which she presided over the

National Right to Life Committee between 1975 and 1978. She summarized the major political shift and voter re-alignment at the heart of this dissertation: “The left wing of the Democratic Party defeated us as we were beginning our political drive in the mid-1970s, and we eventually defeated the Rockefeller wing of the Republican Party to gain control.” After the parties adopted opposing abortion positions in 1976, Jefferson argued, “We joined the conservative coalitions (although a majority of our grass-roots are neither Conservative nor Republican) because that was the only place we could make coalitions and help elect pro-life President Ronald Reagan in 1980.” “When a pro-life Republican sits in the White House, he does so because millions of pro-life Democrats vote to elect him.”³¹

Jefferson repeated a pro-life narrative that this dissertation both accepts and challenges. By placing Jefferson and other conservative female pro-life leaders at the center of the story, I show that it took a concerted effort on these women’s part to keep the movement united and moving in a conservative direction despite a central division over fetal personhood and abortion restrictions. As a result of these women’s efforts, pro-lifers who lacked a conservative background came to adopt a larger conservative worldview and non-political social conservatives became mobilized in the Republican Party. Together, this coalition of right to life activists led a conservative counterrevolution in America.

³¹ Mildred Jefferson, “Introduction,” *Back to the Drawing Board: The Future of the Pro-Life Movement*, ed. Teresa Wagner (South Bend, Indiana: St. Augustine’s Press, 2003), xvii

CHAPTER ONE

“The Disqualifying Issue”³²

“Many things have been suggested which might diminish in some way the effect of the Court’s decision,” wrote Kansas Right to Life leader Patricia Goodson in January 1974. “Legislation to ensure that no one is coerced (such as welfare patients) or forced to perform or assist at abortions, or to pay for abortions through taxes.” Rather than pursue such strategies, Goodson argued, “the cause of the unborn will be better served . . . by expanding our efforts in a rigorous campaign to pass the Human Life Amendment to the Constitution.”³³ One year after *Roe v. Wade* and *Doe v. Bolton*, Patricia Goodson situated Kansas Right to Life clearly on the side of anti-abortion activists who sought to establish fetal personhood over and against activists who sought abortion restrictions. To establish fetal personhood, Kansas Right to Life joined the majority of state affiliates of the National Right to Life Committee in pursuing a Human Life Amendment to the United States Constitution. The amendment granted all fetuses, from the moment of conception, all rights under the law, foremost of which was the right to life.

The National Right to Life Committee’s decision to prioritize the Human Life Amendment initiated its own controversy. Since January 1973, leaders and activists within the organization had been fighting over priorities and strategies. The Roman Catholic

³² Jack Wilke, “From the President’s Desk,” *NRL News* 7 (12 September 1980).

³³See Patricia Goodson to Right to Life Affiliates of Kansas, January 19, 1974, Robert Bennett Papers, folder “Abortion, January and February 1974.”

hierarchy and a number of Catholic activists fought to pass a Human Life Amendment that established fetal personhood and outlawed abortion with no compromises. Incremental activists, led by Protestant leader Marjory Mecklenburg, fought to build the movement at state and local levels. They pursued abortion restrictions and sought to recruit non-Catholics to the cause. These activists wondered whether Catholics could work alongside Protestants and whether Catholic leaders were capable of shifting strategies away from a Human Life Amendment in order to do so. When the National Right to Life Committee Board voted to pursue a Human Life Amendment, the movement fractured. Mecklenburg and her incremental allies broke away to form American Citizens Concerned for Life in August 1974.

Out of this movement division came an agreement over political strategy which Kansas Right to Life worked to implement. Whether Kansas Right to Life leaders favored an incremental or hard-line strategy, they encouraged all grassroots activists to become single-issue anti-abortion voters. In January 1974, the National Right to Life Committee ordered state affiliates to use the Human Life Amendment as a campaign litmus test for all politicians, regardless of party affiliation. Patricia Goodson of Kansas Right to Life took the directive to heart. She and Kansas Right to Life pressured state politicians into coming out for or against the Human Life Amendment. She also used any recorded votes on abortion legislation to place legislators within a pro-life/anti-life binary, polarizing politicians and the electorate.

By rallying single-issue anti-abortion voters, Kansas Right to Life won the movement's first major electoral victory in November 1974. Human Life Amendment supporter and Republican Senator Bob Dole defeated Democratic challenger William Roy, a lawyer and obstetrician-gynecologist who had performed abortions. In the election's

aftermath, Roy blamed his loss on Kansas Right to Life and the small number of dedicated single-issue anti-abortion voters. The Dole/Roy senate race was the first to make abortion a central campaign issue post-*Roe* and paved the way for pro-life electoral campaigns to come. Following the Roy/Dole race, any vote on any abortion legislation would become a crucial test for candidates. Right to life leaders then claimed that the votes they commanded, which made up roughly three to eight percent of the total vote in any state, would be pivotal in close elections. The threat of this anti-abortion vote gave the movement its first taste of political clout as politicians began to respond to the movement and its demands, whether for abortion restrictions or a Human Life Amendment.³⁴

“Not Just a Catholic Issue”³⁵

Within two weeks of the 1973 *Roe v. Wade* and *Doe v. Bolton* decisions, Marjorie Mecklenburg of Minnesota Citizens for Life called Dr. Carolyn Gerster of Arizona Right to Life. Would Gerster, Mecklenburg asked, be willing to sit on a committee to establish a non-sectarian National Right to Life Committee, and “meet with eight others to do the groundwork?”³⁶ At the time, the National Right to Life Committee was housed under the

³⁴Many scholars have pointed to a 1978 Indiana Senate Race between Dick Clark and Roger Epsen as pivotal to launching the right to life movement into electoral politics. While the election was the first to utilize right to life PACs, many of the tactics scholars have identified as pivotal in that election occurred in the Dole Roy race, including church literature drops. More recent scholarship has acknowledged the importance of the single-issue anti-abortion vote in the 1976, 1978 and 1980 presidential campaigns. See Connie Paige, *The Right to Lifers: Who They Are, How They Operate, And Where They Get Their Money* (New York: Summit Books, 1983); Cynthia Gorney, *Articles of Faith*; Robert Self, *All in the Family*, Stacie Taranto, “Ellen McCormack for President: Politics and an Improbable Path to Passing Anti-abortion Policy,” *Journal of Policy History*, 24 no 2, (2012) pp. 263-28, Neil J. Young, “We Gather Together: Catholics, Mormons, Southern Baptists and the Question of Interfaith Politics, 1972-1984,” (Columbia University, 2008); Cynthia Gorney, *Articles of Faith*; Williams, “The GOP’s Abortion Strategy” *Journal of Policy History*, 23 no 4 (2011), 513-539.

³⁵ Quote attributed to Professor Joseph Witherspoon at 1974 National Right to Life Convention. See Alice Hartle, “Not Just Catholic Issue, says speaker,” *NRL News*, 1 (July 1974).

³⁶ Carolyn Gerster, “We Sought to Bring Life,” *NRL News*, 7 (June 16, 1980).

Family Life Bureau of the National Conference of Catholic Bishops. Because it received all its funds from the Roman Catholic Church, the Church dictated how to spend those funds, and the anti-abortion movement's political priorities followed the Catholic money.³⁷ After the passage of *Roe*, the two women thought it was imperative for the nation's oldest and most prominent anti-abortion organization to separate from the Catholic Church. The movement, Gerster and Mecklenburg argued, had to show that opposition to abortion was not just a Catholic issue if they had any chance of making abortion illegal once again.³⁸

Mecklenburg and Gerster were among the right to life movement's most prominent Protestant leaders at the state level in 1973. Mecklenburg had stumbled upon the right to life movement six years earlier. When she walked in on the founding meeting of Minnesota Citizen's for Life at her back-door neighbor's home in St. Paul, Mecklenburg was curious about the commotion there. The mostly Catholic organization welcomed Marjory and her husband, Fred, both Methodists, with great enthusiasm. Their denominational affiliation helped them rise to leadership positions quickly as the Catholic members looked to them to dispel the anti-abortion movement's image as being a political arm of the Roman Catholic Church. Fred Mecklenburg was also an obstetrician-gynecologist, and as such he was a doubly useful. Not only could he affirm that opposition to abortion was not confined to Catholics, but he could also testify as a medical expert against any legal attempts to liberalize or repeal the state's criminal abortion statute. Dr. Carolyn Gerster likewise rose to prominence as an Episcopalian church member and cardiovascular specialist in Arizona.

³⁷Young, "We Gather Together," 146.

³⁸Randy Engel to National Right to Life Committee Board of Directors, Subject: National Right to Life Committee – Past, Present and Future, March 30, 1974. American Citizens Concerned for Life Papers, Box 8, Gerald Ford Presidential Library; Gorney, *Articles of Faith*, 178.

Marjorie, whose college degree was in Home Economics, had made her name by becoming a self-trained expert on teenage sexuality and pregnancy. She established and ran a crisis pregnancy center to aid women who decided to carry an unintended pregnancy to term.³⁹

Marjorie Mecklenburg's efforts to create a non-sectarian National Right to Life Committee pre-dated the *Roe* decision. In the spring of 1972, she led a number of Protestant and lay Catholic members of the National Right to Life Committee who agitated for the organization's break from control by the Roman Catholic Church. At a Board of Directors meeting in December 1972, Mecklenburg and other members of Minnesota Citizens for Life presented a plan for the incorporation of a non-sectarian National Right to Life Committee. These activists wanted to re-organize in order to foster a more democratic and decentralized decision-making process. In the current structure, power rested in a central Executive Committee comprised of five Catholic men based in Washington, D.C. Instead, Mecklenburg proposed a federation model. State chapter affiliates would elect representatives to serve on a Board of Directors. The Board, in turn, would nominate the Executive Committee. The existing Board of Directors tentatively endorsed her plan in December while the all-male Catholic Executive Committee tabled the measure until it could be studied in more depth.⁴⁰

Ed Golden of New York led the five-member Executive Committee. Under Golden's leadership, New York State Right to Life had successfully pressured the 1972 state legislature to repeal a 1970 law that left the decision to terminate a pregnancy to doctors and

³⁹ Kathryn Boardman. "Chance Meeting Led to Anti-Abortion Drive." *St. Paul Dispatch*, July 4, 1973.

⁴⁰Michael Taylor to Board of Directors, National Right to Life Committee Re: Meeting on National Organization, Washington, D.C. Saturday, December 9, 1974. American Citizens Concerned for Life Papers [henceforth ACCL], Box 4, Ford Presidential Library.

their female patients. Even though Republican Governor Nelson Rockefeller vetoed the bill, right to life activists across the country considered the turn-around of the legislature an unrivaled success. As a result, they referred to Golden as the “Great Architect of the New York Experience” and often bowed to his political expertise and leadership.⁴¹ Likening himself to a battlefield commander, Golden expected activists to follow his orders without question. His leadership of the Executive Committee ensured that the National Right to Life Committee would continue its Catholic affiliation and pursuit of a hard-line constitutional amendment.

Accordingly, the National Right to Life Committee placed significant resources behind a proposed amendment to overturn the Supreme Court decisions on January 30, 1973. In consultation with Catholic bishops, Maryland Representative and Catholic Lawrence Hogan proposed a constitutional amendment to the U.S. House of Representatives eight days after the *Roe* and *Doe* decisions. The draft read, “Neither the United States nor any State shall deprive any human being, from the moment of conception, of life without due process of law, nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.”⁴² The National Right to Life Committee's Executive Committee and their Catholic allies intended to use the organization and the Church's resources to back this amendment and pass it as soon as possible. One Protestant leader reported to Marjory Mecklenburg that one of the Catholic Executive Committee members asked him, “If the Catholic Church could come up with 20 million dollars and could guarantee they could win an amendment, would the Protestants be willing to be window

⁴¹ “The Owl in the Saguaro,” January 23, 1974. New Mexico Right to Life, American Citizens for Life Papers, Box 7, Ford Presidential Library.

⁴² *Congressional Record*, January 30, 1973, 2575.

dressing, no rocking the boat?”⁴³ To most Protestants and many lay Catholics in the movement, the answer was an emphatic no.

In contrast, Marjorie Mecklenburg responded to *Roe* by making her top priority the establishment of a non-sectarian National Right to Life Committee. Carolyn Gerster joined her with leaders from Washington, Texas, Vermont, and three other states. Together they met with Monsignor James McHugh, the head of the National Right to Life Committee, in a series of meetings in the winter and spring of 1973. The first bi-weekly meeting occurred on February 11 at the decidedly secular Chicago O’Hare Airport. There the leaders debated a number of questions concerning how to make abortion illegal once again, with little to no input from the Church hierarchy. What was the role of fetal personhood and the proposed Human Life Amendment? Was the National Right to Life Committee to be single-issue organization or would it embrace other life-related issues? If so, what issues: capitol punishment? Euthanasia? Should the National Right to Life Committee take a position on contraception? Many Catholic activists correctly believed that *Roe* was the outgrowth of the 1965 *Griswald v. Connecticut* decision in which the Supreme Court ruled that state prohibitions on contraceptive access for married couples violated their right to privacy. To these activists, abortion and contraception were linked to a mentality that devalued fetal life and undermined what they considered the primary role of sex, procreation. Other right to lifers believed popular forms of contraception that prevented the implantation of a fertilized egg were abortifacients. These contraceptives included the intrauterine device and some forms of the birth control pill. Marjorie Mecklenburg argued that the right to life movement could not ban abortion without relying on contraceptives to prevent unwanted pregnancies, or

⁴³Marjorie Mecklenburg to Martin Ryan Haley. September 3, 1973. American Citizens Concerned for Life Papers, Box 4, Ford Presidential Library.

to recruit non-Catholics to the movement, most of whom overwhelmingly favored legal birth control. The point for these activists was that these decisions should be theirs to make, not the Roman Catholic Church's.⁴⁴

The Catholic Executive Committee disagreed. At the February 11 committee meeting in Chicago, Monsignor McHugh threatened to withdraw the National Conference of Catholic Bishops' funds. The Catholic Church, he argued, would no longer support the organization if it strayed from the Catholic model and the Catholic hierarchy's constitutional amendment establishing fetal personhood. Regardless of what the board voted, McHugh claimed, the National Right to Life Committee was going to use its limited resources to back the strictest constitutional amendment possible. The rest of the Executive Committee backed McHugh.⁴⁵ Despite this open opposition from Catholic officials, Mecklenburg convinced the majority of lay Catholic and Protestant members on the Board of Directors to back her federated model. These lay Catholic and Protestant leaders thought it necessary to separate their movement from the Church hierarchy, thus freeing the national organization and its state affiliates to vote and debate strategy without accepting the hierarchy's dictates.

Following the February 11 meeting, the Board of Directors and Executive Committee of the National Right to Life Committee found themselves in direct conflict with one another. A New Mexico Representative later summarized the division in what he termed a "simplistic overview":

A loose confederation of Mecklenburg adherents believes that right to life should be a 'grassroots' type of operation – ideas fed from the various states and

⁴⁴ Gorney, *Articles of Faith*, 178-179.

⁴⁵ Michael Taylor to Board of Directors, National Right to Life Committee Re: Meeting on National Organization, Washington, D.C., Saturday December 9, 1972, 9:30 AM to 5:00 PM." American Citizens Concerned for Life Papers, Box 4, Ford Presidential Library.

implemented by the office in Washington. The opposing view of Golden and his allies is that 'authoritarian' is the best way to begin, that is, chieftains in Washington instructing those in the boondocks.⁴⁶

The conflict between Mecklenburg and Golden reached a boiling point in the spring. Fed up with the resistance of the Catholic Executive Committee, Mecklenburg the majority of lay Catholic and Protestant members of the National Right to Life Committee's Board of Directors threatened to leave and form their own organization if the Executive Committee continued to ignore the Board of Director's wishes. Under this threat, Golden and the other Executive Committee members backed down. Four new Protestant members joined the Executive Committee, including Marjory Mecklenburg. The additions checked Golden and the other members' authoritarian influence. The interim Executive Committee set the first Board of Directors meeting of the non-sectarian National Right to Life Committee, Inc. to coincide with the National Right to Life Convention in Detroit on June 8, 1973. There the details over incorporation would be hammered out and the board would adopt a charter.⁴⁷

“Defining the commencement of personhood can be a difficult problem”⁴⁸

The Catholic Church hierarchy's and hard line activists' attempts to prioritize a fetal personhood amendment revealed a second set of competing beliefs within the movement, and these competing beliefs intensified the strategy divisions between hardliners and incrementalists. As many scholars have noted, a right to life activist's religious affiliation

⁴⁶“The Owl in the Saguaro,” January 23, 1974. New Mexico Right to Life. American Citizens for Life Papers, Box 7, Ford Presidential Library.

⁴⁷Roy Scarpatto to Pro-Life Leaders, April 30, 1973. ACCL Papers, Box 4, Ford Presidential Library.

⁴⁸Dennis J. Horan. “The Constitutional Amendment and the National Right to Life Committee,” *NRL News* 1 (January 1974).

informed his or her attitudes about fetal personhood and abortion restrictions.⁴⁹ The Catholic hierarchy and many hardliners favored amendments that declared that a fetus was a person from the moment of conception, when the sperm fertilized the egg.

This equation of biological fetal life with actual human life was a relatively new Catholic tenet, even if opposition to abortion was not. Since the first centuries after Jesus Christ's death, Catholic theologians had held that the physical body and biological life were separate from the soul and spiritual life. This belief in spiritual and physical separation was and is pivotal to the Catholic understanding of Christ's dual divinity and humanity. Because the body and soul are separate, Catholic theology held that at some unknown point in time during a pregnancy a soul entered into the physical body of a fetus to generate a human being. Ensoulment thus marked the boundaries of personhood and governed the Church's approach to abortion. For instance, in the thirteenth century Thomas Aquinas believed that ensoulment occurred during quickening, when a woman could first detect fetal movement. Terminating a pregnancy prior to quickening was acceptable to Thomas Aquinas because the fetus lacked a soul and therefore was not a human being. Pope Sixtus V embraced Aquinas' position concerning quickening and abortion restrictions in 1588. In the papal bull, *Effraenatam*, Sixtus V ruled that the Catholic Church should excommunicate any woman who had an abortion after quickening. The bull, however, did not gain acceptance by contemporary theologians, and the succeeding pope, Gregory XII, repealed it two years later.⁵⁰

Two theological doctrines informed the Catholic shift to embracing fetal personhood from the moment conception and the Church's characterization of abortion as homicide. In

⁴⁹Young, "We Gather Together," 152.

⁵⁰ Laurence Tribe, *Abortion: The Clash of Absolutes* (New York: Norton, 1990), 31-32.

1701, Pope Clement XI declared the immaculate conception of Jesus a holy feast. In 1854, Pius IX ruled that Jesus' mother Mary was without sin from the moment of her conception. The church now celebrated the conception of Jesus and Mary as the beginning of their lives and ministry on earth rather than their birthdays. Both doctrines thus underlined the belief that personhood began at conception by moving up the potential time of ensoulment. The scientific discovery of fertilization in the late nineteenth century seemed to provide support for this emerging Catholic belief. As scientific understanding of pregnancy evolved and the fetus emerged as a subject of study and debate, Catholic belief on abortion likewise shifted. In the 1869 papal enactment, *Apostolicace sedis*, Pope Pius IX abandoned the Church's use of quickening as a marker of ensoulment and laid the foundations to consider any termination of a pregnancy as murder.⁵¹ In the 1960s, the Second Vatican Council classed abortion with infanticide as "abominable crimes."⁵²

Today, the Catholic Church continues to hold to the separation of biological and spiritual life. Because the time of ensoulment is a mystery that only God can know, however, the Catholic Church has chosen to protect biological life at every stage. Better to err on the side of safety and protect all fetuses, the Catholic hierarchy claims, than to risk terminating a fetus with a soul. While this continues to be the official position of the Catholic Church, increasing numbers of priests, theologians and lay Catholics have blurred the separation between body and spirit when discussing fetal personhood, due in large part to the politics of abortion and birth control and recent scientific developments. Many right to life activists hold that the discovery of DNA in 1953 and the complete mapping of the genetic code in 2003

⁵¹ Tribe, *Abortion*, 31-32.

⁵² Young, "We Gather Together," 136.

prove that all the traits that make a distinct individual human being are present from the moment of conception. What Catholic theologians in the past had claimed was a mystery – the time of ensoulment – has been and is becoming more of a certainty in Catholic belief: personhood begins when biological life begins.

For activists who truly believed that a fetus was a person from the moment of conception, abortion was murder, and no exceptions or compromises were possible. As Catholic Archbishop Dyer of North Carolina wrote, “Abortion is killing, naked and bloody.”⁵³ These activists favored the most restrictive amendment versions that allowed abortion only if a pregnancy threatened a woman’s life. To them, abortion in such circumstances constituted self-defense; and then a small number of activists thought that even it was unacceptable.

Mormons, unlike Catholics, were in the midst of theological debates surrounding personhood and ensoulment when the Supreme Court released *Roe v. Wade*. In the nineteenth century, Church of Latter Day Saints founder Joseph Smith placed ensoulment at quickening just as Thomas Aquinas had done seven hundred years earlier, but in the 1950s Mormon theologians argued for birth as the marker of personhood. Whatever Mormon leaders’ position on ensoulment and fetal personhood, most did not equate abortion with murder. Their arguments against it therefore did not pack the same emotional power as Catholic arguments did.⁵⁴

Historically, most Protestants lacked the foregoing theological grounds for opposition to abortion. Few Protestants defined fetuses as persons who should be protected from the moment of conception. Their approach to abortion was based on questions of sexuality,

⁵³Archbishop Dwyer, “Abortion is Killing,” *North Carolina Catholic* (12 August, 1973): 7.

⁵⁴Young, “We Gather Together,” 139.

women's welfare, and parenting and in the 1960s and 1970s, Protestant denominations' positions on abortion varied. Liberal Protestant denominations had been at the forefront of efforts to legalize abortion in the 1960s and 1970s. They included the United Church of Christ and the United Methodist Church as well as other religious groups such as the American Jewish Congress and the Unitarian Universalist Association. Only one Protestant denomination joined the Catholic Church in opposing abortion prior to *Roe*: in 1971, the Lutheran Church Missouri Synod issued a statement that abortion violated God's will, but its opposition was not based on fetal personhood. At the time of *Roe*, most conservative Protestant denominations expressed tentative support for legal abortion access and the Supreme Court decisions. The men and women who made up these denominations' governing bodies wanted abortion to be available to women in the exceptional cases of rape, incest, fetal deformity, and threats to maternal health. Post *Roe*, some of these Protestant leaders began to criticize "abortion on demand," an anti-abortion term to describe legal abortion access. For instance, the president of the Southern Baptist Convention criticized the Supreme Court's decisions in the summer of 1973 because the decisions placed no limits on abortion in the first three months of pregnancy. Unlike many Catholics who held an uncompromising hard line on abortion, the Southern Baptist Convention President continued to advocate for abortion access in exceptional cases.

Fundamentalists, Southern Baptists and Christian evangelicals came to more actively oppose legal abortion in the mid-to-late 1970s. When more single women and younger women sought abortions than older married women, Protestants linked the medical procedure to sexual promiscuity. Women, they claimed, were using abortion as a form of birth control and treating sex, their bodies, and fetal life callously. To them, restricting abortion access

was a way to regulate sexual behavior and to promote respect for marriage, family and fetal life.⁵⁵

Not all Catholic right to life activists shared the Church's beliefs on abortion and fetal personhood, either. A significant number of lay Catholic lawyers and physicians in the movement questioned the Church's preferred amendment alongside Protestant leaders. Catholic professionals and Protestants who favored the incremental approach understood that the Catholic definition of personhood was just one of many beliefs in a pluralistic American society. These leaders questioned the biological moment that defined the start of personhood. Why fertilization? they asked. Medical technology at the time could not detect signs of fetal life until approximately four to six weeks after conception. While the possibility existed, it was not likely that medical technology would ever be able to determine pregnancy until a fertilized egg implanted into the uterine lining, seven to ten days after fertilization. To enforce a criminal abortion statute, incrementalists pointed out, a court would need to establish that a pregnancy existed in the first place. Protecting a fetus from the moment of conception would have no impact on the enforcement of criminal abortion statutes because no one could determine the existence of fetal life until after implantation. By insisting on fetal personhood at conception, hard line activists seemed to be intentionally seeking restrictions against contraceptives at the expense of pursuing criminal abortion statutes. They were also reviving an earlier political battle over contraception that the Catholic Church had lost: the *Griswald v. Connecticut* decision of 1965 and *Baird v. Eisenstadt* decision of 1972 ruled that state bans on contraceptives, whether for married or unmarried people, were unconstitutional.

⁵⁵ Young, "We Gather Together," 141. See also Raymond Tatalvich and Byron W. Daynes, *The Politics of Abortion: A Study of Community Conflict in Public Policy Making* (New York: Praeger, 1981).

Diagram 1⁵⁶

Effect of HLA on Birth Control Devices and Abortion Methods By James Bopp, Jr.	BIRTH CONTROL DEVICES							ABORTION METHODS				
	Condom	Dia-phragm	Sperm-icidal Foam	Contraceptive Pills				Prostaglandin Drugs		D&C	Saline Amnio-centesis	Hyster-otomy
				Regular	DES	Mini	IUD	Supp.	Inst.			
Is it primarily contraceptive or abortifacient?	Contra	Contra	Contra	Contra	Contra	AB	AB	AB	AB	AB	AB	AB
Does it have any possible abortifacient action?	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Does it have a non-abortion use?	Yes	Yes	Yes	Yes	Yes	?	No	No	Yes	Yes	No	Yes
Could it be used to perform a life saving abortion?	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Is its primary use before or after positive proof of pregnancy?	Before	Before	Before	Before	Before	Before	Before	Both	After	Both	After	After
Will non-life saving use become criminal by passage of HLA?	No	No	No	No	No	No	No	Yes	No, Unless Pos Proof Of Preg		Yes	Yes
Will HLA alone prohibit or limit its use to non-abortion or life saving use?	No	No	No	No	No	No	No	Yes	Yes, With Pos Proof Of Preg		Yes	Yes
Can a subsequent state or federal law limit its use to non-abortion or life saving use?	No	No	No	No, Because Unable To Biologically Limit To Non-Abortive Action				Yes	Yes	Yes	Yes	Yes
Can a subsequent state or federal law prohibit its use completely?	No	No	No	No	No	?	Yes	Yes	No	No	No	No

Incremental leaders, moreover, believed that an amendment that protected fetuses from the time of conception rather than implantation could not pass in Congress. Judy Fink, the wife of an independent Baptist minister from Philadelphia and a member of the Executive Committee with Marjorie Mecklenburg, wrote:

If the 'contraception opposition' trap is sprung on us, it will undoubtedly count out the participation of 12 million Southern Baptists in the nation, the 8 million American Baptists; the huge (and uncounted) rapidly growing Independent, Fundamentalists and Pentecostal Protestant groups, the 11 million Methodists, the 8 million Presbyterians; untold numbers of Catholics; and need I go on?⁵⁷

If the amendment by some miracle passed Congress, Catholic and Protestant incremental activists charged, the American people would not ratify it. For the right to life movement to succeed, these leaders believed, it must abandon any efforts that would make birth control

⁵⁶ James Bobb Jr., "Effect of HLA on Birth Control and Abortion Devices," *NRL News* 7 (June 1981).

⁵⁷ Judy Fink, Confidential Memo to Ed Golden, Gloria Klein, Carolyn Gerster MD, Jay Bowman, Martin McKernan Jr. John Beliveau, Kenneth Van Derhoef, Marjory Mecklenburg, May 15, 1973. ACCL Papers, Box 4.

illegal.

These debates over fetal personhood and contraceptive access almost tore apart the National Right to Life Committee before it formally incorporated as a non-profit organization. Between April and May 1973, the state affiliates of the National Right to Life Committee elected new representatives to the Board of Directors. In Pennsylvania, Randy Engel challenged Judy Fink. Engel was a devout Roman Catholic housewife who championed fetal personhood from the moment of conception. She was also the president of the newly formed U.S. Coalition for Life, an organization that not only lobbied for a constitutional amendment but also against all contraception access. In a statewide election that tallied the votes of members of competing Pennsylvania anti-abortion organizations, Fink edged out Engel for the Board of Director's position. However, Engel refused to concede the election. She showed up at the first meeting of the Board of Directors on June 8, 1973, claiming she was the true board member from Pennsylvania. She then presented evidence of election corruption and voter fraud to challenge Fink for her position. Her challenge was the first issue on the Board of Director's agenda.⁵⁸

Thanks to Engel, the National Right to Life Committee's Board found itself fighting over the definition of life and fetal personhood and how those definitions related to contraception access and the role of Protestants in the movement. It was an irony not lost upon leaders that they were fighting over a truth most of them claimed was self evident to the general American public: the moment when a fetus became a person. Because they could not reach a consensus, they could not resolve who should be Pennsylvania's board member. In the early hours of Saturday June 9, board members reached a compromise that pleased few

⁵⁸ "National Pro-Life Group Calls for Constitutional Amendment Against Abortion," June 11, 1973, ACCL Papers, box 6, folder, "National Right to Life Committee 6/8-10/73," Ford Presidential Library.

leaders but allowed the organization to function. Fink retained her position as Pennsylvania's representative, while the Board created four new Board of Directors at-large positions, most going to hard line national leaders such as Engel. The new positions helped give these leaders more power on a board that had been favoring Mecklenburg's incremental approach throughout the spring. The Board then voted not to take a position on contraception in order to get to what many considered the meat of the agenda, adopting a version of the constitutional amendment the movement could rally around, and the elections of a new Executive Committee.

Tensions continued to run high around fetal personhood, birth control and the role of Protestants in the movement. Monsignor James McHugh, who had led the National Right to Life Committee, stopped Marjorie Mecklenburg in a hallway during the convention. Furious at her work to separate the organization from the Catholic Church, he cursed her out. On Saturday, heated debates broke out when Mecklenburg and her allies attempted to pass a Board of Director's resolution endorsing a constitutional amendment that did not reference fertilization or conception as the start of personhood. Patricia Goodson of Kansas, one of the most vocal hardliners on the board, gave up her seat at a late night Saturday meeting so that a non-board member could represent her in proxy. She ran out of the board meeting in search of John Short, a professional lobbyist for Human Life Lobby and one of the most articulate supporters of an amendment establishing personhood at conception. She found him leaving a late night Catholic mass, and together they rushed back to the board meeting to stop the vote on endorsing the constitutional amendment. Short gave an impassioned three-minute speech that brought the board to a unanimous vote in favor of an amendment that protected life

“from fertilization and at every stage of their biological development thereafter.”⁵⁹

Reflecting on the June convention, Goodson later wrote, “I am positively amazed that anyone would expect to resolve a dilemma such as this – where such total disagreement exists – by presenting one end of a complete polarity as a solution. There is no compromise.”⁶⁰ While the board endorsed defining fetal personhood at conception, it could not reach an agreement on the exact wording of a constitutional amendment. There was too much contention over the implications of such an amendment on contraception access, American law, medicine, and science as well as doubts about the probability of such an amendment passing in contemporary American society. Instead, the Board set up two subcommittees, a legal advisory committee and a policy committee, that together would reach a consensus on the best wording of an amendment and a strategy on how to pass it. The National Right to Life Committee Board then planned to endorse the subcommittee's resolutions at a later date.

Marjorie Mecklenburg then challenged her hard line rival, Ed Golden of New York, for the presidency of the National Right to Life Committee. Mecklenburg compromised her bid for the presidency by admitting to the board that she did not oppose intrauterine devices that prevented the implantation of a fertilized egg. Golden announced his unequivocal opposition to IUDs as a form of “early abortion.” The election was still close. With the addition of the three at-large votes, Golden won the presidential election by a vote of 22 to 18, solidifying the National Right to Life Committee’s Catholic orientation. The Board of Directors, however, balanced this hard line position by electing Mecklenburg chairman and

⁵⁹Pat Goodson to Board of Directors, National Right to Life Committee and Legal Advisory Committee, February 10, 1974. ACCL Papers, Box 8, Ford Presidential Library.

⁶⁰Pat Goodson to Board of Directors, National Right to Life Committee and Legal Advisory Committee, February 10, 1974. ACCL Papers, Box 8, Ford Presidential Library.

approving her democratic committee system over Golden's centralized model. The new Executive Committee consisted of three Catholics loyal to Golden, three Protestants loyal to Mecklenburg, and two Protestant and Catholic members independent of the Golden/hard line and Mecklenburg/incremental divide.

“Radically varying philosophies”⁶¹

Mecklenburg grew even more convinced that her strategy of focusing on the grassroots and recruit Protestant churches was better than Golden's approach when Minnesota Citizens Concerned for Life's Vice President, David O'Steen, Jr. shared a report about right to life mobilization in North Carolina. In August 1973, O'Steen visited his parents in Greensboro, North Carolina for his annual vacation. When O'Steen discovered there was no right to life organization in North Carolina, he started one. Five friends of O'Steen and his parents met in Greensboro to establish North Carolina Right to Life, Inc and nominated David's mother, Emma O'Steen, president. Emma O'Steen later recalled that she grew interested in the movement “when I discovered to my dismay that many of my friends and acquaintances not only were undisturbed by abortion-on-demand but that most of them agreed with the Supreme Court decision.” A graduate of University of North Carolina Greensboro, Mrs. O'Steen was a junior high school language and social science teacher. Active in the Presbyterian Church, she had three sons; David was her oldest, and a college math professor in Minnesota. The O'Steens understood that North Carolina would not become an anti-abortion state without targeting “a wide spectrum of religious denominations

⁶¹Marjory Mecklenburg to National Right to Life Executive Committee, 16 August 1973. ACCL Papers, Box 5, folder “National Right to Life Committee Board and Executive Committee (5)” Ford Presidential Library.

including Baptist, Methodist, Catholic, Episcopalian, Mormon, Greek Orthodox and non-denomination Christian.”⁶² David O’Steen Sr. asked Jesse Helms, a freshmen senator from North Carolina and devout Southern Baptist, to join the executive board of North Carolina Right to Life. At the time, Helms had already made a name for himself as a champion of the right to life movement. He had backed the Human Life Amendment and was working to cut U.S. Aid funds that supported abortion services in foreign countries. Helms agreed to serve on North Carolina Right to Life’s Executive Board. The O’Steens’ plans to mobilize conservative Protestants in the state were of particular interest to Helms.⁶³ North Carolina joined a series of newly organized states in the south and west in the summer and early fall of 1973, including South Carolina, Mississippi, Nevada, Idaho and Alaska.⁶⁴

During his vacation, David O’Steen Jr. also learned that North Carolina was a different kind of state than others in the country. Roman Catholics constituted only three percent of the state's population, the smallest proportionate Catholic population in the country at the time. To win in North Carolina and other states in the Southeast, he claimed, national leaders had to take Protestants seriously.⁶⁵ Mecklenburg and her allies agreed and used O’Steen's report and the North Carolina example to further their arguments for their incremental strategy. O’Steen's report also coincided with the efforts of National Right to Life's Intergroup Liaison subcommittee. Run by Judy Fink and her husband, along with Robert Holbrook, a prominent Southern Baptist minister from Texas, the committee explored

⁶²“North Carolina Director Named.,” *NRL News*, 1 (April-May, 1974):1

⁶³“Mass and March Protest Court Abortion Decision,” *North Carolina Catholic* (2 February, 1975):1.

⁶⁴Robert Greene, Introduction to the National Right to Life Committee 1973 Mid-Year Report, ACCL Papers, Box 6 folder “National Right to Life Committee 1973 Mid-Year Report (1).”

⁶⁵*The Concept* 1 (October and November, 1974):1.

how to expand the movement within non-Catholic circles.⁶⁶ The sub-committee's first priority was to create a "program of building bridges to certain Protestant religious groups."⁶⁷ The Executive Committee of the National Right to Life Committee gave the sub-committee \$2,000 to develop a report that included recommendations by the end of 1973.⁶⁸

Throughout the summer and fall of 1973, a growing number of Protestant leaders of the National Right to Life Committee believed that efforts to recruit Protestants and build local chapters should take priority over efforts to pass a constitutional amendment. They were not alone. Dr. Jack Wilke, a physician and one of the independent votes on the Executive Committee, was the only Catholic member of the Intergroup Liaison Committee. One of the movement's foremost educators, Wilke championed incremental efforts to recruit more people and to reach out to non-Catholics even as he paid close attention to other subcommittee's efforts to draft a constitutional amendment. In 1973 at his education talks across the country, he passed out bumper stickers stating, "We're Protestant: Protesting Abortion."⁶⁹

These incremental initiatives exacerbated the tensions between Ed Golden and Marjory Mecklenburg in the summer and fall of 1973. During an Executive Committee phone conference in July, Golden cursed at Mecklenburg and then hung up in an attempt to prevent the board from appointing an executive director he opposed and Mecklenburg

⁶⁶Judith Fink to Intergroup Liaison Committee, National Right to Life Committee, September 7, 1973 Re: Activation of Intergroup Liaison Committee; review of its charges; suggestions for agenda for Sept 25-26, 1973 meeting. Found in ACCL Papers, Box 4, folder. "National Right to Life Committee – 1973 (4)." Ford Presidential Library.

⁶⁷Young, "We Gather Together," 152

⁶⁸Ibid., 152-155.

⁶⁹"Dr. Wilke on Campaign Trail against Abortion," North Carolina Catholic (28 October 1973): 7.

avored. Golden also countered board-approved efforts to set up a series of national committees to divide the work between state leaders. In August, Mecklenburg wrote,

It is not clear to me whether radically varying philosophies – one based on control, certainty, conservatism and desire for uniformity, and another which is more free wheeling, based on openness, involvement of all comers and encouragement of individual initiatives – can co-exist in the leadership of an organization.⁷⁰

Mecklenburg and other Protestants once again found themselves at an impasse with Ed Golden and his Catholic allies on the National Right to Life Committee Executive Committee.

At the same time, Mecklenburg and Judy Fink began to think that what they had perceived as the Catholic-Protestant philosophical divide over strategy failed to completely explain the animosity among the Executive Committee members. Ed Golden and his male allies were not just Catholics, but conservative men backed by a centuries-old patriarchy and hierarchy. Fink and Mecklenburg chafed under his presidency. Mecklenburg charged, “Leaders are facilitators in a movement, not careful controllers. A successful leader has enough strength . . . to not be threatened.” In turn, Golden expressed outrage that Mecklenburg “pushed on him” a “democratic type of grassroots approach” and a system in which “Every time you want to cough, you have to get committee concurrence.”⁷¹ In another letter to her Protestant supporters, Mecklenburg asked, “Is a conservative Catholic male a desirable image of [the National Right to Life Committee]?”⁷²

⁷⁰Marjory Mecklenburg to National Right to Life Executive Committee, 16 August 1973. ACCL Papers, Box 5, folder “National Right to Life Committee Board and Executive Committee (5)” Ford Presidential Library.

⁷¹“The Owl in the Saguaro,” January 23, 1974, New Mexico Right to Life Report. ACCL Papers, Box 7, folder “National Right to Life Committee – 1974 Board and Executive Committee (1)” Ford Presidential Library.

⁷²Marjory Mecklenburg to Martin Ryan Haley. September 3, 1973. ACCL Papers, Box 4, folder

Mecklenburg's charges against Ed Golden also pointed to misogynistic tendencies in National Right to Life Committee chapter affiliates across the country. At all levels, it seemed to her, Catholic male leaders expressed a general lack of concern, awareness, and sensitivity to female activists and their positions in the movement. In Massachusetts, Catholic men and priests dominated Massachusetts Citizens for Life's Board of Directors, often to the increasing frustration of the women who did a large amount of the work.⁷³ When Claire Smith resigned from that board in 1975, she cited troubles with the other Catholic male leaders. "I do not believe that an authoritarian type of leadership is what the cause needs to strengthen itself for the tough days ahead."⁷⁴ Smith's charges echoed Marjorie Mecklenburg's earlier criticisms of Ed Golden.

Mecklenburg and Fink began to confront Catholic men about the lack of female leaders in the National Right to Life Committee. In July 1973, Judy Fink sent a memo to the National Right to Life Committee Board that questioned recent sub-committee appointments. The fact that no women served on the policy sub-committee disturbed her. Fink wrote, "I feel that properly-credentialed women do exist that could serve on this Committee" and questioned "whether [the policy committee was] constituted with a fair cross-section of prolife mainstream thought."⁷⁵ Fink then pointed out that the policy committee also lacked a

"National Right to Life Committee – 1973 (4)," Ford Presidential Library.

⁷³Roy Scarpato's wife, Anne, together with another founding member, Anne Fox, coordinated most of the organization's lobbying activities in Washington D.C. Their names appeared most often in the records of US Congressmen Tip O'Neil and Fr. Robert Drinan.

⁷⁴Mrs. Claire Smith to Dr. Joseph Stanton, August 23, 1975, Joseph P. Stanton papers, folder "Letters to VOLCOLM 1975, July-Dec," drawer VOLCOM Correspondence 70-78, Stanton Human Life Issues Library.

⁷⁵Judith Fink to Professor Joseph Witherspoon in regards to Composition of Policy Committees, July 1, 1973. ACCL Papers, Box 5, folder "1973 National Right to Life Committee Board and Executive Committee (4)" Ford Presidential Library.

Protestant or Jew. In the same memo, Fink noted that only one woman sat on the legal advisory sub-committee for the organization. The Board had charged both sub-committees to work together to write a constitutional amendment the National Right to Life Committee could sponsor, making them the most powerful committees of the organization. According to Fink, appointing only one woman to the committees was unacceptable.

Fink and Mecklenburg were not the only ones to notice the gender disparity in leadership. Catholic men made sure to publicize the leadership of Protestant women to deflect criticism of what some Americans and the press considered an anti-woman social movement. Press releases following the June National Right to Life Convention hailed the role of women in the movement. Most coverage focused on the fact that five Protestant women held the six top offices of the National Right to Life Committee.⁷⁶ Some journalists went so far as to refer to the National Right to Life Committee as a woman's movement. It rankled Fink and other female national anti-abortion leaders that Catholic men made sure to publicize their leadership roles to the press, but often failed to acknowledge the women's authority as actual leaders. Fink, Mecklenburg and other women activists did not wish to be tokens that appeared at publicity events with a few well-rehearsed lines. The women fought to become truly powerful in the movement.

Mildred Jefferson

One of the key national Executive Committee members Mecklenburg and Fink sought as an ally was Dr. Mildred Jefferson. The daughter of an American Methodist and Episcopalian minister and teacher in rural Texas, Jefferson was the first black woman to graduate from Harvard Medical School. Like Mecklenburg, she rose quickly in the right to

⁷⁶ "City woman to head National Right to Life," *Minneapolis Tribune*, June 12, 1973, 3B.

life ranks. Dr. Joseph Stanton recruited her to the Value of Life Committee in 1970. Prior to that, Jefferson was not particularly concerned about abortion. Newly married at forty-six to a real estate broker, she was enjoying her faculty position in General Surgery at Boston University School of Medicine and skiing with her husband on the weekends.⁷⁷ After facing discrimination in medical school and completing three general residencies before obtaining her medical license, Jefferson was ready to enjoy the rewards of her hard work. Then *Roe* happened and changed everything for her. She rearranged her life to make the anti-abortion movement her priority.⁷⁸

In the months following the *Roe* decision, Dr. Jefferson gave a number of speeches in Boston and the surrounding areas defending fetal life. Described as “at once tender and unyielding,” she captivated audiences with her wit and grace. Right to life activists acknowledged her as the best extemporaneous speaker in the movement because she could “exhort for an hour without notes.”⁷⁹ Her very presence spoke volumes to an audience. As a black Protestant woman, Jefferson defied the stereotypes of a white male Catholic right to life movement. At the same time, she fit within the right to life movement despite the marked difference of her race and gender. She also made herself highly acceptable to the movement by dressing and acting the part of a conservative lady, wearing gloves, hats, suits and carefully-coifed hairstyles that complemented her petite frame. Jefferson attributed her dress and manners to her conservative upbringing in Depression era rural Texas, and in particular

⁷⁷Jennifer Donnally Interview with Mildred Jefferson, September 2010 and Charles B. Rancher, Jr. “Much in common but worlds apart.”ACCL Papers, Box 23 F. ACCL Admin File: People – General Mildred Jefferson” Ford Presidential Library.

⁷⁸Mildred Jefferson Interview by Jennifer Donnally, September 2011.

⁷⁹ “The Owl in the Saguaro,” January 23, 1974. New Mexico Right to Life. ACCL Papers, Box 7, F. “National Right to Life Committee – 1974 Board and Executive Committee (1)” Gerald Ford Presidential Library.

to her mother, who was a stickler about such things. Her demeanor and charm helped put white audiences at ease. Jefferson also had a mischievous streak that right to life activists loved. Like any accomplished Southern lady, she could say the most awful things about an opponent in a sweet voice and with a smile on her face.⁸⁰

In June 1973 Jefferson gave the opening address at the National RTL Convention. Characteristically outspoken and witty, she told the audience, “Abortion-promotion in this country proves that a good sales campaign can sell the shoddiest product. With consumerism rampant everywhere in the marketplace, many put more critical thought into buying a box of detergent or tube of false-eyelash glue than into buying the death of an unborn baby.”⁸¹ Following her address, the fifty-five member National Right to Life Committee Board elected her Vice Chairman, the third most powerful position in the organization. Having missed too many workdays for speaking engagements, Jefferson refused to become a voting member of the Executive Committee; she could not miss any more work to attend mandatory Executive Committee meetings in Washington D.C. without endangering her livelihood. Despite her decision, Jefferson still struggled to balance her career and right to life activism as demand for her at speaking and fundraising events increased in the summer and fall of 1973.

In late October, Jefferson delivered the keynote address at the largest right to life protest in 1973. Organized by Missouri Citizens for Life, the gathering drew attention to an analogy that was becoming popular in right to life circles comparing abortion and slavery.

⁸⁰ “The Owl in the Saguaro,” January 23, 1974. New Mexico Right to Life. ACCL Papers, Box 7, folder “National Right to Life Committee – 1974 Board and Executive Committee (1)” Ford Presidential Library.

⁸¹ Speech Excerpts from Mildred F. Jefferson, MD. Keynote on Friday Evening, June 8, 1973. ACCL Papers, Box 6, folder “National Right to Life Convention 6/8-10/73 (1)” Ford Presidential Library.

According to this analogy, just as the Supreme Court ruled that enslaved blacks were not persons under the law in *Dred Scott v. Sanford*, it also ruled that fetuses were not persons under the law in *Roe*. The National Right to Life Committee passed a resolution at the June convention citing the *Dred Scott* case as the only legal precedent for the *Roe* decision. It was one of the few resolutions about which there was no debate.⁸² An estimated thirty thousand activists gathered to hear Jefferson speak at the footsteps of the St. Louis Courthouse, the location of the original *Scott* hearings on the anniversary of the decision. Activists appreciated the symbolic choice of the location, date and speaker. As a descendant of slaves, Jefferson was a tangible, physical link between the injustice of slavery and what activists considered the new injustice of legal abortion. Jefferson also understood that her physical being and heritage framed and positioned her with special authority to launch the slavery - abortion analogy and gave her a degree of legitimacy within the movement that other national leaders lacked. At the same time, her race marked her as an “other” in a predominantly white movement, something against which Jefferson struggled.

A combination of intersecting traits further complicated Jefferson’s position in the right to life movement and her relationships with other activists. Unlike the majority of female right to life activists, Jefferson had a successful career and had garnered important professional accolades. Though married, she had no children, which made it difficult for her to relate well to those whose activism and authority often stemmed from their domestic roles as mothers and caretakers.⁸³ Moreover, as an AME Church member, Jefferson did not share the same religious traditions, practices and beliefs as Catholics or even white Protestants.

⁸²Resolution #4. National Right to Life Committee, Inc. July 10, 1973. ACCL Papers, Box 4, folder National Right to Life Committee – 1973 (2). Ford Presidential Library.

⁸³ Luker, *Abortion and the Politics of Motherhood*; Ginsburg, *Contested Lives*.

While acknowledging that she was an outstanding speaker and organizer in her own right, some white activists also believed she rose to national leadership so quickly because she was a black Protestant woman.

Mecklenburg and Fink saw a natural ally in Jefferson, who like them, was a woman and a Protestant. Jefferson, however, refused Mecklenburg's overtures. She wanted to be a leader in her own right in the national movement and objected when other activists called her a follower of Mecklenburg. In an astute power move, Jefferson became one of the two Executive Committee members who refused to side with Mecklenburg or Golden. She believed in Mecklenburg's incremental style but backed a hard line constitutional amendment, matching the board's June goals. She wrote, "It is my firm belief that only a strong, effective, democratically-structured, broad-based organization will have the appeal that can reach the uncommitted public and mobilize its support to save the unborn."⁸⁴ Because of this stance, Jefferson often sided with Mecklenburg during Executive Committee meetings but maintained her independence. Jefferson also began to eye the presidency of the National Right to Life Committee. Unlike Mecklenburg and Fink, who had begun to criticize Roman Catholic Bishops and male activists, Jefferson praised the work of the Catholic Church in her speeches and correspondence. She understood that she could not function from her base of power without the support of the Catholics who dominated Massachusetts Citizens for Life's executive board. She saved her criticism for Mecklenburg and Golden, whose infighting in the fall of 1973 had become embarrassing and infuriating to a large number of grassroots activists. She reprimanded the two national leaders to "keep the issue,

⁸⁴ Dr. Mildred Jefferson to Board of Directors, National Right to Life Committee, Inc. Subject: Resignation from the Executive Committee of the Director from Michigan, Mrs. Gloria Klein and A partly related-matter. ACCL Papers, Box 7, folder "National Right to Life Committee—1974 Board and Executive Committee (1)" Ford Presidential Library.

not personalities, on the table.”⁸⁵

“The Constitutional Amendment and the National Right to Life Committee”⁸⁶

By January 1974, the National Right to Life Committee’s Board of Directors had grown tired of what Massachusetts leader Joseph Stanton described as the “continuous cacophony of bickering” between Golden and Mecklenburg.⁸⁷ Instead of using precious funds to lobby for federal anti-abortion legislation, Mecklenburg and Golden squandered resources on mailings discrediting each other’s leadership. In protest, many states refused to send promised funds to the national office and the organization was in dire financial straits.⁸⁸ In response to these criticisms, the antagonists prepared to put their leadership up for a vote at a January 1974 Board of Directors meeting. The board backed Golden. It also embraced Golden’s central control model in order to push a constitutional amendment through Congress, prioritizing the amendment strategy over the work of Judy Fink, Robert Holbrook and Mecklenburg on Protestant recruitment. Robert Greene, the acting executive director and a Protestant lawyer from Kentucky loyal to Mecklenburg, resigned. He criticized the strategy to pursue an amendment because it focused the full resources of the organization on a political campaign with a weak foundation. “I have never believed that a Human Life Amendment standing alone would solve all the problems,” wrote Greene. “I do not believe

⁸⁵Ibid.

⁸⁶ Dennis J. Horan. “The Constitutional Amendment and the National Right to Life Committee,” *NRL News* 1 (January 1974).

⁸⁷J.C. Wilke to Board Members, National Right to Life Committee RE: “Some Thoughts as I fly home.” January 24, 1974. American Citizens for Life Papers, Box 7, folder National Right to Life Committee – 1974 Board and Executive Committee (1)”, Ford Presidential Library.

⁸⁸Ibid.

that it can be obtained quickly.”⁸⁹ Mecklenburg and Fink agreed to stay on, setting their eyes on the upcoming June convention and Executive Committee elections where they hoped to regain power. Board members returned to their states with a single goal: passage of any constitutional amendment granting the rights of personhood to fetuses.

As part of the National Right to Life Committee’s strategy, activists used sponsorship of a constitutional amendment as a deciding test for campaign endorsements in the upcoming 1974 elections. A National Right to Life Committee memo instructed activists to study a candidate’s “voting record, his committees, his source of campaign funds, his basis of political support, his family, his constituency, his district and anything else that will give us an advantage in influencing his vote.”⁹⁰ From Washington, D.C. Golden organized state and local activists into electoral districts. To pressure national politicians, he urged the creation of new chapters in key districts during the upcoming elections.

Patricia Goodson and Kansas Right to Life followed Golden and the Washington D.C. office’s instructions to the letter. They placed Republican Senator Robert J. Dole at the top of a national list of vulnerable politicians. At the time, Dole was a freshmen senator and a rising star in the Republican Party. However, when the *Washington Post* broke the Watergate scandal in spring 1973, his star began to dim. As the public became more dubious about Nixon’s actions in 1974, they began to associate Dole with Nixon’s illegal activities. How much did he know as the head of the GOP in 1972? Dole’s re-election, which had seemed a certainty in 1973, was now in jeopardy. Kansas Right to Life saw an opportunity and took it.

⁸⁹Robert F. Green to Green Sheet Subscribers, February 8, 1974. Subject “Time for a Change.” American Citizens Concerned for Life, Box 7, folder “National Right to Life Committee – 1974 (3),” Ford Presidential Library.

⁹⁰David S. Broder, “Hill Fears Abortion Issue: Delay Favored as Emotions Rise” *Washington Post*, 6 May, 1974, A1.

Dole could be the first prominent state Republican to convert to the anti-abortion cause. To win Dole they threatened him: either he could endorse a Human Life Amendment and gain their support, or they would work against him in his re-election bid.

Dole responded to the Kansas Right to Life's ultimatum by stalling. To ease pressure from right to life activists, he wrote to the chairman of the Senate Judiciary Committee urging hearings on the proposed anti-abortion amendments in February 1974. He then used the possibility of the hearings as an excuse to not declare his position on abortion to his constituents.⁹¹ While Dole awaited the announcement of the Senate committee's decision about any judiciary hearings, he and his staff calculated the political advantages and disadvantages of supporting a fetal personhood amendment.

At the time, most Kansans supported the *Roe v. Wade* decision. In a poll of Dole's constituents in October 1973, he found that fifty-four percent of respondents believed abortion should be permitted "based on a medical decision reached between a woman and her doctor" while twenty-one percent responded that abortion should be allowed "upon demand." Only twenty-five percent favored Kansas Right to Life's position to protect fetal personhood. Of that twenty-five percent, five percent responded that the state should "never" allow abortions while twenty percent believed that the state should permit abortion "only to save the life of the mother."⁹² Dole and his campaign staff weighed the October poll results against the support of sixty-four dedicated anti-abortion activists who wrote the office routinely and for whom Dole's staff had created a special anti-abortion mailing list.⁹³

⁹¹Bob Dole to Constituents, mass mailing. March 5, 1974. Found in Legislation -- Abortion 1974 2 of 4, Robert J. Dole Papers, University of Kansas, 23 June 2010.

⁹²Bob Dole to Mr. and Mrs. Brown. March 12, 1974. Found in folder, "Legislation -- Abortion 1974 2 of 4,' Constituent Issue Mail. Subject Health (Ed) -- Health (General). Robert J. Dole Papers.

⁹³Bob Dole to Mr. and Mrs. Brown. March 12, 1974. Found in Bob Dole Papers, Constituent Issue

Democrats and Republicans of all stripes faced similar pressure from grassroots right to life activists across the country following the January National Right to Life Committee Board Meeting. In February 1974, Senator Birch Bayh, the chairman of the Judiciary Committee, announced hearings on the proposed anti-abortion amendments on March 6 and 7. The National Right to Life Committee's lobbying efforts and the announcement of the hearings thrilled all right to life activists for two reasons: first, the hearings were the initial step toward passing a constitutional amendment; second, many politicians had set the hearings as a tentative deadline for declaring their positions on abortion. Activists, whatever their strategic preferences, needed to know politicians' abortion positions for use in the upcoming 1974 elections. In February 1973 Mecklenburg had written, "We must arouse and educate the public on pro-life issues and then polarize and mobilize enough people to enable us to wield political power sufficient to make ours a country in which human life is again revered and protected." In order to do this, she suggested activists work for the "passage of memorializations to Congress, ancillary pro-life legislation at state and federal levels, election of pro-life candidates and defeat of other candidates who do not share our views."⁹⁴

Right to Life celebrations over the upcoming hearings did not last long. On March 7, four Catholic cardinals testified at the Senate Judiciary Committee hearings on the proposed constitutional amendments. Never had so many Roman Catholic Church officials of such high rank appeared before the U.S. Congress. Dressed in their bright red regiments, the cardinals presented a unified front. They not only opposed abortion in all cases, but also

Mail, Subject Health (Ed) – Health (General). Robert J. Dole Papers.

⁹⁴Marjory Mecklenburg, Preface to the First semi-annual report to the National Right to Life Committee, ACCL Papers, Box 4, folder "Rosters/Mailing Lists (2)", Ford Presidential Library.

opposed any amendment that failed to protect fetal personhood from conception. The Catholic Cardinals created a media bonanza. *The New York Times* reported, “4 Cardinals Urge U.S. Abortion Ban” while *The Washington Post* ran “Senators Hear 4 Cardinals Argue for Strict Abortion Ban.”⁹⁵

Mecklenburg and Fink were furious. Fink told a *Washington Post* reporter that “The overbearing and separatists attitudes of the Catholic hierarchy can only serve the purpose of abortion groups who want to prove once and for all that abortion is truly a Catholic issue.”⁹⁶ Warren Schaller, a Protestant National Right to Life Committee staff member in Washington, D.C. wrote, “If I might use an analogy from the game of chess, in their opening gambit, [pro-abortionists] ‘captured’ four Cardinals.” The Cardinals, Schaller argued, proved the abortion rights argument “that abortion is a religious, and especially a Roman Catholic issue.”⁹⁷ Adding salt to Schaller’s wound, the press rarely mentioned the testimony of the four leading Protestant theologians who he, Mecklenburg, and Fink recruited for the hearings. Instead, the press reported on the reaction of the American Baptist Churches, USA and its 1.5 million members. Leaders of that church released a letter charging the Catholic cardinals with seeking “laws which violate the theological and moral sensitivities, and hence the freedom of other church bodies.”⁹⁸ Many Catholic right to lifers agreed with Fink and Schaller’s criticism and acknowledged that the Catholic Cardinals’ testimony hurt efforts to pass a

⁹⁵ “4 Cardinals Urge U.S. Abortion Ban,” *New York Times*, March 8 1974, 40; Marjorie Hyer Washington, “Senators Hear 4 Cardinals Argue for Strict Abortion Ban,” *The Washington Post*, March 8, 1974, A2.

⁹⁶Marjorie Hyer, “Abortion Issue Strains Ecumenism,” *The Washington Post*, 5 April 1974, D17.

⁹⁷ Warren Schaller, Jr. To Board of Directors, March 8, 1974, ACCL Papers, box 8 f. NRLC – 1974 Board and Executive Committee (5),” Ford Presidential Library.

⁹⁸“Baptists, Catholics clash on abortion,” *The Chicago Tribune*, March 16, 1974,A13.

constitutional amendment. The *National Right to Life News* reported that, “it should have become clear that pro-life activities are not dictated by a Catholic autocracy.”⁹⁹ Still, these Catholic activists expressed dismay when Fink, Mecklenburg and Schaller attacked the Catholic hierarchy outright in national newspapers and aired what many considered the movement's dirty laundry.

Tensions between Golden and Mecklenburg only escalated in the aftermath of the March senate hearings. Golden refused to consult Mecklenburg and her Protestant allies on the Executive Committee for any decisions. He consolidated his power base at the national level, determined to oust Mecklenburg and her followers in June.¹⁰⁰ Randy Engel, female leader of U.S. Coalition for Life who had challenged Judy Fink in 1973, aided Golden in his efforts. In March, she attacked Mecklenburg in a memo to all members of the National Right to Life Committee Board of Directors. “By using her Protestantism as a battering ram to hit Catholics over the head and cow them into silence lest they be labeled ‘anti-Protestant’ or ‘radical conservative Catholic’,” she charged, “[Mecklenburg] has successfully muzzled some of her opponents.” According to Engel, Mecklenburg's attacks were even more effective because she was “a Protestant (and a woman to boot).” Engel then articulated the feelings of many Catholics in the movement: “The business of attempting to LABEL people either by sex or by religion or political persuasion has had a very bad effect on the National Right to Life Committee morale by creating an artificial division where no division should exist.” For Engel and Catholics of her persuasion, Mecklenburg’s recognition of a diverse right to life movement was detrimental to the cause. Instead, Engel argued, “all that should

⁹⁹Dexter Duggan, “Senate takes testimony on life measures.” *NRL News* 1 (March 1974).

¹⁰⁰Robert Green to Ed Golden, March 29, 1974. Americans Concerned for Life Papers, box 8 folder National Right to Life Committee-- 1974 – Board and Executive Committee (6),” Ford Presidential Library.

matter is that a person is pro-life in deed as well as word.” Mecklenburg's support of birth control, according to Engel, disqualified her from being truly pro-life. Mecklenburg, Engel wrote, “share[d] her husband's sentiments although she [was] somewhat more discreet in conveying the Sangerite message which she knows most pro-life people find repulsive.”¹⁰¹

Mecklenburg too began to rally her base. Responding to Engel’s memo, she shot back, “I do not consider my husband or myself or the countless others who share our views as second class members of the movement.” She reiterated what she and her Protestant allies had argued since *Roe v. Wade*. “People like us are necessary to attract the mainstream of America to [the right to life] position.” Emma O’Steen, the president of North Carolina Right to Life, encouraged Mecklenburg, advising her “not to be discouraged by the few destructive elements within National Right to Life Committee and continue capable leadership for the organization.” “You have our prayers and wishes,” she concluded in an April 1974 letter.¹⁰²

Further adding to pro-lifer’s woes, Senator Bayh announced in May that the Senate Judiciary Committee hearings on the anti-abortion constitutional amendments would continue throughout the year. Bayh told a *Washington Post* reporter, “This is probably the most volatile issue in American politics – or it will be before it’s over.” For that reason, he argued “A lot of my colleagues don’t want it to come to a vote before November.”¹⁰³ Bayh delayed the next round of Judiciary Committee hearings until August, after most state’s primaries. He then scheduled the final hearings after the general election in November. The delayed hearings frustrated right to life activists’ strategies in three ways: there would be no

¹⁰¹ Memo from Randy Engel to Board of Directors, March 8, 1974. ACCL Papers, Box 8, folder “National Right to Life Committee – 1974 – Board and Executive Committee (6)” Ford Presidential Library.

¹⁰² Emma O’Steen to Marjorie Mecklenburg, April 8, 1974. ACCL Papers, Box 8, folder “National Right to Life Committee – 1974 – Board and Executive Committee (6)” Ford Presidential Library.

¹⁰³David S. Broder, “Hill Fears Abortion Issue: Delay Favored as Emotions Rise” *Washington Post*, 6 May, 1974, A1.

major Senate floor vote on abortion prior to the election; the lack of a floor vote ensured a number of politicians would not take a position on abortion; and abortion would not be a major issue in most if not all the upcoming electoral campaigns.

Bayh's decision to delay hearings also created difficulties as the National Right to Life Committee's June 1974 convention and Executive Committee elections approached. The strategy of pushing through a constitutional amendment had not succeeded or failed. Instead, it had experienced a serious setback that had only intensified the debate over strategy. Should the movement continue to direct most of its resources to establish fetal personhood, or allocate more resources to restrict abortion access and build the movement? Mecklenburg and her allies squared off against Golden and his allies. This time, both leaders argued that compromise between the opposing sides was not possible. Either the National Right to Life Committee was a grassroots organization dedicated to an incremental and accommodating approach, or a centralized and authoritarian one pursuing a constitutional amendment. One camp had to win or lose at the convention.

Mecklenburg and her incremental allies lost. While Golden did not maintain the presidency, Ken Van Derhoef, one of his conservative Catholic allies from Washington State, won. The Board of Directors chose working for an amendment in large part due to the ongoing Senate Judiciary Committee hearings. Many board members concluded that after putting so many resources into the amendment campaign, it should remain the National Right to Life Committee's priority. Dr. Mildred Jefferson replaced Marjory Mecklenburg as the chairman of the National Right to Life Committee Board of Directors.

On August 19, Mecklenburg resigned from the National Right to Life Committee to form American Citizens Concerned for Life, an organization aimed at helping states develop

incremental strategies. Judy Fink joined her the next day.¹⁰⁴ Ray L. White, a conservative Mormon and the newly appointed executive director of the National Right to Life Committee, told a Catholic reporter that the organization was “happy to see the ladies go.” The break, according to White, “in a nutshell revolv[ed] around one woman’s ego.”¹⁰⁵ His use of ladies and charges of female egotism underscored that male leaders of the Executive Committee were not comfortable with Mecklenburg or her assertions of power as a woman and as a Protestant. When possible they demeaned her. By equating the conflict to one of personalities, White was also attempting to smooth over the very real divisions over strategy and religion in the National Right to Life Committee. Warren Schaller, a Mecklenburg ally, retaliated that the women left due to “differences of philosophy about the movement and administration of the corporation.” White, Schaller argued, “should make no judgments about the ‘ladies’” if he didn’t “know what the basic questions [were].”¹⁰⁶ By the end of the summer, the split between the conservative male hard liners and female incrementalists on the Executive Committee seemed irrevocable. The national anti-abortion movement's leadership was in shambles.¹⁰⁷

Dr. Mildred F. Jefferson stepped into the void. She called National Right to Life Committee Board members loyal to Mecklenburg and convinced them and their state chapter affiliates to remain loyal to the organization. Even Mecklenburg and Fink's respective state

¹⁰⁴Ken Van Derhoef to Board of Directors, 22 August, 1974, found in ACCL Papers, Box 8, folder National Right to Life Committee – 1974 Board and Executive Committee, Ford Presidential Library.

¹⁰⁵Warren Schaller to Board of Directors, National Right to Life Committee. October 8, 1974. ACCL Papers, Box 8, folder. National Right to Life Committee – 1974 Board and Executive Committee (12)” Ford Presidential Library.

¹⁰⁶ Ibid.

¹⁰⁷Alice Hartle, “Don't Confuse Us with Facts,” *NRL News*, 1 (August 1974):7.

chapters in Minnesota and Pennsylvania remained affiliated with the National Right to Life Committee. After ensuring that Mecklenburg and Fink's followers would remain part of her organization, Jefferson wished the American Citizens Concerned for Life luck in its future endeavors. "I consider it a blessing that no single charismatic 'leader' has appeared to convert the pro-life forces into a herd of sheep blindly following along seeing only as far as the sheep's tail ahead," wrote Jefferson. She then encouraged grassroots activists to stop yearning for a single savior to deliver the movement. Instead, Jefferson urged, grassroots should use their frustration to forward local campaigns and anti-abortion activities.¹⁰⁸ Grassroots activists paid heed to Jefferson's advice. As the leadership fractured in the summer and constitutional amendment hearings dragged on in the fall, the movement's momentum turned back to the states as activists prepared for the elections.

"We NEED your public pro-life statement"¹⁰⁹

In Kansas, Patricia Goodson and Kansas Right to Life Affiliates set out to make abortion a key electoral issue in the upcoming Robert J. Dole senate race. As Dole continued to stall on stating his abortion position throughout the spring of 1974, Kansas Right to Life Affiliates leaders stepped up the pressure. They began to meet with Dole in earnest in March and April when he returned to the state for various Republican fundraising events. During these meetings, the right to lifers presented a unified front. No anti-abortion activist would endorse Dole until he released a public statement opposing abortion and stated his support of

¹⁰⁸Mildred Jefferson to Fell Board Members: August 28, 1974. ACCL Papers, Box 8, F. National Right to Life Committee – 1974 Board and Executive Committee (10), Ford Presidential Library.

¹⁰⁹Catherine Orth to Senator Robert Dole, May 17, 1974 and Bob Dole to Catherine Orth, May 28, 1974. Personal/Political Campaign Opposition Research 1973-1976, Robert J. Dole Papers.

a constitutional amendment recognizing the “unborn” as persons under the law.¹¹⁰ Patricia Goodson turned to Catherine Orth, the president of the Hays Right to Life chapter, to convert Dole to the cause. Orth a registered nurse, a fellow devout Catholic, and mother of nine children, wrote to Dole in May, “I felt by this time, busy as you are, you'd have learned enough about the abortion issue, that you'd come out with a public pro-life statement.” She re-iterated the same threat that Kansas anti-abortion activists had used since February: “I know you are very concerned about your future political life . . . We NEED your public pro-life statement.”¹¹¹ In a series of meetings in June, Orth offered a deal to Dole: if he supported an amendment, she and a core contingent of anti-abortion women would organize Kansas’s precincts, their churches and neighborhood networks on his behalf in the fall election. Dole did not respond. The best course, Dole believed, was to remain uncommitted as he weighed the effect of abortion on his re-election campaign.

As summer approached, one question plagued Goodson and right to life activists across the country. How could they make a politician take a position on abortion before the 1974 elections without a constitutional amendment vote or any anti-abortion legislation vote? Grassroots activists in California provided one answer: increase pressure by picketing politicians. A collection of California right to life activists had paraded outside the offices of Representative Don Edwards every day since March. Edwards was targeted as the chairman of the House Judiciary Subcommittee on Constitutional Amendments. In an astute political move, the California pro-lifers’ signs not only opposed abortion but also campaigned for his

¹¹⁰Bob Dole to Constituents in mass mail letter, February 7, 1974. Constituent Issue Mail, Subject Health (Ed) – Health (General), Robert J. Dole Papers,

¹¹¹Catherine Orth to Senator Robert Dole, May 17, 1974 and Bob Dole to Catherine Orth, May 28, 1974. Personal/Political Campaign Opposition Research 1973-1976, Robert J. Dole Papers,

opponent in the upcoming California Democratic primaries. Unlike Edwards, his opponent had come out in support of a Human Life Amendment. The protests against Edwards turned into a successful national letter writing campaign after Bayh announced the Senate hearings would drag on past the November elections. Some right to life activists even went so far as to send campaign donations to his primary opponent.

Following the California organization's example, Patricia Goodson and a collection of Eastern Kansas Right to Life activists staged their first anti-abortion protest on June 23, 1974. Piling out of their cars on an early Saturday morning, they gathered with signs outside the campaign headquarters of Dole's opponent, Democratic Representative William Roy. Roy was an obstetrician-gynecologist and lawyer who had been pivotal in reforming Kansas criminal abortion statute in 1968. He won election to the U.S house in 1970. Roy's campaign staff was busy decorating the office red, white and blue with banners, signs and balloons for the grand opening of his Kansas senate campaign headquarters. They were not expecting a contingent of right to life activists with signs claiming Roy was "pro-abortion" and "anti-life" to grace the headquarters' doorsteps. Goodson and her fellow activists stayed put despite pleas from campaign staff that they were souring the festive atmosphere and offending potential donors.¹¹²

Upon hearing of the protests and Kansas Right to Life efforts to label him as pro-abortion, William Roy was furious. On June 26, 1974, he wrote, "I absolutely reject any attempts to label me as pro-abortion or anti-life." Instead, Roy stated he was "personally opposed to abortion as a birth control measure," but he "would not presume to impose [his] views on others who do not share this viewpoint." Roy then reminded readers that, "laws

¹¹²Dorothea Warren to WRR. June 28, 1974. Box 38 f. "Leg/Jud/Anti-RTL" William Roy Papers, Kansas State Archives.

prohibiting abortion are difficult, if not impossible, to enforce,” because “a substantial number of American citizens, perhaps even a majority, consider abortions to be a matter of individual conscience and medical advice.” Moreover, Roy had witnessed abortions “performed illegally and brutally in great numbers” in his thirty-year obstetrics and gynecology career. He knew women would have abortions whether it was legal or illegal.¹¹³ While his response to Goodson’s protest was prompt, he had a hard time believing Goodson would make abortion a pivotal issue in the upcoming senate race. But Goodson was not deterred and soon discovered a different type of anti-abortion legislation would aid her in her struggle. Pro-life activists did not need a vote on the Human Life Amendment after all.

The “Blunderbuss Restriction”

On June 27, freshman Representative Angelo Roncallo of New York, an Italian Catholic Republican, introduced an anti-abortion amendment to the Health, Education and Welfare Department’s Appropriations Bill for 1975. The amendment read:

No part of the funds appropriated under this Act shall be used in any manner directly or indirectly to pay for abortions or abortion referral services, abortifacient drugs or devices, the promotion or encouragement of abortion, or the support of research designed to develop methods of abortion, or to force any State, school, or school district or any other recipient of Federal funds to provide abortions or health or disability insurance abortion benefits. As used in this section, abortion means the intentional destruction of unborn human life, which life begins at the moment of fertilization.¹¹⁴

There were no exceptions for pregnancies that threatened maternal life or health, or for cases

¹¹³“The Law and Abortion” by Congressman Bill Roy. June 26, 1974. Box 121, folder. “Abortion,” William Roy Papers.

¹¹⁴“Amendment offered by Mr. Roncallo of New York,” Congressional Record – House, June 27, 1974. 21687.

of rape, incest or fetal deformity. It was a sweeping amendment, taking the hard line right to life position and applying it to federal appropriations for abortions and abortion-related services. Roncallo was so confident the amendment would pass that he did not deliver a speech introducing the amendment to his fellow representatives. He handed the text to the clerk and sat down.¹¹⁵

Bella Abzug, a fellow representative from New York and a national feminist leader, was the first representative to speak against the amendment. Abzug called it a “blunderbuss restriction” that would limit a teenage girl’s ability to abort a pregnancy resulting from rape and undermine all women’s access to contraception, including the eight million American women who were using intrauterine devices. “Those who are personally opposed to abortion are free to model their own lives on that precept,” Abzug charged. “But they have no right to demand that all Americans conform to their particular beliefs. They have no right to punish women who disagree with them.”¹¹⁶ A number of representatives opposed the amendment along with Abzug. Some, like Abzug, were offended that the amendment discriminated against the poor, restricting indigent women’s access to abortion disproportionately to middle and upper class women.

Most representatives, however, opposed the amendment for its restrictions against the vaguely worded “abortifacient drugs or devices.” Unsure what forms of birth control and family planning the amendment would stop funding, representatives turned to the two physicians who served in Congress for answers. Democrat Dr. William Roy of Kansas and Republican Dr. Tim Lee Carter of Kentucky teamed up to defeat the bill. Roy rose first. He

¹¹⁵Bob Kuttner, “Anti-abortion Forces Suffer Setback on Hill.” *The Washington Post*, June 29, 1974,, F1.

¹¹⁶Bella Abzug. *Congressional Record* – House, June 27, 1974. 21691.

told his fellow representatives that, “I personally feel that the State should not be in the position of either favoring or opposing abortion, and I do not feel that we should be paying for abortions.”¹¹⁷ After stating his general support of the Roncallo anti-abortion amendment’s intent, he opposed it for a single reason. He told the House in his expert opinion as an obstetrician and gynecologist that the amendment’s vague use of “abortifacient drugs or devices” not only included IUDs and the morning-after pill, as representatives feared, but a number of popular birth control pills that “act by not permitting the fertilized ovum to implant.” In short, Roy believed the amendment threatened the \$287 million allocated for all family planning programs in the United States. Tim Lee Carter and Roy then led a joint discussion before their fellow representatives, arguing that if Congress wants to prevent abortions, it had better fund family planning and women’s access to contraceptives. The debate raged on for another hour or so, but Roy and Carter’s arguments carried the day. Minutes before midnight, the House rejected Roncallo’s amendment, 123 for it and 247 against it.

The amendment and its defeat astonished right to life activists across the country. Many of them first learned of the budget amendment in national headlines on June 28 and 29 after the vote had already occurred; their reactions were mixed. On one hand, Patricia Goodson of Kansas was thrilled. Even though six months earlier she had thought such legislation a distraction to efforts to pass a Human Life Amendment, now she considered it a boon. She was determined to turn what she considered Roy’s “pro-abortion” vote against the Roncallo amendment against him during the upcoming elections. Roncallo, on the other hand, was furious at the amendment’s defeat. He told the press that the “lateness of the hour” increased representatives’ misplaced fears over family planning programming and that Roy

¹¹⁷ William Roy. *Congressional Record* – House, June 27, 1974, p. 21692.

and Carter's interpretation distorted the intent of the bill. Simply put, he said, "The amendment was bastardized" by family planning debates.¹¹⁸ Ray White, the newly appointed executive director of the National Right to Life Committee, told reporters that his organization "was taken by surprise." Since he and the National Right to Life Committee's Washington D.C. staff had been focused on the ongoing hearings on the constitutional amendment. John Short of Human Life Lobby took a different approach. While the Roncallo amendment and vote also surprised him, Short told reporters that any congressional attempts to ban federal funding would be his organization's top priority from that moment on.

Kansas Voters for Life

In the aftermath of the Roncallo defeat, Goodson's top priority remained making abortion a key campaign issue in the Kansas senate race between Dole and Roy. Over the fourth of July weekend, Kansas Right to Life leaders met to form nineteen precinct, town, and county "Voters for Life" organizations. Five women oversaw the voter mobilization as congressional district heads, including Catherine Orth and Patricia Goodson. Orth had fulfilled her end of her promise to Dole. She and other activists had created a statewide infrastructure posed to make abortion a key electoral issue in every district. Kansas Right to Life also had expanded beyond the core sixty-four anti-abortion activists Dole's staff had identified in February. Now, activists agreed, Dole should live up to what they believed was his end of the deal. In a series of letters drafted at the meeting, they demanded a public statement from Dole endorsing a Human Life Amendment.¹¹⁹

¹¹⁸Bob Kuttner, "Anti-abortion Forces Suffer Setback on Hill." *The Washington Post*, June 29, 1974, . F1.

¹¹⁹Paul M. Bastasch to Representative Roy. July 11, 1974. Box 45, folder "Leg/Jud/Right to Life,"

Devastated by the ongoing Watergate investigation, Dole was trailing in the polls behind Roy and needed more endorsements and devoted campaign foot soldiers. He still felt a Human Life Amendment endorsement was a political risk given Kansans' support of legal abortion, but it was a risk he was increasingly willing to take as the summer wore on. On July 18, Dole finally released his statement on abortion. "I . . . support an amendment to the Constitution to nullify the Court's decision because I cannot condone the taking of life simply because it has not been born."¹²⁰ Kansas Right to Life Affiliates pressure tactics had paid off. In their minds, they had a clear "pro-life" candidate to run against Roy, who they labeled as "pro-abortion" or "anti-life."

Kansas Right to Life made this pro-life/anti-life binary explicit in handouts for the upcoming August 6 Kansas primaries. The organization instructed voters, "On this issue there are only two choices – LIFE or DEATH. A legislator faced with a vote on the Human Life Amendment has only two choices – YES or NO! He cannot vote maybe – or sometimes." The same voter guide wrote, "Bill Roy claims to be personally opposed to abortion, although he has personally performed many abortions. He does not believe that the lives of the unborn children should be protected by law, and was a moving force in passing the Kansas abortion law."¹²¹ In 1974, however, the American public and most politicians did not accept the simple binary that the activists had asserted. In fact, Bill Roy fought hard to prevent the anti-abortion movement's adoption of the terms "pro-life" or "right to life." In

William Roy Papers

¹²⁰Bob Dole to Ms. Becki Snook. July 18, 1974. Personal/Political Campaign Opposition Research, 1973-1976. Bob Dole Papers

¹²¹Kansas Primary Elections August 1974, Kansas Right to Life Affiliates, found in f. "Leg/Jud/Right to Life" Box 45, William Roy Papers.

speeches and letters, he argued that criminalizing abortion would cause the deaths of women from illegal and unsafe abortions. Moreover, Roy believed the term pro-life should also apply to a number of other issues dealing with the quality of life. To be pro-life, Roy argued, meant to support welfare for American citizens in economic distress, to want universal health care, and to oppose capital punishment.

Goodson was equally determined that Roy and politicians like him would not take the label “pro-life” from her movement. Of particular importance to her was the fact that Roy had performed abortions. She used his own words to condemn him. In the Shawnee Right to Life August primary pamphlet, Goodson quoted from Roy's “Abortion: A Physician's View,” which he published in the *Washburn Law Journal* in spring 1970. In it, Roy candidly admitted to performing some abortions for the wives and daughters of fellow physicians. Because of their husbands and fathers, these women had enough influence with the hospital abortion board to obtain a legal abortion under Kansas law. In the article, Roy's admission was used to critique the disparities between rich and poor women's access to safe abortion procedures during the illegal era. Roy expressed his own discomfort over the fact that poor women overwhelmingly were the victims of unsafe illegal abortion providers. Goodson lifted his admission to performing abortions out of the context of the article. Using his own words, she painted Roy not only as an abortion rights supporter but an abortion provider. The pamphlet asked Bill Roy, “How many babies have you aborted?”¹²²¹²³

Patricia Goodson's primary guide was read in four Catholic Churches the Sunday

¹²²Kansas Primary Elections August 1974, Kansas Right to Life Affiliates, folder. “Leg/Jud/Right to Life” Box 45, William Roy Papers.

¹²³“What is Dr. Bill Roy's Position on Abortion?” Shawnee Right to Life. Folder “Abortion,” Box 121, William Roy Papers.

before the Democratic primaries in August. The Eastern Kansas Right to Life pamphlet and others like it were so incendiary that Archbishop Strecker of Kansas City banned Kansas Right to Life from passing out campaign literature in any of his diocese's Catholic Churches for the November election. Strecker reprimanded the organization for publishing "grossly inaccurate" charges against William Roy.¹²⁴

Roy was not too troubled by the Kansas Right to Life handout and Archbishop Strecker's reprimand of the organization cheered him; he and his staff interpreted Strecker's ban on Kansas Right to Life pamphlets as a declaration of Catholic neutrality that would play to Roy's favor in the election.¹²⁵ They also continued to believe abortion would not be a major issue in the senate campaign, and instead they focused on what they considered more pertinent topics. At the time, Roy was leading a resurgence of the Kansas Democratic Party. America was in the midst of an economic downturn that hit Kansas's farmers in particular, so Roy's campaign focused on the economy and agriculture policy. Following his primary victory, Roy told reporters, "In the next three months I ask Republicans and independents to join with us in bringing our message of fiscal responsibility and progressive government, within the limitation of a balanced budget, to all Kansas voters."¹²⁶

Then on August 8, 1974, two days after the Kansas primaries, President Nixon resigned from office. The recent release of White House tapes indicating Nixon's knowledge of and potential participation in the Watergate cover up prompted his resignation. Dole remained loyal to the end; he was one of a handful of politicians who stayed with Nixon in

¹²⁴Most Reverend Ignatius J. Strecker to Brother Priests, August 1, 1974. ,Box 121, folder "Abortion," William Roy Papers.

¹²⁵"Roy Will be Dole Opponent." *The Topeka Daily Capital*. August 7, 1974. p. 1

¹²⁶*Ibid.*

the Oval Office during his final hours as president. Dole's loyalty and the electorate's general distrust of the Republican Party gave Roy a lead over Dole in public opinion polls following Watergate. Roy continued to increase his lead to eight percentage points in September despite the fact that Dole was outspending him almost two to one.¹²⁷ For Dole to make the election a contest, not only in Kansans' minds but also in the minds of the press and national Republican donors, he had to bring the election to within five percentage points.¹²⁸ Instead, Roy's lead in the polls only increased in the aftermath of Watergate.

Dole was not resigned to his fate. If he lost, he was going to go out fighting. On September 23, Dole and Roy debated each other at the Kansas State Fair in Hutchinson, Kansas. From the stage, the two men looked down upon the three hundred plus Kansans sitting in the late summer sun, glimpsing green John Deer hats scattered through the audience. The televised debate, a first in Kansas history, reached voters all across the state as they listened to Dole and Roy discuss the economy, Watergate, tax revenues and agricultural policy. Then Dole introduced a new topic and attack in his final words: "Dr. Roy, how many babies have you aborted?"¹²⁹ Shocked, Roy had no time to respond as the cameras panned out and the debate ended. For Roy, Dole's abortion question came out of nowhere. Moreover, the question's effect on the campaign was difficult to measure. No one knew if Dole's abortion question changed any voters' minds. Plus, the local and state press chose not to cover Dole's abortion question and opted to focus on agricultural policy differences between the two candidates instead.

At first, abortion seemed to continue its marginal status in the race. For most Kansans

¹²⁷"Poll shows Roy leading," *The Lawrence Journal World*, September 25, 1974, 2.

¹²⁸"Dole workers cite new enthusiasm in campaign," *The Lawrence Journal World*, October 1, 1974, 2.

¹²⁹Jennifer Donnally interview with William Roy, March 10, 2008.

abortion was not as important as other issues. On September 30, one week after the state fair debate, the two men appeared on “Face the Nation” together for a second debate. This time coverage was national. Dole told the reporter, “There were three chief issues in the campaign: ‘The rise and fall of Richard M. Nixon.’” Instead of using abortion to attack Roy's character, Dole charged him with running a Watergate-style campaign. In Dole's framing, Roy and the press were hitting him below the belt when they asked questions about how much he knew as the GOP chairman in 1972. Instead, Dole wanted the campaign to be “a classic contest between a known conservative . . . and a known liberal.” Abortion, it seemed, had dropped out of the race.

The day before, however, Dole had fired his campaign manager and overseen a major overhaul of his election campaign. He fired all but one of his Washington, D.C. staff members, flew them to Kansas, and re-hired them as temporary campaign workers. Dole planned to spend the last five weeks of the campaign in Kansas, vowing to return to Washington, D.C. only for key votes on legislation. To close the eight-point gap, Dole looked for any and every negative thing he could fling Roy's way. Amidst this shift in tactics, abortion re-emerged as a key issue. On October 4, a political consultant wrote Dole, “the basic difference between you and Roy on abortion is that you are consistent and Roy is schizophrenic on the issue.” The Republican consultant criticized Roy's “Abortion and the Law,” which he had released the previous June to clarify his position. According to this Republican political consultant, Roy examined abortion from three perspectives, “as an individual, as a doctor, and as a legislator” and came to three distinct and contradictory positions.¹³⁰ As an individual, he opposed it. As a doctor, he performed it. As a legislator, he

¹³⁰Micke Baroody to Senator Dole. Memorandum Subject: Abortion Issue, October 4, 1974. Robert J. Dole Papers.

supported abortion rights. Dole's strategists would use abortion to launch a character attack. According to them, Roy's statements demonstrated that he was inconsistent and played both sides of the issue. In doing so, Dole painted Roy as the tricky politician emulating Nixon, while Dole had integrity and the courage to stand up for his convictions.

Dole's September 29 campaign overhaul and abortion repositioning began to pay off within two weeks. While Roy stayed in Washington, D.C. to help push the federal budget through, Dole was campaigning non-stop. By October 15, Dole had closed Roy's eight-point lead in public opinion polls;¹³¹ the *Topeka Capital-Journal* placed Dole and Roy in a dead heat. Both had forty-six percent of the vote, with eight percent undecided. The undecided vote was concentrated in the northeast corner of the state between the metropolitan areas of Kansas City and Topeka. Both campaigns zeroed in on Johnson County, the location of the rich and densely populated suburbs of Kansas City. Kansas Right to Life also focused its energies on Johnson County.

On October 23, Patricia Goodson's Eastern Kansans for the Right to Life paid for a series of advertisements featuring a skull and crossbones. The ads reminded voters that Dr. Roy not only supported access to legal abortion, but had also performed abortions. The *Kansas City Star*, the *Sun Newspaper* of Metcalf and Overland Park, the *Johnson County Herald*, the *Topeka Capital Journal* and *Seneca Courier* all carried the ads. David Brock, the Kansas Democratic Party chairman told reporters that the images must "shock the sense of fair play important to Kansas voters," and that it was "disgusting that so many newspapers would accept outrageous ads of this type so late in the campaign."¹³² Dole's campaign staff

¹³¹"Finance reports show Dole outspending Roy." *Lawrence Journal World*, October 22, 1974, 11.

¹³²"Mudslinging ads resume; Roy spokesman hits Dole." *Lawrence Journal World*, November 4, 1974, 5.

denied approving or certifying any of the ads even though reporters later found that Dole's campaign had paid for them.¹³³

Meanwhile, Dole launched a character attack against Roy. "He accuses Roy of taking two positions on abortion, busing and revenue-sharing," one reporter noted, in order to persuade Kansas voters that Bill Roy "waffles too much." Dole compared Roy's complex stands to his own simple ones. "At least you know where I am," Dole told audiences, "And why should people have to guess? After all this is an important election."¹³⁴ A member of Dole's campaign staff told a reporter, "Congressman Roy attempts to be on both sides of every issue. His record and statements on busing, Federal spending, campaign reform and abortion are just a few examples."¹³⁵

Dole and Kansas Right to Life Affiliate's negative campaign tactics paid off. The race was neck and neck heading into the final week. A Topeka Central Research Corp poll on October 29, 1974 gave Roy a two percentage point lead over Dole with six percent of the Kansas voters undecided.¹³⁶ The same week, another poll placed Dole in the lead. This survey distributed 7,000 ballots in 67 counties in the central, western and southeastern Kansas. Dole led Roy by 698 votes, 2,533 to 1,835.¹³⁷ Both surveys indicated that northeast Kansas continued to be the pivotal area for both campaigns; it was the one area where Roy continued to lead, and it was the most populous area of the state. Accordingly, anti-abortion

¹³³ Nicholas Horrack, "Anti-Abortion Ad Funds accepted by Dole in '74," *New York Times*, 25 August 1976, 73.

¹³⁴ Bobby Marcotte, "Roy, Dole both claim political clout for state." *Lawrence Journal World*, October 30, 1974, 2, 32.

¹³⁵ Statement of Dave Owen. News Release, 3 November 1974. Personal/Political Campaign Opposition Research 1973-1976, Robert J. Dole Papers.

¹³⁶ "Poll shows Roy back in the Lead." *Lawrence Journal World*, October 29, 1974, 5

¹³⁷ "Bennett, Dole lead Harris poll." *Lawrence Journal World*, October 25, 1973, 4.

activists also focused their efforts on northeast Kansas.

In the final week of the campaign, Sterling Lacy, a Protestant minister with no formal ties to Kansas Right to Life Affiliates, distributed 50,000 anti-abortion pamphlets in Northeastern Kansas. Independently, Lacy had collected \$3,480 from friends and family to fund the production and distribution of an anti-abortion and anti-Roy pamphlet. Lacy mailed the pamphlet to friends and family in rural northeast Kansas. He and a handful of volunteers also left the pamphlets on the windshields of cars parked outside church services in the Johnson County suburbs on Sunday, November 3, two days before the general election. The outside of the pamphlet was a large photograph of three aborted fetuses in a steel trashcan. On the inside was a long essay, written by Lacy, urging Kansans not to vote for Roy. “While Dr. Roy would undoubtedly make a good next door neighbor,” Lacy wrote, “I wouldn't want his confusion over and unconcern for when life begins, to be sent to Congress as representative of the views of the majority of Kansans.” He then launched the same attack and listing of facts that the Eastern Kansas Right to Life Affiliates had collected, citing Roy's *Washburn Law Journal* article to point out that Dr. Roy had performed abortions. A key difference between the Right to Life Affiliates pamphlet and Lacy's pamphlet, however, was the inclusion of the shocking photograph. The photo, according to Lacy, revealed, “Bill Roy's real position on abortion” after “all the election rhetoric [was] stripped away.”¹³⁸

The exact impact of Kansas Right to Affiliate's skull and crossbones ads and Lacy's 50,000 pamphlets was impossible to measure. Roy supporters hoped the distasteful pamphlets would turn voters against Dole. The press reported that Lacy's pamphlet “stamped

¹³⁸Sterling Lacy. “An Open Letter from Sterling Lacy, an ordained minister living in Congressman Roy's district to the voters of Kansas,” ,Personal/Political Campaign Opposition Research 1973-1976, Robert J. Dole Papers

the campaign . . . as one of the more offensive in state history to some people.”¹³⁹ The day before the election, however, Dole led for the first time in most public opinion polls. The *Topeka Capital Journal* poll placed Dole ahead by three percentage points, 48 to 45 with seven percent of Kansas voters undecided.

Democrats and Republicans prepared for heavy voter turn out on November 5 and crossed their fingers for good weather. On Tuesday, they awoke to a gorgeous fall day. Clear skies and temperatures in the 50s helped staff and volunteers work in neighborhoods across most of Kansas, but clouds and cold weather greeted volunteers working in the key northeast corridor.¹⁴⁰ The election set a Kansas voter-turn out record for a non-presidential election. As the polls closed, Dole and Roy awaited the results in hotels in downtown Topeka along with their supporters and campaign staff. For most of the evening, the election was too close to call. Then Walter Cronkite predicted Dole's victory on CBS news. Supporters surrounded Dole as he entered the Topeka Ramada Inn ballroom to the tune of “Cabaret.” Dole greeted most supporters in attendance by first name. Over the last six weeks, he had become close to everyone involved in his comeback. “I think we won the election,” he told the cheering crowd. Still amazed by the turnaround, he added, “I'm trying to figure out if I really won.”¹⁴¹ When election officials tallied the final votes the next day, Dole had eked out a victory by a little over 7,000 votes. He won the election with fifty-one percent of the vote compared to Roy's forty-nine percent.¹⁴²

¹³⁹“Election battles going down to the wire.” *Lawrence Journal World*, November 4, 1974, 3.

¹⁴⁰“Heavy voting reported across state,” *Lawrence Journal World*, November 5, 1974, 1.

¹⁴¹Debi Licklider. “Dole cheered at Topeka Hotel.” *Lawrence Journal World*, November 6, 1974, 3.

¹⁴² Ashton Scott, “Early victories in the Midwest go to the Democrats,” *The Washington Post*, November 6, 1974, A8.

In his concession speech, Roy identified the anti-abortion literature and Kansas Right to Life Affiliates late-campaign ads as the “telling blow” to his candidacy.¹⁴³ He believed anti-abortion efforts were a key factor for voters in Leavenworth, Atchison, Topeka and Hays, all communities with large Catholic populations and organized National Right to Life Committee affiliated local chapters. Melvin A. Kahn affirmed Roy's analysis the day after the election. The political scientist from Wichita State University told Kansas reporters that “mudslinging charges, abortion and Kansas conservatism” were the major factors contributing to Roy's loss. He explained, “Roy never developed an effective counterattack on the abortion issue.” Rather than explain his position, Kahn thought Roy should have “faced it head-on by discussing all the ramifications of the Right-to-life amendment.”¹⁴⁴

For Kansans who supported access to legal abortion, Roy and Kahn's analysis of the election was infuriating. Biddy Hurlbut, a feminist from Tonganoxie and the treasurer of the National Abortion Rights Action League, wrote to other national leaders, “Our dear friends in Kansas report that it was Dr. Roy's acceptance of labor money, not his abortion stand, that defeated him.” Kansas Right to Life Affiliate leaders also qualified what Roy perceived to be their pivotal role in Dole's victory. Martha T. Evans of Topeka Right to Life said, “The degree of political clout the pro-life movement entertained in the elections is and may remain an unknown factor, but the fact that many Kansans were concerned with the wholesale slaughter of innocent human life when they cast their votes cannot be overlooked.”¹⁴⁵

Roy and Kahn's analysis of Dole's victory and the role abortion played fed growing

¹⁴³Roy says 2 hospitals offered jobs,” *Lawrence Journal World*, November 7, 1974, 2.

¹⁴⁴“Three Main Factors Decided Dole-Roy Tilt, Professor Says,” *The Wichita Eagle*. [November 8, 1974], 6A

¹⁴⁵“Pro-Life Claim on Roy.” *Kansas City Times*, 15 November 1974, 5.

fears of politicians surrounding abortion's impact on electoral campaigns. It seemed that the right to life movement was a political force to contend with despite its small numbers. As a *Wall Street Journal* reporter predicted in October, “Even if they're a tiny percentage of the electorate – and most politicians and pollsters insist they are – [pro-life activists] still could be critical in a tight race.” The reporter concluded that, “office-seekers are always unsettled by such single-minded commitment,” particularly if that single-minded commitment could be decisive in a close election. Dole’s victory was the first such case after *Roe v. Wade*, and it proved that abortion mattered in electoral politics.

However, the Dole/Roy Senate race was one of eight national races where abortion was a campaign issue; in the other 494 races, it had no impact. Of the campaigns in which abortion was an issue, Dole was one of two pro-life candidates to win.¹⁴⁶ In the larger picture, the 1974 elections slowed ongoing right to life congressional efforts. Most of the key representatives and senators who supported anti-abortion legislation lost, including Senator James Buckley of New York, Representatives Lawrence Hogan from Maryland, Angelo Roncallo from New York, and Harold Froehlich of Wisconsin. The press and the Republican politicians blamed these congressmen’s defeat on Watergate. In contrast to Roy, the staunchest pro-life allies in Congress never mentioned to the press that they believed their abortion positions were detrimental to their campaign efforts. Thus while Dole's victory was important, Roy's decision to credit right to life efforts for his loss was exceptional. In December, the *National Right to Life News* acknowledged that Senator Dole's victory *and* Roy's acknowledgement of the movement’s impact on the campaign focused “nationwide attention on abortion as a political issue” for the first time.

¹⁴⁶“NARAL's Analysis of the Fall '74 Elections.” November 1974. Box 13, folder “Correspondence, 1974.” Takey Crist Papers, Rubenstein Library, Duke University.

National abortion rights supporters were more dubious. Jeannie I. Rosoff of Planned Parenthood argued that abortion's role in the 1974 national elections revealed that it was not the political issue the post-election analysis framed it to be. "All but one of the 62 members of Congress who had consistently voted in support of legal abortion were re-elected," wrote Rosoff. "One cannot help but wonder whether the legalization of abortion has in fact achieved such a high level of support among the general population that the issue continues to be of key importance only to a small, albeit vociferous, anti-abortion minority, the politicians they frighten and manipulate, and the media in search of news." Rather than focus on the one right to life success, Rosoff suggested that the bigger news was, "Support of legal abortion does not constitute political suicide."¹⁴⁷

Both Rosoff's and the *National Right to Life News*' interpretations of the Dole/Roy race argued that Kansas Right to Life Affiliates, under Goodson's leadership, managed a major publicity coup that gave abortion far more political power in elections than expected. The election was a boon for pro-life activists across the nation, and the campaign illuminated where activists wanted to go in future elections.

Conclusion

On September 17, 1975 the Senate Judiciary Subcommittee on Constitutional Amendments voted not to report to the full committee the four versions of the Human Life Amendment presented to them. The drafts, first introduced eight days after *Roe*, had come to nothing, and along with them the hard work of the National Right to Life Committee's leaders who had made the amendments their first priority. Grassroots right to life activists

¹⁴⁷Jeannie I. Rosoff, "Is Support of Abortion Political Suicide?" *Family Planning Perspective*. 7 (January/February 1975) 13-22.

across the country had watched the subcommittee hearings stall in an exhaustive study of the potential amendments' effects on American law, medicine, and women. Over the course of seventeen months, the subcommittee collected 3,233 pages of testimony from over fifty expert witnesses. Then in a closed vote, the senate subcommittee members tabled the amendment. The drawn out hearings had already fractured the right to life movement at the national level over strategic priorities in August 1974. By June 1975, the National Right to Life Committee's continued emphasis on the amendments had almost bankrupted the organization.

As the Senate Judiciary committee hearings on a Human Life Amendment dragged on in 1974 and 1975, local and state pro-life activists turned away from what many considered a weak and quarrelsome national leadership and sought inspiration from other grassroots organizations' strategies and successes. Dole's senate race was one of only a handful of hardline victories in the years after *Roe*. As the number of abortions in America increased and women's health clinics spread, however, even the most hard line activists grew concerned about the increasing availability of abortion. From the grassroots, activists of all backgrounds and strategic preferences initiated a re-orientation of the National Right to Life Committee that shifted the movement away from the constitutional amendment campaign and debates over fetal personhood to an approach that sought to restrict abortion access instead.

Even as the division between hardliners and incrementalists faded, many of the essential questions over strategy that activists raised and debated in 1973 and 1974, especially those around a potential constitutional amendment's wording, remained unresolved. Simply put, movement priorities shifted, and with that the contentiousness of the

first two years lessened. Of the original fifty-five board members of the National Right to Life Committee, only six would be leaders at the end of the decade. Dr. Carolyn Gerster later reflected that she was “one of those battle scarred veterans of those early years.”¹⁴⁸ She survived, in large part, because she had always championed the incremental strategy favored by Mecklenburg. While Mecklenburg's American Citizens Concerned for Life never achieved the power or notoriety of the National Right to Life Committee, her efforts paved the way for a series of strong female Protestant leaders, including Gerster and Mildred Jefferson, who would prove pivotal to the development of the American pro-life movement.

¹⁴⁸Carolyn Gerster, “What is the Best HLA Wording?” *NRL News*, 8 (January 12, 1981).

CHAPTER TWO

“Defend Edelin, Defend Your Rights”¹⁴⁹

Pushing up against the doors of Courtroom 906 in downtown Boston, a crowd gathered to hear the jury announce its verdict in the Edelin manslaughter trial on February 15, 1975. The prosecution accused Dr. Kenneth C. Edelin, a black obstetrician-gynecologist, of taking the life of a twenty-four to twenty-eight-week old viable fetus claimed to be born alive during a legal abortion Edelin had performed on a teenager on October 3, 1973. Edelin held that he had aborted a twenty-one-to-twenty-two-week-old non-viable fetus that he declared dead after checking for signs of life following the procedure. The trial's verdict would be the top story across national news programs that night, and headline the next morning's Sunday newspapers.¹⁵⁰

The anticipation in the courtroom intensified as the all-white jury entered, rising to a high pitch as the jury foreman stood to announce the verdict: “Guilty!” The courtroom erupted in shock, disbelief, joy and sorrow. Half of the journalists at the press table left the room immediately to report the verdict. The other half sat, stunned. Edelin later recalled, “Like a jolt of electricity to my ears, the words burst through my brain, down my spine, through my arms, hands, and fingers and into the table.” His lawyer, William P. Homans,

¹⁴⁹ “Abortion Action Week,” found in Joseph Stanton Papers, f. “Boston City Hospital Edelin Case II,” Box Untitled 3, Stanton Human Life Issues Library.

¹⁵⁰ See “Doctor guilty in legal abortion fetus death,” *Chicago Tribune*, February 16, 1975, p. 1. “Boston Doctor Found Guilty in Fetus Death: Manslaughter Verdict Returned in Case Resulting from Legal Abortion,” *Los Angeles Times*, February 16, 1975, p. 1. Lawrence Altman, “Doctor Guilty in Death of a Fetus in Abortion,” *New York Times*, February 16, 1975, p. 1. John P. MacKenzie, “Boston Doctor Convicted in Abortion Case” *The Washington Post*, 16 February, 1975, p. A1.

shook with rage. Shouts of “Injustice!” “That nigger is guilty as sin!” and “He is guilty of sin!” reverberated off the courtroom walls. One of the jury alternates rushed out of the courtroom in tears. Incredulous, the judge called the room to order and polled the jury. Not a single member of the all-white jury changed his or her vote. After dismissing the jurors without so much as a thank you for their service, the judge sent them into the echoing marble hall of Suffolk County Courthouse, and a wall of flashing cameras and shouting journalist.¹⁵¹

Tom Connelly, the right to life activist responsible for the Edelin trial, sat back in the courtroom and watched a victory two years in the making unfold. He had begun a secret investigation into abortion practices at Boston City Hospital within days of *Roe v. Wade* in 1973.¹⁵² That investigation led to two separate legal cases and grand jury indictments in April 1974. One charged Kenneth Edelin with manslaughter for taking the life of “baby boy Roe.” The other case charged four doctors of violating an 1827 grave-robbing statute when they used the tissues of aborted fetuses in government-sponsored research.¹⁵³ The two cases raised a different set of legal questions over a physician's obligations to fetuses as patients and as research subjects than the right to life movement's ongoing Human Life Amendment debates. In doing so, Tom Connelly had found a strategy that could unite the right to life movement amidst the movement's intense infighting over fetal personhood and the Human

¹⁵¹ Kenneth C. Edelin, *Broken Justice: A True Story of Race, Sex and Revenge in a Boston Courtroom* (Ramesy, NJ: PondViewPress, 2007), 330-331.

¹⁵² Interview with Tom Connelly by Jennifer Donnally, September 13, 2010.

¹⁵³ For histories of the two Boston legal cases see Sarah Dubow, *Ourselves Unborn: A History of the Fetus in Modern America* (New York: Oxford University Press, 2010); Kenneth C. Edelin, *Broken Justice: A True Story of Race, Sex, and Revenge in a Boston Courtroom* (Ramsey, NJ: Pondview Books, 2008), Steven Maynard Moody, *The Dilemma of the Fetus: Fetal Research, Medical Progress and Moral Politics* (New York: St. Martins Press, 1995); William Nolen, *The Baby in a Bottle: an investigative review of the Edelin case and its larger meanings for the controversy over abortion reform* (New York : Coward, McCann & Geoghegan, 1978); Connie Paige, *The Right to Lifers: Who They Are, How they Operate, and Where they Get their Money* (New York, Summit Books, 1983) and Johanna Schoen, “Medicine at the Edges of Life: Abortion and Fetal Research,” personally distributed paper from American Historical Association Conference, January 2013.

Life Amendment in 1973 and 1974.

The anti-abortion activities surrounding the Edelin manslaughter trial exemplified larger initiatives across the United States. As the numbers of legal abortions increased, grassroots right to life activists began to target abortion providers, and to find ways of speaking up for fetal rights. To these activists, it was one thing for abortion to be legal; it was an entirely different matter to have abortions offered in their own communities. To stop abortion providers and to save as many fetuses as possible, grassroots right to life activists initiated a strategic turn away from the Human Life Amendment and to the pursuit of abortion restrictions. They re-united the movement from the bottom up.

The foremost restriction the activists sought was a ban on government funding of abortion, which, if passed, would limit poor, minority and underage women's access to abortion. At the time, the federal government subsidized roughly thirty percent of the abortions performed in America. Right to life activists deployed two arguments against this government funding. First, they insisted on their rights as taxpayers to refuse to pay for a procedure they equated with murder. The activists claimed that federal funding was an encroachment on their rights by the federal government. This argument helped align the right to life movement with other conservative campaigns, such as the anti-busing and anti-tax movements. Secondly, they charged that federal government funding of abortion was a form of coercive population control, arguing that elite and racist abortion rights supporters were more concerned with eliminating the poor than helping them. Through these efforts and a national anti-abortion campaign to stop medical research that used fetal tissue, right to life activists increasingly came to characterize the federal government as corrupt and filled with elitists.

Right to life activities surrounding the Edelin manslaughter investigation drew on and inspired grassroots campaigns to establish fetal rights and restrict abortion access. The trial crystallized the conservative rhetoric and tactics that would unify the movement and align it with broader conservative concerns. National anti-abortion leaders not only united in the midst of the trial, but also came to defend the white jurors against charges of racism, using the same arguments they had honed in their campaigns against Medicaid funding of abortion.

Tom Connelly and the Secret Investigation into Boston City Hospital

Following the passage of *Roe*, Massachusetts right to life activist Tom Connelly set himself a simple goal. Abortion might be legal in America, Connelly thought, but he could make his predominantly Catholic city an abortion-free zone. Without the knowledge of Massachusetts Citizens for Life, Connelly came up with his own two-step plan to stop abortion provision in Boston. First, he began a secret investigation into Boston City Hospital's now legal abortion practices. The investigation was an extension of a protest Connelly had already begun; throughout the fall of 1972, he had picketed the hospital with Richard Carey and Dr. Joseph Stanton. At that time, the men were upset that Boston City Hospital allowed two to four medically indicated abortions a week. Following *Roe*, they watched in horror as abortion rates in the hospital rose tenfold to meet the demand of the hospital's largely urban and poor clientele. Connelly had also prepared to run as a single-issue anti-abortion candidate for Boston City Council in the primaries that spring. Though he failed to win his election, Connelly continued to lobby for city ordinances banning or severely restricting abortion access.¹⁵⁴

¹⁵⁴ Connie Paige, *The Right to Lifers*, 13; interview with Tom Connelly by Jennifer Donnally, September 13, 2010 ; interview with Richard Carey by Jennifer Donnally, September 15, 2010; Alan H.

Two things quickly caught Connelly's attention as he began the investigation. Nurses and hospital personnel mentioned Dr. Kenneth Edelin's name frequently. Edelin was a black obstetrician-gynecologist, and he was one of two doctors in the hospital who performed abortions, due to his fervent belief "that poor, black women should have that choice, too."¹⁵⁵ Connelly also learned of medical research at Boston City Hospital that involved tissues from aborted fetuses. A group of four Boston City Hospital staff had applied for and had received funding from the National Institute of Health as well as the approval of the hospital's review board in 1971. Their study sought to determine the effects on fetuses of the drugs erythromycin and dyndamycin, both commonly prescribed antibiotics for women allergic to penicillin.¹⁵⁶

Such studies on the effect of drugs on fetuses were common after a much-publicized series of iatrogenically induced birth deformities. In the mid-1960s thalidomide was prescribed in Europe to pregnant women with severe migraines. Due to the drug's unexpected effect on fetuses, many of these women's babies were born with severe physical abnormalities. Since the Thalidomide disaster, medical researchers across America had wanted to ensure that any drugs physicians administered to pregnant women would not

Sheehan, "Boston City Hospital Fetus case: research at stake?" *Boston Globe*, June 2, 1974, 52; John Kifner, "Abortion Foe Cites Role," *The New York Times*, February 17, 1975, 41.

¹⁵⁵Edelin, *Broken Justice*, 33.

¹⁵⁶ In 1973, right to life activists had been aware of fetal research for several years. Since the 1920s, medical researchers in the United States had explored the possible therapeutic uses of human embryonic and fetal tissue in curing diseases and developing vaccines. Throughout the twentieth century, medical researchers developed several high profile vaccines using human embryonic and fetal tissue including the polio vaccine in 1954. Excited by the possibilities of such research, the University of Washington had established the Laboratory for the Study of Human Embryos and Fetuses in 1961. After the rubella epidemic in 1962-63, researchers at the Washington Laboratory then used tissue from an aborted fetus to develop a rubella vaccine. Researchers continued to use fetal tissue to develop amniocentesis screenings of an assortment of genetic anomalies throughout the 1960s and early 1970s. See Dubow, *Ourselves Unborn*, 68, 75-79 and Schoen, "Medicine At the Edges of Life," 3-17.

damage their fetuses.¹⁵⁷

To test the effects of erythromycin and dyndamycin, the Boston researchers identified women who were seeking medically indicated abortions in their second term of pregnancy and recommended them to the study. They explained the study, obtained the patient's written consent to participate, and administered the antibiotics prior to ending the pregnancy. Following the abortion, the doctors studied the tissue of the fetuses for traces of the antibiotics to determine whether the drugs crossed into the fetal blood stream. Depending on the results, they would then determine the safety of the two drugs for women who wished to carry their pregnancies to term.

In an interview, Connelly recalled when he became aware of the research and use of fetal tissue. A hospital staff member told him: "They are doing more than that. They are killing large babies." Connelly said, "I got to the phone immediately and called Dr. Joseph Stanton and he started things rolling."¹⁵⁸ Connelly and Stanton prepared a press conference and a local anti-abortion campaign to coincide with the publication of the four doctors' findings in the June 1973 *New England Journal of Medicine*. At the press conference, Connelly claimed that city officials were dragging their feet in declaring their opposition to abortion and halting research on aborted fetuses. In July, Massachusetts Citizens for Life and Stanton's Value of Life Committee also demanded an official investigation into how the twenty-two-week-old fetuses used in the research "died" and whether proper death certificates had been filed by the city.¹⁵⁹

¹⁵⁷Dubow, *Ourselves Unborn*, 68-69; Leslie Reagan, *Dangerous Pregnancies*.84-94.

¹⁵⁸Interview with Tom Connelly by Jennifer Donnally, 10 September 2010.

¹⁵⁹Dubow, *Ourselves Unborn*, 71-73.

The Massachusetts right to life activists then turned to politics. Sister Sheila, a nun from South Boston and good friend of Thomas Connelly, organized a citywide letter-writing campaign. The letters brought the *New England Journal of Medicine* article to the attention of state representative William Delahunt and Raymond L. Flynn. In August 1973, Flynn forwarded the article and a letter to city council member Albert “Dapper” O’Neil.¹⁶⁰ In Flynn’s letter he recommended that Boston “hold public hearings with a view toward drafting suitable criminal abortion legislation for the City of Boston and model legislation for the entire Commonwealth.”¹⁶¹ He also added that he shared O’Neil’s views and “the views of all right-thinking people that abortions should not be permitted under any circumstances.”¹⁶² To tap into right to life political support, O’Neil called a hearing before the Committee on Public Health and Hospitals on September 18, 1973 to review abortion practices and fetal research at Boston City Hospital. Local activists packed the hearing, and Dapper O’Neil promised them he would take action. On September 19, he sent the testimony from the hearings to the Suffolk County District Attorney’s office, urging him to look into abortion practices at Boston City Hospital and the improper use of fetal remains in medical research.¹⁶³

On September 21, three days after the city hearing, a black seventeen-year-old high school student of West Indian descent visited Boston City Hospital seeking an abortion.¹⁶⁴

¹⁶⁰Alan H. Sheehan, “Boston City Hospital Fetus case: research at stake,” *Boston Sunday Globe*, June 2, 1974, 1, 52.

¹⁶¹William A. Nolen, *The Baby in the Bottle: An Investigative Review of the Edelin Case and its Larger Meanings for Abortion Reform* (New York: Coward, McCann & Geoghegan, 1978)33.

¹⁶²Paige, *The Right to Lifers*, 15.

¹⁶³Alan H. Sheehan. “Boston City Hospital Fetus case: research at stake” *Boston Sunday Globe*, June 2, 1974, 1, 52; Ronald P. Formisano, *Boston Against Busing: Race, Class and Ethnicity in the 1960s and 1970s* (Chapel Hill: University of North Carolina Press, 1991), 60; “Respect for Life urged for Boston City Hospital,” *The Pilot*, September 28, 1973, 7.

¹⁶⁴The prosecution and defense assigned the pseudonym “Alice Roe” to the seventeen-year-old women

Despite her insistence that she had conceived eighteen weeks beforehand, the physician concluded that she was twenty-one to twenty-two weeks pregnant. He scheduled a saline abortion for her on October 2, 1973 and assigned it to Dr. Edelin. On the morning of her scheduled abortion, Dr. Enrique Giminez, a Catholic and first year resident from Mexico City, examined “Alice Roe.” After examining Roe, Giminez estimated the pregnancy to be at twenty-four weeks, introducing the possibility that the fetus was viable. He did not communicate his estimation to Edelin, who believed that the young woman was twenty-one to twenty-two weeks pregnant.¹⁶⁵

Edelin then attempted saline induction on Alice Roe two to three times, but due to complications he could not complete the procedure. The next day his supervisor also tried and failed the induction. At that point, Edelin and his supervisor scheduled Alice Roe for a hysterotomy on October 3, 1973. Giminez, who refused to perform abortions, asked Edelin for permission to watch the procedure. Edelin agreed. Edelin began the hysterotomy by making an incision into Roe’s uterus large enough to extract the fetus and placenta.¹⁶⁶ When the amniotic sac ruptured, Edelin removed the fetus by pulling its lower extremities through the incision. He separated the fetus from the placenta and amniotic sac. Using his fingers, he checked for a fetal pulse and found none. He then removed the fetus from the uterine cavity and placed it in a steel bin. He recorded the aborted male fetus to be twenty-two-weeks old and sent him to the hospital pathology lab, where a pathologist preserved the fetus in a bottle

to protect her privacy. Today, her identity is still unknown.

¹⁶⁵Alan Sheehan, “Patient in Edelin case believed 17-23 weeks pregnant, court told.” *The Boston Evening Globe*, January 13, 1975, 5; Kenneth Edelin, *Broken Justice: A True Story of Race, Sex and Revenge in a Boston Courtroom*. ([Sarasota, Fla: Pond View Press, 2008) 62.

¹⁶⁶See Alan Sheehan, “Mother was 24 weeks pregnant, Edelin jury told.” *Boston Evening Globe*, 16 Jan 1975, 1, 4.

of in formaldehyde.¹⁶⁷

Shortly afterwards, a hospital employee approached Connelly and told him about “babies in bottles” in the hospital morgue, and the rumor that some doctors considered Edelin’s actions questionable in Alice Roe’s October 3 abortion. Connelly immediately tipped off the District Attorney’s office through anonymous phone calls. He then worked with Jackie Halley, the daughter of a Massachusetts Supreme Court Justice and right to life sympathizer, to lay the foundations for a criminal investigation into abortion practices and related fetal research at Boston City Hospital. In a 2010 interview, Connelly recalled an undocumented private meeting at Dr. Joseph Stanton's house attended by lawyers from the D.A.’s office, right to life activists, and hospital personnel. Halley laid out the Edelin manslaughter case using testimony from hospital staff. She convinced the D.A.’s office to begin an official investigation in November 1973; that investigation re-traced the steps of Connelly’s earlier secret research. On December 3, a city investigator found the preserved fetus from Alice Roe’s October 3 abortion, and named it “Baby Boy Roe.”¹⁶⁸

In order to charge Edelin with manslaughter for taking the life of “Baby Boy Roe,” Assistant D.A. Newman Flanagan had to prove three things: that the fetus under question had to be at least twenty-four-weeks-old and therefore viable, or capable of independent life; that the fetus was born, and thus entitled to the legal rights of a person under the law; and that Edelin willfully sought the destruction of said fetus. To establish the first two conditions, Flanagan introduced the possibility of a live birth abortion. He claimed that Edelin had

¹⁶⁷ Schoen, “Medicine at the Edges of Life,” 1; Edelin, *Broken Justice*, 74-8, Nolen, *The Baby in the Bottle*, 157-60; Dubow, *Ourselves Unborn*, 81-87.

¹⁶⁸ Interview with Tom Connelly by Jennifer Donnally, September 10, 2010; John Kifner, “Abortion Foe Cites Role,” Special to *The New York Times*, 17 Feb, 1975, 41; Joseph M. Harvey, “Historic Trial of Boston City Hospital doctor starts tomorrow,” *The Boston Globe*, January 5, 1975, 1.

successfully performed an abortion protected under *Roe v. Wade* when he separated what Flanagan argued was a twenty-four to twenty-eight-week-old fetus from the placenta. At that point, he charged, the fetus also had been born because he was no longer dependent on the life system of Alice Roe. Flanagan then held that the fetus under question was now a baby in utero and legally a person.

To prove that Edelin took active steps to take the life of “Baby Boy Roe,” Flanagan’s case relied heavily on the testimony of eyewitness Dr. Enrique Giminez. Giminez testified that Edelin caused the fetus’s death when he stood with his hand in the uterus after he separated the placenta from the lining of the uterus, staring at the clock for three to five minutes. The fetus-now-baby, Giminez asserted, lived for at least a few seconds and died due to a lack of oxygen caused by Edelin’s failure to remove the fetus quickly from the uterus. On April 11, 1974, a Grand Jury indicted Edelin for manslaughter, and the four Boston doctors who participated in the entrymycin and dedymycin study for violating a statute that banned the improper use of human remains.¹⁶⁹

After a year and a half of protest, Connelly had achieved part of his original goal. While abortions still occurred in the city, Boston City Hospital temporarily stopped provision after the April 1974 indictment. The Boston City Hospital Board had already halted the construction of a planned outpatient abortion clinic, and it banned all research involving fetal tissue in December 1973. Massachusetts Citizens for Life’s political momentum accelerated with the Edelin indictment. By the end of April, the Massachusetts House Committee on Judiciary Affairs moved to pass legislation that restricted abortion access and dealt explicitly

¹⁶⁹ Commonwealth’s Memorandum of Law Opposing the Defendant’s Motion to Dismiss the Indictment, *Commonwealth v. Kenneth Edelin*, Superior Court No 81823, *The Edelin Trial*, 19-23; Dubow, *Ourselves Unborn*, 74; “Doctor Pleads Not Guilty in Boston Abortion Case,” *New York Times*, April 18, 1974, 16; Edelin, *Broken Justice*, 92-95.

with legal issues introduced by the Edelin investigation and indictment. The proposed legislation limited women's access to abortions by requiring parental consent for minors and spousal consent for married women. Under the new law, "Alice Roe" would have had to receive her father's consent for the abortion. While her mother had assisted Alice in terminating the pregnancy, both women had kept the pregnancy a secret from Alice's authoritarian father. The law also prohibited research on fetal tissue and criminalized abortions after the twenty-fourth week of pregnancy except in medical emergencies. The legislation also required doctors to "take all reasonable steps . . . to preserve the life and health of the aborted fetus," something right to life activists believed Edelin failed to do during the October 3 surgery. By August, the state senate and house had passed the parental consent statute over the Republican governor's veto. Massachusetts became one of fourteen states to pass new criminal abortion statutes in response to *Roe*. With its passage, the legislation made performing an abortion on a minor in her second trimester of pregnancy a crime.¹⁷⁰

The Massachusetts law made the front page of the September 1974 *National Right to Life News*. The National Right to Life Committee held it up, along with the two Boston City Hospital court indictments, as models for other state right to life groups to achieve.³⁶ But in the fall of 1974, Tom Connelly's investigation into Boston City Hospital's abortion practices and the Massachusetts restrictive abortion statute were only two of many varied campaigns against abortion providers in the United States.

¹⁷⁰Nils J. Burzelius. "Edelin trial semantics crucial." *The Boston Globe*, January 12, 1975, 29 and 34; Robert Reinhold, "Boston vs. the Doctors: Strange Case," *New York Times*, 21 Apr 1974, 223; Jennifer Netzer, "Abortions: A Miscarriage of Justice," *The Harvard Crimson*, September 28, 1974.

Clinic Protests at the Grassroots

On the first anniversary of *Roe v. Wade*, a group of twenty pro-life activists gathered on the grounds of the construction site for the proposed Forsyth Clinic in Winston-Salem, North Carolina. The Forsyth Clinic was slated to open in April 1974 and would become the state's fourth freestanding facility to offer abortions. When seven women from St. Leo's Catholic Parish found out about the clinic, they organized a protest and silent prayer vigil. The women shared Thomas Connelly's goal in Boston: they wanted to keep their hometown abortion-free. Their priority was not a Human Life Amendment, as Edward Golden of the National Right to Life Committee had pronounced in January 1974ⁿ the first anniversary of *Roe v. Wade*, they did not join the one hundred or so activists from North Carolina Right to Life for a day of lobbying and protest at the state capital, but instead went to what would become their town's abortion clinic.¹⁷¹

The women from St. Leo's parish soon incorporated as Winston Salem Citizens for Life. In February 1974, they became a local chapter affiliate of North Carolina Right to Life. Winston Salem Citizens for Life soon became one of the state's most innovative and active chapters. On February 17, 1974, Citizens for Life held a "Pro-Life Rally" at South Park Baptist Church. Eight hundred people from Winston Salem attended the rally and listened to North Carolina Senator Hamilton Horton and Dr. William Rabil, physician and founder of North Carolina State Right to Life, speak against abortion and the proposed Forsyth clinic. The sale of three hundred "human life bracelets" at the event funded the distribution of 16,000 fact sheets on abortion to over one hundred churches in the area. The pamphlet urged the churches to protest the opening of the Forsyth clinic. In March 1974, the seven Catholic

¹⁷¹"NC Abortion Clinics," found in Takey Crist Papers, Box 13 Takey Crist Papers 1969-2002 and n.d. Ascension 2003-0118, "folder Correspondence, 1974" Sally Bingham Center, Duke University.

women from St. Leo's parish invited thirty people from North Carolina Right to Life to a chapter meeting and rally at their church. They instructed Emma O'Steen, the state organization's president, to bring an assortment of activists from various denominations in order to show local press that opposition to the clinic was not simply a "Catholic affair."¹⁷²

During the last week of March, Winston-Salem activists also attended a medical and theological debate at Wake Forest University to hear their very own Fr. William Wellein, the pastor of St. Leo's Church, debate the morality of abortion and the proposed Winston-Salem Women's Health clinic. Wellein told the audience that "When we hear arguments about aborticide and abortion clinics, they are always physiological, psychological, and sociological." He then listed those arguments: "to save the physical and mental health of the mother; not to bring unwanted and unloved children into the world; that an abortion after all is only removing tissue, a glob of protoplasm; to keep down population; to avoid quackery and 'kitchen table' unantiseptic abortions, etc." He thought these were highly "emotional arguments" that failed to address the central question, "is this new life truly a human being?"¹⁷³ In his presentation, Fr. Wellein pitted social planners who needed to control and improve American society against what he considered the fundamental right to life. Wellein also described abortion as a conspiracy of elite doctors and social workers to solve large social problems by eliminating babies.

Capping off all this activity against the Forsyth clinic, the female leaders of Winston Salem's Citizens for Life arranged a countywide rally on April 7, 1974, two days before the announcement of the Edelin indictment in Boston. Dr. Jack Wilke, an executive committee

¹⁷²Father Wellein. "Anti-Abortion forces engage its proponents," *North Carolina Catholic*, 24 March 1974, 9.

¹⁷³ Rev. William Wellein. "Moral Matters of Abortion," *North Carolina Catholic*, 31 March 1974, 3.

member of the National Right to Life Committee and an internationally renowned speaker, gave the keynote address alongside his wife Barbara.¹⁷⁴ The outburst of anti-abortion activity failed to stop the clinic from opening on April 1, 1974, but it was typical of grassroots campaigns against abortion providers across the United States in 1974. For example, Missouri Citizens for Life successfully prevented the opening of an abortion clinic by a New York doctor that same spring. There, they targeted businesses and banks to stop the establishment of the clinic in a shopping center. After a major business owner threatened to re-locate and a bank refused a business loan, the New York physician had no choice. He pulled out of the clinic venture.¹⁷⁵

These local activities against abortion providers united right to life activists who had previously disagreed over Human Life Amendment wording and strategy in 1973 and the winter of 1974. Even Patricia Goodson took time away from Kansas Right to Life's anti-abortion campaign efforts in the upcoming Bob Dole senate race to try to stop the opening of women's health clinic in Kansas City. "We need your help immediately," wrote Goodson to the Board of Directors in April 1974. "What legal tactics have been employed to prevent-delay-or restrict the operation of abortion clinics?" She then inquired into statutory solutions such as "zoning prohibitions or regulatory, or taxing measures that have been effective elsewhere." Finally, Goodson offered to keep a file on any accumulated knowledge on efforts to stop the spread of clinics so that she could provide such information to any "bona fide pro-life organization" that wished to employ such tactics.¹⁷⁶

¹⁷⁴Father Wellein. "Anti-Abortion forces engage its proponents." *North Carolina Catholic*, 24 March 1974, 9.

¹⁷⁵"Clinic plans abandoned." *NRL News* 1 (August 1974).

¹⁷⁶Patricia Goodson to Board Members, National Right to Life Committee Re: Request for Help, April 10, 1974. American Citizens Concerned for Life Papers, Box 8, f. "National Right to Life Committee – 1974 –

Grassroots mobilizations around the clinics continued into the summer of 1974. In Illinois, Joseph Scheidler worked with state officials to set up a sting operation of an abortion provider who had failed to obtain a medical license as required by state law. Chicago pro-life activists used money from Illinois Citizens Concerned for Life to pay for an abortion for a woman who was not pregnant; police then arrested clinic staff after they committed the crime of accepting money for an unlicensed medical procedure.¹⁷⁷ In California, local right to life activists initiated a criminal investigation over the disposal of two hundred fetal remains found by activists outside a California medical waste facility.¹⁷⁸ In Arizona, a group of Arizona Youth for Life picketed in front of a clinic, causing numerous disturbances. While it was not the first and only clinic picket occurring in America, the *National Right to Life News* reported on it due to the novelty of teenagers engaging in the activity. An eyewitness account reported that, “the abortion patients possibly surprised by the protestors, walked away around the corner as I photographed the beginning of the orderly sign-carrying demonstration.”¹⁷⁹ (There was no mention that perhaps the women going to have abortions did not want their photos taken by the protestors.)

In the spring of 1974, *The National Right to Life News* also began to track grassroots investigations and lawsuits. In May, the newspaper reported the indictment of Kenneth Edelin on manslaughter charges. At the time, the Edelin case was only one among many legal cases against an abortion provider that national and state leaders followed. Activists in

Board and Executive Committee 96)” Ford Library, 12 September 2011.

¹⁷⁷“Pro-lifer brings about illegal clinic shutdown,” *The NRL News* 1 (July 1974).

¹⁷⁸Inquest set in California Case” *The NRL News* 1 (July 1974).

¹⁷⁹Dexter Duggan, “Picketing by Youth Group sends abortionists into a real tizzy,” *NRL News* 1 (September 1974).

Pittsburgh had instigated a similar investigation against Dr. Laufle of West Penn Hospital, claiming that Laufle had allowed a twenty-seven week old fetus to die on the operating table following an abortion. In November 1974, a coroner's jury exonerated Laufle of all charges, but West Penn Hospital doctors had grown reluctant to provide abortions in the interim. As a result, one of Pittsburgh's largest abortion providers cut back its operations.¹⁸⁰ In Bakersfield, California, Dr. Xavier Hall Ramirez was found not guilty of murder charges after he ordered that oxygen be withheld from a four-pound, eight-ounce fetus that had survived an abortion in October 1973. Activists also instigated criminal investigations and attempted to bring manslaughter charges against an abortion provider in Minnesota.

All of these activities against abortion providers demonstrate that an important strategy shift was emerging from state and local groups. While National Right to Life Committee leaders bickered over constitutional amendments and strategy in Washington, D.C., grassroots activists were finding common ground and working together against abortion providers. As an anonymous North Carolina Right to Life member wrote in February 1974, "What comment can any God-fearing Christian, be he Catholic or Protestant, Democrat or Republican, Black or White say when you receive the shocking news that another murder-mill . . . is being established."¹⁸¹ The protests against providers helped unite the movement, and re-orient the National Right to Life Committee away from the Human Life Amendment campaign. The Edelin manslaughter case, and others like it, helped convince National Right to Life Committee leaders that stopping the spread of abortion provision was the way to advance the movement and gain its first victories in 1975. What

¹⁸⁰ Lawrence K. Altman. "Impact of Boston Verdict on Abortions Appears Slight." *New York Times*, March 16, 1975, 34.

¹⁸¹"Abortion Protest," *North Carolina Catholic*, 24 February, 1974, p. 1.

made Tom Connelly's investigation into Boston City Hospital exceptional, however, was the fact that it involved and helped to fuel a national debate over fetal research as well.

The Right to Life Campaign Against Fetal Research

On April 10, 1973, the *Washington Post* broke a series of articles on the National Institute of Health's internal deliberations over the regulation of fetal research. Doctors and ethicists had started these deliberations in 1971. Now, the *Washington Post* series made what had been an internal debate over the status of fetuses as research subjects an issue of national importance, portraying fetal research subjects as defenseless victims of the medical professionals who were supposed to protect them, including pediatricians, obstetricians, and gynecologists. The right to life response to the stories was immediate. On April 11, a group of Catholic high school students from Washington, D.C. protested outside the National Institute of Health, urging a halt to all fetal research.¹⁸²

Two weeks later, Congress began a series of hearings on fetal research that became proxy arguments on abortion. Senators and representatives sympathetic to the right to life movement developed a series of provisions to ban research on fetuses and cut federal funding for research involving fetuses. Senator Ted Kennedy proposed amending the bill so that it ended fetal research temporarily until a commission could establish guidelines. Over the course of the year, the bill evolved into the National Research Act, which President Nixon signed into law on July 12, 1974. The bill established the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. That committee, in

¹⁸² Schoen, "Medicine at the Edges of Life," 14-15; Dubow, 78.

turn, would determine federal regulations concerning fetal research.¹⁸³

To stop fetal research, right to life activists linked their battle to the American public's growing anxiety concerning human experimentation. In the late 1960s and early 1970s a series of medical scandals broke that undermined the public's confidence in the medical profession and in scientific research. In 1966, Henry Beecher, a professor of anesthesiology at Harvard Medical School, published a report exposing what he believed to be abuses in clinical research. He called attention to the exploitation of servicemen, prisoners, and vulnerable populations such as the elderly and mentally disabled in medical research and clinic trials. The revelation of a series of disturbing cases proved many of the reports claims true. In 1972, *The Washington Post* reported on the notorious Tuskegee study, a forty-year study overseen by the Center for Disease Control, in which African American men were left untreated for syphilis so that scientists could track the course of the disease. Similarly, at Willowbrook State School for the Retarded in New York, doctors and medical researchers injected institutionalized children with the hepatitis virus between 1956 and 1971. They too wanted to better understand the course of a disease. As a result of cases like these, the public's confidence in the medical community fell from seventy-three to forty-two percent favorable ratings between 1962 and 1972.¹⁸⁴

Right to life activists portrayed fetal research as barbaric, and likened it to the unethical cases above by creating a common victim: a fully formed and baby-like fetus on the verge of birth. In order to generate this fetal victim, right to life activists blurred the distinction between biological and actual life; they interchangeably cited medical research on

¹⁸³ Dubow, 78-79.

¹⁸⁴ Johanna Schoen, "Medicine at the Edges of Life," 9-10.

live babies and dead fetuses, and non-viable and viable fetuses. They asserted that abortion providers and medical researchers who used fetal tissue became torturers of innocent babies regardless of the fetus's gestational age. For example, Dr. Joseph Stanton testified at the Boston City Council hearing on September 18, 1973 that, "The unconscionable use of fetuses whose death is directly planned as subjects for experimentation is repugnant." He then compared the four Boston City Hospital medical researchers to the medical sadists who conducted unethical experiments on prisoners in Nazi Germany.¹⁸⁵ In the right to life movement's version, medical researchers had abandoned the common decency and shared morality of average Americans in their quest for knowledge. By attacking fetal research, right to life activists championed an anti-elitist ethos that pitted a privileged and corrupt medical community against the hardworking and moral average Americans.¹⁸⁶

This anti-elitism directed towards the medical and scientific communities resonated with a populist revolt occurring in American cities and suburbs. At the beginning of the 1970s, millions of white homeowners' visions of what historian Matt Lassiter called a "residentially segregated and federally subsidized version of the American Dream" had come under siege.¹⁸⁷ While these suburban white homeowners believed that they had earned their middle-class and suburban status on their merits as individuals, they depended on a series of federal government initiatives to maintain their lifestyle. Starting with the New Deal in the 1930s, the Federal Government had offered a series of tax incentives and benefits that disproportionately gave white communities advantages over and above non-white and lower

¹⁸⁵ Joseph Stanton to *New England Journal of Medicine*, 27 July 1973. Unpublished. F. "Letters to VOLCOM 1973, July-Dec," Box VOLCOM Correspondence 70-80, Stanton Human Life Issues Library.

¹⁸⁶ Schoen, "Medicine at the Edges of Life," 10.

¹⁸⁷ Matt Lassiter, *Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 2.

class communities. For example, federally guaranteed low-interest mortgages and tax deductions were made available to predominantly white neighborhoods between the 1930s and 1960s. The Federal Housing Administration did not extend these benefits to black and mixed-race neighborhoods because the government agency considered them “high risk.” Federally backed residential segregation between the 1930s and 1960s then supported school segregation; neighborhood schools were segregated de facto because neighborhoods were segregated.¹⁸⁸

In the 1950s and 1960s, civil rights activists looked to the federal government to help solve some of the inequities between black and white communities that the federal government had helped to produce. At the forefront of the conflict at the local level was the question of neighborhoods and schools. Civil rights organizations and groups filed lawsuits against school systems that were segregated by neighborhood and school district divisions. In recognition of the fact that residential segregation led to school segregation, federal courts in a number of cities ordered school districts to come up with student allocation programs that would integrate students across neighborhood and racial lines. Many school systems opted to bus students out of their neighborhoods in order to achieve integration.

In October 1972, a group of black parents and the NAACP filed a lawsuit against the Boston school system. They charged that the school system violated the federal 1965 Racial Imbalance Act. Eighteen years after the *Brown v. Topeka Board of Education* decision, black students in Boston still attended mostly black schools that had fewer amenities and opportunities than those in predominantly white neighborhoods. In response to the court case, the Boston anti-busing movement, which had begun in the mid-1960s, grew in size and

¹⁸⁸ Robert Self, *American Babylon: Race and the Struggle for Postwar Oakland* (Princeton: Princeton University Press, 2003), 97.

power. The anti-busing movement drew from the largely white and ethnic neighborhoods of Charleston and South Boston. Men and women from these communities rightly feared that any new desegregation plans in the wake the court's decision would disproportionately affect their communities compared to the wealthier white communities in the Boston suburbs.¹⁸⁹

Anti-busing activists in Boston, and in cities and suburbs across America, rallied around a constellation of rights and privileges they sought to protect. These included the right to select their neighborhood, their employees, and their children's classmates. They also increasingly lobbied for a negative right: to remain free of what they saw as the encroachment of the federal government in their communities and lives. The federal government, on the other hand, was under pressure from a race and class-conscious liberal movement that urged government officials and administrators to address the structural inequalities in American society. Even though most leaders of the Boston right to life movement, including Dr. Joseph Stanton, resided in the Boston suburbs, where mandatory court busing orders would not apply, they linked abortion and fetal research to this larger opposition to the federal government and to elites in scientific, research and university communities. In contrast, they believed themselves to be champions of local communities under siege by the federal government.¹⁹⁰

Boston politicians, right to life activists, and anti-busing activists alike attacked both abortion services at Boston City Hospital and forced busing as a breach of the local community's values. They were, according to these activists, a violation of the traditions of

¹⁸⁹ Dubow, *Ourselves Unborn*, 71; Ronald P. Formisano, *Boston Against Busing: Race, Class and Ethnicity in the 1960s and 1970s* (Chapel Hill: University of North Carolina Press, 1991), 11, 75 and 109-114; Alan Lupo, *Liberty's Chosen Home: The Politics of Violence in Boston* (Boston: Beacon Press, 1988), 16.

¹⁹⁰ Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton: Princeton University Press, 2005), 9; Matt Lassiter, *The Silent Majority*, 2; Formisano, *Boston Against Busing*, 109.

the city's Catholic, Democrat-backed institutions. Dapper O'Neil stood in front of his alma mater, South Boston High School during his 1973 re-election campaign and stated: "I'm not going to stand by and let those niggers take over this school." Raymond Flynn argued that South Bostonians "must stick together" and resist busing so that "No one will beat us."¹⁹¹ A Catholic Monsignor from Boston regarded abortion in a similar way. At the September 18 hearings, he stated, "We cannot allow the Boston City Hospital and its staff to succumb to the pressures posited by some expectant mothers and certain social reformers," who "turn[ed] their back on the hallowed history and tradition of this great municipal institution and violate[d] the sacrosanct ideals, goals and objectives of medicine and good hospital care."¹⁹²

"It is past time to . . . end the spending of the taxpayers' dollar for the procuring of an abortion"¹⁹³

Two months after Edelin's April 1974 indictment, a federal court ordered Boston schools to desegregate in order to comply with the 1965 Racial Imbalance Act. At 7:00 AM on September 13, 1974, the first day of school, men, women, and young adults from the three-decker wooden tenements surrounding South Boston High School started to gather across the street from the school's entrance. They watched as police removed "nigger go home" graffiti from the school's front doors. Meanwhile, the school staff prepared to welcome nine hundred and forty-one black students, a dramatic increase from the fifteen "non-white" students who had enrolled the year before. As buses filled with black students rolled up to the high school, the crowd began to yell the high school football chant, "Here we

¹⁹¹Formisano, *Boston Against Busing*, 60, 112.

¹⁹²"Respect for Life Urged for Boston City Hospital." *The Pilot*, September 28, 1973, 7.

¹⁹³ Dr. Joseph Stanton. "Clean out HEW abortion elitists," *NRL News* 1 (December 1974).

go Southie, Here we go.” Police held back a group of white mothers screaming racial slurs at the students exiting the bus. A stone flew. Police quickly moved to escort the students into the school's sparsely populated hallways.

White public school attendance in South Boston was down thirty-five percent that day. Parents resisted the court order by keeping their children at home. Many teenagers and young adults took to the streets instead of attending school. When the school bell rang that afternoon, three hundred people had gathered to harass the buses along their return routes. Two miles down the road from South Boston High School, the black students' parents from the Roxbury neighborhood waited anxiously for their sons and daughters to return. By day's end, the angry white mob had thrown stones and bricks at the buses, injuring eight students and one bus monitor. When school resumed on Monday, eight hundred Boston police officers patrolled the streets of South Boston; despite the police presence, crowds continued to roam the streets. Again, the crowds took their ire out on buses, throwing stones and bricks. On Monday evening, Boston Mayor Kevin White ordered all liquor stores and bars closed in South Boston, set a curfew, and banned all public gatherings for the upcoming week.

The following afternoon, Tuesday September 17, the U.S. Senate debated the final version of the Health, Education and Welfare Department's appropriations bill for 1975. Two amendment riders took center stage on Capitol Hill. The first rider, introduced by Senator Jesse Helms of North Carolina and co-sponsored by Robert Dole of Kansas, banned the use of federal funds to support court ordered busing programs “aimed at overcoming racial imbalance.”¹⁹⁴ Helms rose to defend his amendment by pointing to Boston. “This city is known as one of the cradles of our basic liberties,” he said, “yet, the people of that city see a

¹⁹⁴ “Prohibition against use of Appropriated funds for Busing.” Congressional Record – Senate, September 17, 1974, 31448.

fundamental right being taken away from them -- the right of parents to direct the educational future of their children.” Helms continued, “The question is whether the State is supreme in our society or whether the rights of humanity are supreme.”¹⁹⁵ Time and again, Senators Helms and Dole pointed out that, “the vast majority of American parents, black and white, are opposed to forced busing.”¹⁹⁶ In a close vote, senators approved the amendment, 44 to 42. While the press characterized it as a symbolic vote – few school systems drew on any federal funds to aid in school busing programs, and so the amendment's impact was negligible – the senators’ arguments constituted a critique of government and a defense of average American taxpayers’ rights that pro-life activists would also use.

The second amendment, introduced by Republican Senator Dewey Bartlett of Oklahoma, banned the use of federal funds to support abortion and abortion referral services except in cases where the pregnancy threatened the life of the mother. Since the *Roe v. Wade* decision, the federal government had spent \$50 million to help pay for 278,000 abortions requested by women on public assistance. Bartlett and his allies rose to defend this proposed cut to Medicaid funding of abortion. Their arguments departed from previous House and Senate debates surrounding abortion funding that had focused on contraceptive access and fetal personhood. Now, Bartlett and his allies followed the path of arguments made just minutes before around busing; they placed the wants and attitudes of the average American taxpayer front and center.¹⁹⁷ Bartlett charged, "The action taken here will decide whether the Federal Government will continue to make available funds for states, funds that come from

¹⁹⁵ Sen. Jesse Helms, *Congressional Record*, 17 September 1974, 31448.

¹⁹⁶ Sen. Jesse Helms, *Congressional Record*, 17 September 1974, 31448.

¹⁹⁷ Sen. Dewey Bartlett. Amendment No. 1859. *Congressional Record – Senate*, September 17, 1974, 31452-31453.

all the taxpayers, to pay for the desires of 14 or 15 states' taxpayers.”¹⁹⁸ Senator Joe Biden of New Hampshire identified what he considered was the essential issue in the Bartlett amendment. “If abortion is as personal a matter as the proponents say it is,” Biden said, “they should recognize [that] the taxpayers who feel very fervently about this issue . . . should not be put in the position of having their tax dollars used for something which they feel so strongly and adamantly against.” Biden then took it one step further, pleading for “proponents of the pro-abortion position to be consistent and to keep the Federal Government out of this issue, keep it a personal matter.”¹⁹⁹ Senator Pastore of Rhode Island put it more succinctly: “Do you think it is right to use the taxpayers’ money to resolve this issue?”²⁰⁰

The new framing set the rights of American taxpayers against the rights to equal health care of indigent women. In doing so, the new arguments for the amendment fit within a larger conservative shift occurring in American cities and suburbs. Right to life activists were seeking to protect their rights, and the rights of average American taxpayers and homeowners, against the newly formulated right to equal access to health care for poor and minority communities. At the time, the federal government had supported this right to equal access of health care through the nine-year-old Medicaid program.

Moreover, Joe Biden’s arguments focused attention on whether the right to abortion was what scholars have characterized as a negative or positive right. If abortion was a positive right, the federal government should assist citizens in exercising that right through state action. In the case of abortion, reproductive choice advocates argued, the government

¹⁹⁸ Sen. Bartlett, *Congressional Record*, 31453.

¹⁹⁹ Sen. Joe Biden, *Congressional Record*, 17 September 1974, 31453.

²⁰⁰ Sen. Pastor, *Congressional Record – Senate*, September 17, 1974, 31453.

should provide public funds to those women who would otherwise be unable to afford an abortion. If abortion was a negative right, where citizens were left to pursue or oppose abortions unhindered by any public policy, then the government had no business providing funds. Right to life activists argued that citizens should be left to their own “private” capacity to pursue or oppose an abortion according to their own beliefs.²⁰¹

Abortion rights proponents in the Senate quickly grasped the significance of this shift away from fetal personhood to a defense of taxpayer’s rights, and the identification of abortion as a negative right. “I do not feel the way to deal with this emotional, constitutional issue is by an amendment which discriminates against poor people,” Senator William Hathaway of Maine argued. Hathaway further asserted that the ban on Medicaid funding of abortion went against the fundamental purpose of the Labor-HEW appropriation bill: “the equalization of access to education and health services.”²⁰² Bartlett replied, “I feel that . . . the existing laws [discriminate] against the unborn,” adding: “I think that they are discriminating also against the poor. My amendment advocates the right of the fetus of the poor woman to live.”²⁰³ After an attempt to table the amendment failed in a vote of 50 to 34, Bartlett’s amendment quickly passed the Senate in a voice vote.

In early October, a joint committee sought to reconcile the differences between the Senate and House versions of the Health, Education and Welfare Department’s 1975 appropriation bill. While the Senate had passed an amendment that cut federal funding of abortion, the House had voted down a similar measure in June. The majority of House

²⁰¹ Self, *All in the Family*, 12, 89-90.

²⁰² Sen. Hathaway, *Congressional Record*, 17 September 1974, 31456.

²⁰³ Sen. Bartlett, *Congressional Record*, 17 September 1974, 31456.

members believed that the abortion funding ban threatened contraception access, thanks to the arguments of Representative and obstetrician -gynecologist Bill Roy from Kansas. To resolve the impasse between the Senate and House's versions, the joint committee asked Dr. Louis Hellman, the Deputy Assistant Secretary of Health, Education, and Welfare, to issue a memorandum on the possible effects of the abortion funding ban. Hellman did so on October 5, 1974: "For each pregnancy among Medicaid eligible women that is brought to term," the report stated, "it is estimated that the first-year costs to federal, state and local governments for maternity and pediatric care and public assistance is approximately \$2,200." The report then compared this cost to the average \$180 it cost if a physician terminated a pregnancy within the first three months. At a press conference accompanying the memorandum's release, Hellman further called attention to the fact that the government and taxpayer might have to provide federal aid and assistance for the next eighteen years to children whose mothers would have aborted them. Like earlier pro-abortion rights literature, the memo first recognized a woman's constitutional right to an abortion, and followed with a cost-benefit analysis of the funding decision. By protecting abortion as a positive right, Helman said, the government saved money.²⁰⁴

The right to life reaction to the report was damning. Bartlett told the press, "I find it most disturbing that HEW would put a price tag on human life." Bartlett believed that such a utilitarian analysis was dangerous in a Democratic society. "It would also be cheaper to eliminate persons on welfare and Social Security," he quipped. "But thank God, we value life more than the dollar."²⁰⁵ An activist echoed his charges of population control and euthanasia

²⁰⁴ "Medicaid Abortion Spending Put at \$50 Million." *Los Angeles Times*, October 6, 1974, A1.

²⁰⁵ "Medicaid Abortion Spending Put at \$50 Million." *Los Angeles Times*, October 6, 1974, A1.

in *The Baltimore Sun*: “When a high government official says that taking the life of an unborn baby is a 'bargain,' it is time for a change.” “Unless we get our government out of the population control business,” she wrote, “we shall all be 'bargains' to be eliminated, sooner or later.”²⁰⁶

To attack Medicaid funding of abortion as coerced population control, right to life activists linked abortion funding to ongoing feminist and welfare rights organizations’ efforts to stop coerced sterilizations performed on indigent women. Right to life activists charged that government abortion funding, like coerced sterilization, was a dangerous and discriminatory form of population control. Stories of forced sterilizations shocked the public in 1973 and 1974, much as the Tuskegee syphilis and Westbrook Hepatitis experiments had done and were continuing to do. The case of twelve-year-old Minnie Lee Relf, in particular, captured public attention and outrage in 1973. Staff at the Montgomery Family Planning Clinic in Alabama diagnosed Relf as mentally incompetent, and deemed her unfit to make decisions concerning her sexuality and reproductive capabilities. The clinic then gave Relf Depo-Provera shots to prevent conception. When researchers found Depro-Provera caused cancer in lab rats and discontinued the drug, the clinic sterilized Relf. Her semi-literate mother signed the consent form for her daughter’s sterilization with an X; she mistakenly believed she was authorizing the continuation of the Depro-Provera treatments.²⁰⁷ Following her sterilization, Relf and her mother launched a class-action lawsuit against the Health, Education and Welfare Department. In response to the Minnie Lee Relf case, the National Welfare Rights Organization also filed a suit against HEW for violating regulations created

²⁰⁶Betty Fahey, “Abortion.” *The Baltimore Sun*, December 19, 1974, A22.

²⁰⁷ Jennifer Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003), 65-67.

under the Nixon administration that prohibited sterilization of minors using federal funds. The courts ruled in favor of Relf, banning federal funding of sterilizations for minor girls and the mentally incompetent.

At the same time, the National Welfare Rights Organization fought punitive sterilization laws that state governments had passed in the 1960s and 1970s. These laws sought to reduce the numbers of illegitimate and poor children by forcing women on welfare with two or more children to be sterilized or to use birth control. Under these laws, doctors in over thirteen states had performed sterilizations on thousands of women without their consent. A 1972 Center for Disease Control report supported the National Welfare Associations' claims that women from poor and minority communities were disproportionately targeted for coerced sterilizations. The report found that black women, public assistance recipients, and women of Latin American descent were sterilized in higher numbers than white women and women who had never received public assistance.²⁰⁸

Pro-life activists linked these cases to abortion funding in order to accuse abortion rights supporters and government officials of elitism, racism, and classism. The argument to substantiate these charges had three parts: by defending the right of poor and minority fetuses to be born, pro-life activists believed themselves to be race champions. This argument also helped to deflect any charges of racism against the almost entirely white anti-abortion movement. Unlike abortion rights advocates, right to life activists claimed, they valued the potential offspring of poor and minority couples. For example, Senator Bartlett wrote, "I do not believe in discrimination against anyone – including very, very small human beings."²⁰⁹

²⁰⁸ Nelson, *Women of Color and the Reproductive Rights Movement*, 65-70.

²⁰⁹ Dewey Bartlett, "Sen. Bartlett Replies." *The Washington Post*, October 16, 1974, A25.

The activists then placed what they believed to be their racial progressivism in contrast to what they characterized as an elite and uncaring abortion rights opposition. “Where else would you find farm wives, ghetto dwellers, peaceniks, John Birchers, Catholic bishops, Mormons, psychiatrists, Jewish rabbis, lawyers, feminists, Baptist preachers, scientists?” asked one right to life activist in 1974. “Strongly pro-abortion organizations are composed of persons with similar backgrounds . . . the leaders are educated people who ‘have made it.’” According to this activist, right to lifers were “not motivated by any self-serving purpose or partisan political or economic gain.”²¹⁰

The National Right to Life Committee and a number of other pro-life organizations collected and publicized any Planned Parenthood and Zero Population Growth materials that said that when the government respected indigent women's reproductive choices, the government saved money. “Planned Parenthood Federation of America has demonstrated in a brochure how legal abortion has contributed to the decline in costs of public assistance,” wrote a *National Right to Life News* reporter in 1974. “This appeal to a Congress which has spent billions of dollars . . . indicates how the population planners want to reduce their tax bills!”²¹¹ Right to life activists also collected any literature from black and welfare rights activists critiquing such government family planning programs as coercive and discriminatory, especially when dealing with sterilization.²¹²

Finally, right to life activists pointed to the growing cuts in welfare spending initiated by various state governments and the Nixon White House. Why, right to life activist asked,

²¹⁰ “Who’s been sleeping in OUR bed?” *NRL News*, 1 (September 1974).

²¹¹ “Reduction of welfare costs 'abortion benefit',” *The NRL News*, 1 (March 1974).

²¹² Donna M. Sullivan, “Who determines who has the right to be born?” *NRL News* 1 (February 1974); 1. Reprinted from *The Crisis*, December 1973.

was the government spending money on abortions at a time it was cutting education, food and health care programs for indigent communities? Wasn't there a better way to spend the taxpayers' money than on abortions? If so, the activists charged, the government placed a higher priority on eliminating the poor than on helping them. In doing so, the federal government became corrupt and repugnant. "Social pressures against the poor but pregnant woman [are] now geared more to getting rid of poor babies than assisting their mothers with their economic problems wrote *National Right to Life News* editor Alice Hartle.²¹³

It is important to note that right to life activists made this three-part argument against government funding of abortion as a form of population control despite the fact that a number of them believed in cutting government welfare programs. Moreover, a majority of right to life activists also held this population control argument while they defended their right as taxpayers not to fund a procedure they equated with murder. Thus by championing taxpayers' rights, even activists who did not want to cut welfare programs found themselves more closely aligned with conservatives and Republican politicians who were pursuing welfare cuts. Taken as a whole then, right to life argument against government funding of abortion centered on conservative ideas concerning taxpayer's rights, the limits of privacy when considering abortion, and a view of government as oppressive and corrupt. Dr. Joseph Stanton of Massachusetts, a former Catholic Democrat, exemplified this trend. In December 1974, he wrote that Dr. Hellman's "cost benefit analysis shows some inconvenient lives are better disposed of because it's cheaper that way." He then asked, "Is this what the abortion elitists had in mind all along for the poor, the disadvantaged and minority groups?" He concluded his editorial, "It is past time to clean the abortion elitists out of the Department of

²¹³Alice Hartle, "Social Security giveth and social security taketh away," *The NRL News* 1 (January 1974).

Health, Education and Welfare and end the spending of taxpayer's dollar for the procuring of abortions over the deep conscientious objection of the taxpayer.”²¹⁴

Right to life activists thus departed from the majority of black feminists and women leaders of the National Welfare Rights Organization, the very women they claimed to be protecting. In 1974, these women held that a woman had an inalienable right to choose to bear children or to limit the number of her children. They advocated for government funding of abortion.²¹⁵ Moreover, poor women's actions challenged this right to life population control argument. The Alan Guttmacher Institute, a research institute founded with funding by Planned Parenthood Federation of America in 1968, reported that in 1973, “Crude estimates of the number of Medicaid-financed abortions throughout the nation fell 136,000-356,000 short of the estimated number of low-income women in need.”²¹⁶ This evidence suggests that contrary to right to life claims poor women were not coerced into abortion, appreciated the financial help in terminating their pregnancies and if anything, wanted more money set aside for women dependent on public assistance. Reproductive choice advocates thus argued that not providing public funds for abortions coerced these women into having babies they did not want.

By December 1974, the joint House and Senate committee dropped the amendment banning abortion funds. The black newspaper *Afro-American* noted that it was only a momentary victory. “A majority of the conferees strongly support the apparent intent . . . to prohibit the use of public funds to pay for or encourage abortions,” a reporter wrote. The

²¹⁴ Dr. Joseph Stanton. “Clean out HEW abortion elitists,” *NRL News* 1 (December 1974).

²¹⁵ Nelson, *Women of Color and the Reproductive Rights Movement*, 69.

²¹⁶The Alan Guttmacher Institute, “The Unmet Need for Legal Abortion Services in the U.S.” *Family Planning Perspectives* 7 (Sept. - Oct., 1975): 228,230.

same reporter also noted that the only reason the bill failed was that abortion rights supporters and sympathetic politicians had been “persuaded that an annual appropriations bill is an improper vehicle for such a controversial and far reaching legislative provision.”²¹⁷

In the aftermath of the federal Medicaid funding debates, the joint defense of taxpayer’s rights and critiques of population control trickled back down to state right to life organizations. On December 31, 1974, the U.S. Eighth Circuit Court of Appeals ruled that a Missouri statute that excluded abortion and abortion referral services from state Medicaid benefits was unconstitutional. Mary Ann Johaneck, the president of Missouri Citizens for Life, declared the court’s decision was an attack on the poor because the same state legislature failed to increase welfare funds. “There will be subtle and perhaps not-so-subtle pressure on these welfare mothers to have their unborn babies destroyed because it will be economically enticing Johaneck.”²¹⁸ A month later, in January 1975, the Chicano Welfare Rights Organization of Denver and the Colorado Right to Life Committee released a joint statement objecting to the fifty million dollar Health, Education and Welfare Department fund for family planning that also paid for the abortions and sterilizations of women on public assistance. Patricia Estrada, the director of Chicano Welfare Rights, told local press that, what the poor welfare mothers needs is financial aid to assist her.” As a result of HEW’s funding of abortions and sterilizations, Estrada believed, the government was “more interested in eliminating the poor than in eliminating poverty.”²¹⁹ While the Denver alliance between a right to life and welfare rights organization was a rare exception, it helped to

²¹⁷ "U.S. continues abortion funds." *The Baltimore Afro-American*, 7 December 1974, 7.

²¹⁸ "Appeals Court holds Missouri welfare clause unconstitutional." *NRL News* 2 (February 1975).

²¹⁹ "Two Colorado Groups hit HEW involvement," *NRL News* 2 (February 1975).

legitimate the right to life rhetoric that positioned the movement as defenders of racial minorities and poor communities. In doing so, the right to life movement had found a way to restrict poor, underage and minority women's access to abortion while positioning themselves as race champions.

The Edelin Trial

On January 10, 1975, the Edelin manslaughter trial began. In their opening statements, defense attorney William Homans and prosecutor Newman Flanagan made clear the stakes of the trial: the legality of abortions close to or past the point of fetal viability. They laid out two competing definitions of medical terms and standard medical practices backed by two different sets of physicians and medical researchers. The prosecution's witnesses, on one hand, were made up of a pro-life network of obstetric and pediatric specialists and medical researchers in addition to pro-life general practitioners and members of the Boston City Hospital staff. From these witnesses' testimony, the prosecution built a case that showed the fetus under question was viable, alive and capable of breathing when Edelin separated it from Alice Roe's placental sack during the legal abortion on October 3, 1973.²²⁰ Flanagan then argued that because Edelin failed to remove the fetus and administer life saving care, "baby boy Roe" died. The defense, on the other hand, gathered together the leading medical experts in obstetrics and gynecology to "testify that the manner in which Dr. Edelin performed the hysterotomy for the purpose of the abortion was in accordance with sound medical practice."²²¹ From these witnesses' testimonies, the defense showed that the

²²⁰ Opening Statement of Newman Flanagan, Commonwealth of Massachusetts v. Kenneth Edelin, Suffolk SS. Superior Court No. 81823, Vol. 1; 17, 20, 37. Harvard Law Library, Harvard University, Cambridge, Massachusetts.

²²¹ Opening Statement of William Homans, Commonwealth of Massachusetts v. Kenneth Edelin, Suffolk SS. Superior Court No. 81823, fifth day of trial; Vol. 1, 33, 37-40. Harvard Law Library, Harvard University, Cambridge, Massachusetts.

fetus was not viable, at no point was a person under the law and that Edelin had acted as any responsible physician would have.²²²

The prosecution's witness list of pro-life physicians showed that a unified right to life movement. The grassroots initiative to restrict abortion access and move away from the Human Life Amendment had made its way up to the top leaders of the movement. Six months prior to the Edelin trial in August 1974, leaders of the National Right to Life Committee had fractured over what seemed irrevocable strategy differences. Marjory Mecklenburg left the National Right to Life Committee with a number of Protestants to form the American Citizens Concerned for Life. The National Right to Life Committee and its prioritization of the Human Life Amendment, Mecklenburg charged, would never allow the organization to embrace initiatives from the grassroots that sought to restrict abortion access. Upon her resignation, Dr. Mildred Jefferson replaced her as the chair of the National Right to Life Committee's board of directors. Now, in January 1975, Mildred Jefferson testified for the prosecution with Marjory Mecklenburg's husband Fred, who was a specialist in obstetrics and gynecology in St. Paul Minnesota. Denis Cavanagh, a leading member of Missouri Citizens for Life and an obstetrician and gynecologist, joined them as star witnesses for the prosecution. While Cavanagh's organization was a state affiliate of the National Right to Life Committee, it championed incremental efforts to restrict abortion access. The Edelin trial therefore healed the wounds that national right to life leaders inflicted on each other in 1974 and signaled to grassroots activists that leaders were willing to follow their lead.

Mildred Jefferson led the prosecution. Flanagan asked her "to explain and define the

²²² For a history of the competing medical definitions and the questions of the status of the fetus and what constituted appropriate medical procedure discussed by witnesses in their testimony, see Dubnow, *Ourselves Unborn*, 84-106; Nolan, *The Baby in the Bottle*, 79-80; Schoen, "Medicine at the Edges of Life," 17-21.

terms that would come up in the trial in a way that would be understandable to someone without a scientific background.”²²³ She defined birth as the moment when the fetus detached from the placenta, not its exit from the uterine cavity. She also defined abortion as the termination of a pregnancy, not the termination of a fetus. Both of her definitions allowed for the rare instance of a live birth abortion, a case in which a viable fetus survived the abortion. The defense objected vehemently to Jefferson’s testimony. Defense Attorney William Homans argued that she was not a specialist in obstetrics and gynecology and was politically biased due to her National Right to Life Committee and Massachusetts Citizens for Life affiliations. By Jefferson’s own admission, she had received no training in proper abortion techniques. Still, Judge McGuire allowed Jefferson’s testimony on the assumption that she was able to separate her moral judgments and pro-life politics from testimony as to how the medical profession determined what it considered good medical practice. Absent during the arguments over her status as an expert witness, the jury never knew about Jefferson’s political background and listened intently as she defined fetal personhood, abortion and birth.

Through testimony such as Jefferson’s, the trial became a venue for lawyers, physicians, and the general public to debate the status of the fetus in American society. Within the first week of the 1975 trial, *The Boston Globe* headlines cried “Definition of fetus is issue in Edelin trial,” and “Edelin trial trying to define birth” while the *New York Times* noted “Abortion Trial’s Crucial Issue: When does life begin?”²²⁴ The press’s focus on the fetus and the beginning of its life was a huge and unforeseen victory for Tom Connelly. He

²²³Mildred Jefferson interview by Jennifer Donnally, October 2007.

²²⁴See “Definition of fetus is issue in Edelin Trial” *The Boston Globe*, 11 January 1975, 3; Nils J. Burzelius, “Edelin trial semantics crucial” *The Boston Sunday Globe*, 12 January 1975, 29, 34; Robert Reinhold, “Abortion Trial’s Crucial Issue: When Does Life Begin?” *New York Times*, 12 Jan 1975, 34; Alan Sheehan, “Edelin trial trying to define birth,” *Boston Globe*, 20 Jan 1975, 1, 4.

argued in a 2010 oral interview that the trial shifted the national press's framing of abortion. Connelly remembered that "The reporters started adopting the terminology of the whole thing," adding that[t]heir point of view went from hostility of some sort to 'Wow these are important questions' to considering things from the right to life perspective.

Massachusetts Citizens for Life's analysis of the press coverage of the trial buttressed Connelly's conclusion. A spokesperson for the organization reported to the *National Right to Life News* that the trial "marked a possible turning point in the media's coverage of the abortion issue."²²⁵ This was particularly important because Connelly and many right to life activists believed that the only reason why abortion became legal was "because the victim [was] not seen" and "it was allowed to go forward because people couldn't identify with" the fetus. As the trial continued, the press coverage and testimony increased the likelihood that more Americans would equate the fetus with a baby, and therefore make abortion illegal. This occurred despite the fact that the judge and the defense objected to the prosecution's continual use of the word "baby" in reference to the fetus.²²⁶

While the prosecution relied on the expert testimony of right to life physicians, its key piece of evidence was a photograph of "baby boy Roe" as city investigators had found him in December of 1973, resting in a bottle of formaline solution. Flanagan insisted that the jury see the picture of the fetus in order to understand that the fetus was not a "subject," "specimen," "blob," or "bunch of mucous" but an "independent human being." The picture, according to Flanagan, showed that the fetus was viable and "human like you or me."²²⁷

²²⁵Michael Coughlin, "Media reactions vary, but most demonstrate a pro-abortion bias," *NRL News* 2 (April 1975).

²²⁶Nils J. Burzelious, "Edelin trial semantics crucial." *The Boston Sunday Globe*, January 12, 1975, 29.

²²⁷Diane White, "Edelin trial arguments concluded; jury may get case today." *The Boston Globe*, 14

Contending that the photograph was not medical evidence, defense attorney Homans objected to it as inflammatory evidence. “The jury,” Homans argued, lacked “the background to be able to assess what they s[aw] in these photographs in light of the narrow, rather complex issues in the case.” Homans, like Flanagan, knew that there was a good chance that the predominantly Catholic jury would think of the fetus as a baby once they saw the picture. He charged that the picture would discount all the medical testimony compiled by the defense that demonstrated that the fetus was not viable and did not survive the abortion. The picture appealed to the jurors’ emotions, not their reason. Though the judge acknowledged the defense’s objections to the photograph, he allowed the prosecution to submit it as evidence.

As the jurors discussed the case, one reported, “We paid a lot of attention to that picture” because “none of us had ever seen a fetus before.”²²⁸ Mildred Jefferson recalled that the picture “of this little dead baby boy, lying on his side with his hair long enough to curl” convicted Edelin. “You could not tell that jury this was not a little human being.”²²⁹ Jury member Liberty Ann Collin agreed with Jefferson’s analysis. She told reporters “why you’ve got all these very learned men, these doctors, arguing between themselves about whether this baby was alive or not, it made it very difficult for us to decide who was right.” She relied on her own experience as a mother of five to make her decision. She had “had babies, and [she knew] at six months they’re alive.”²³⁰ After seven hours of deliberation, jury

February 1975, 7.

²²⁸ Nolen, *The Baby in the Bottle*, 206.

²²⁹ Interview with Mildred Jefferson by Jennifer Donnally, October 22, 2007.

²³⁰ Nolen, *The Baby in the Bottle*, 208; Walter Robinson and Nick King, “Jurors say ‘negligence’ was basis,” *Boston Sunday Globe*, 16 February 1973, 1, 2.

members agreed that Edelin had been negligent; they believed he had not given the “baby enough of an opportunity,” and had not checked for fetal signs of life.²³¹ They found him guilty even though the judge told them negligence was not grounds for a manslaughter conviction.²³²

The verdict inspired heated discussion of the underlying issues of race and class in Boston exploded. A letter to the editor of the black Boston newspaper *Bay State Banner* claimed that right to life activists capitalized “on the explosively tense racial situation in Boston and a borderline abortion performed by a Black doctor on a Black teenager in an effort to achieve.... further restriction on legalized abortion.”²³³ Jury alternate Michael Ciano stated that Edelin’s race biased some white jurors. He told reporters that “there were quite a few [jury members] who made racial slangs, not against Edelin, but against black people in general,” and that one juror said, “That black nigger’s guilty as sin” after the final arguments.²³⁴ The jury foreman denied Ciano’s charges, claiming, “We didn’t speak racial whatsoever. I didn’t know that the doctor was black until last Saturday, after the verdict.”²³⁵ Several other jury members backed up the jury foreman’s assertion that they did not know that the medium-skinned Edelin was black. The foreman also said that if some jurors were

²³¹Nolen, *Baby in a Bottle*, 206.

²³² Political Scientist Rosalind Petchesky argues that the appearance of fetal images as medical documents in trials “both obscures and reinforces a coded set of messages that work as political signs and moral injunctions.” Whether aware or unaware of the underlying messages of a fetal image, a jury predisposed to oppose abortion looked to the photograph as the key piece of medical evidence in the trial and began to see the fetus as a baby despite the defense’s and Judge McGuire’s contention that the fetus, whether viable or not, was not a person under Massachusetts law.

²³³Vernal G. Cave, M.D., “Letters to the Editor,” *Bay State Banner*, April 3, 1975, 4.

²³⁴Robinson and King, “Jurors say ‘negligence’ was basis.”

²³⁵Jerry Taylor, “Never heard racial slurs, juror says.” *The Boston Globe*, February 18, 1978, 1.

racist, they would have found Edelin innocent because they certainly knew from the photograph that Baby Doe was black. The jurors insisted that their decision was based on their belief that the fetus was a baby and wrongfully killed.

Right to life activists across the country came to the defense of the all-white jury. To do so, they drew upon the rhetoric they had developed to pursue abortion restrictions, positing a corrupt government, liberal press, and an amoral academic elite that unfairly criticized the jurors. The jury came to represent the lower and middle-class white homeowners that had made up Nixon's "silent majority." The jury did represent this demographic: all the jurors were white. Eleven of the sixteen jurors identified themselves as Roman Catholic and one of the remaining five was married to a Catholic. Six of the sixteen came from the racially-charged neighborhoods of Dorchester and South Boston, and seven had school-aged children and a personal investment in the ongoing school desegregation crisis. The group included a bartender, a housewife, a ship builder, a custodian, a mechanic and an engineer, most belonged to the white ethnic working class and lower-middle class. None had completed college.²³⁶

Right to life activists also deflected charges of racism by questioning Edelin's race. They claimed that even though Edelin self-identified as black, his appearance was ambiguous: Edelin's skin tone was not very dark. He wore a bushy black mustache and wore his hair in tight black curls, a popular style for all men in the mid-1970s. Many people misidentified Edelin's race and ethnicity. Dr. Mildred F. Jefferson believed Edelin's "overall comportment was just another Latino."²³⁷ Tom Connelly recalled, "The problem was that Dr.

²³⁶Edelin, *Broken Justice*, 154, 329.

²³⁷ Mildred Jefferson Interview by Jennifer Donnally, October 22, 2007.

Edelin looked more white than ten or fifteen people in the court room, who were Italian, Spanish or whatever, or even Irish. In other words, he didn't look black.”²³⁸ During the initial investigation, Newman Flanagan assumed Edelin was Jewish. Rumor had it that when Flanagan learned that Edelin was black, he said, “Oh. Shit.”²³⁹ By questioning Edelin’s racial identity, Connelly, Jefferson, and Flanagan discounted all charges of the jury’s racial prejudice. “The people involved [in the trial] weren't racists,” Connelly would later assert. “It had nothing to do with that.”

The activists then championed the jury as wiser than the medical and legal elites. “The jury's decision,” wrote *National Right to Life News* reporter Michael Coughlin, “is an unequivocal announcement to American's legal and medical communities that ordinary Americans are shocked with this country's cavalier attitude toward abortion.”²⁴⁰ A pro-lifer from Arizona praised the common sense of the jury. “It is that lay juries, as unsophisticated as they generally are, look at the picture of a dead baby and see it for what it is – a dead baby, not just 'the products of conception' or some other equally silly euphemism.”²⁴¹ Senator Dewey Bartlett told Congress, “I am now given new spirit and encouragement for the 12 Americans sitting in a jury box in Boston, Massachusetts, who looked at a picture of a 6-month-old fetus and concluded that this tiny infant was worthy of protection by our legal process.”²⁴²

The verdict also mobilized abortion rights supporters and civil-rights activists in

²³⁸ Interview with Tom Connelly by Jennifer Donnally, September 2010.

²³⁹ Edelin, *Broken Justice*, 328.

²⁴⁰ Michael Coughlin, “It could be the beginning,” *NRL News*. 2 (April 1975).

²⁴¹ Wallace W. McWhirter, MD, “Late Abortion or early manslaughter?” *NRL News* 2 (April 1975).

²⁴² Dewey Bartlett, *Congressional Record*, February 20, 1975, 3800.

Boston and Massachusetts throughout the spring of 1975. Just two days after the trial ended, 1,500 women marched to the Massachusetts State House protesting the verdict with signs stating “Abortion is the issue” and chanting, “Not the Church, Not the State, Women must decide their fate.” That evening, local women’s organizations held a candlelight vigil for Edelin. The Association of Professors of Gynecology and Obstetrics passed a resolution on February 18 stating that doctors “must guard against local jurisdiction or vocal minorities imposing their ethical position for medical care in family planning and abortion on those patients or doctors who do not hold those positions.”²⁴³ In a clear sign of his dismay over the jury’s decision, the judge sentenced Edelin to one year’s probation, pending the appeal he expected Edelin to launch, so that even if the verdict stood, the judge Edelin would not serve any jail time. A week after the trial, Edelin began a year-long appeals process and returned to the Obstetrics and Gynecology Department at Boston City Hospital.²⁴⁴

Right to life reactions showed that activists understood the Edelin trial and verdict in a larger conservative context. “The judge was on [Edelin's] side from the beginning,” wrote North Carolinian Carol M. Blackney in March 1975. She was furious the judge had instructed the jurors to declare Edelin innocent. “When that failed,” she complained, “he sentenced him to a year's probation.... What a farce! What a waste of taxpayer's money.” Blackney concluded her letter reiterating the emotion fuelling the movement’s strategic pursuit of abortion restrictions. “900,000 abortion deaths in 1974 diminish me and you. We are all responsible for allowing this slaughter to continue.”²⁴⁵

²⁴³ “Gynecologists back court abortion OK” *The Boston Globe*, 18 February 1975, 8.

²⁴⁴ “Edelin returns to work at City Hospital” *The Boston Globe*, February 20, 1975, 1.

²⁴⁵ Carol M. Blackney, Letter to the Editor, *North Carolina Catholic*, 16 March 1975, 3.

Abortion Rights Mobilization

In April 1975, Senator Dewey Bartlett of Oklahoma once again proposed restricting federal funding of abortion. Rather than attaching the amendment rider to the 1976 Health, Education, and Welfare Department appropriations bill, he tagged it onto the 1975 Nurse Training Act. He again cited right to life critiques of government population control efforts and a defense of the rights of taxpayers and the rights of poor and minority fetuses., claiming that the government “has taken on the Orwellian task of encouraging mothers to eliminate their unwanted unborn.”²⁴⁶ He also charged that the American taxpayer wanted to know “why the Federal Government is spending good tax dollars for questionable programs.” He concluded, “Congress has a real opportunity by passing this amendment to guarantee the right to life of thousands of the unborn poor who otherwise will lose their lives.”²⁴⁷

To the surprise of abortion rights supporters, Ted Kennedy of Massachusetts rose to lead the opposition to the ban on abortion funding. Prior to the funding debate, Kennedy had not taken a stand on abortion. As a member of the Kennedy family, he was part of the most prestigious Roman Catholic family in the country, and was also one of the best-known Democratic Senators. By attacking efforts to cut abortion funding, Kennedy defied the Catholic Church’s opposition to abortion.

Kennedy would later claim that his decision to support legal abortion took lots of soul searching. Much of that soul searching may have occurred during a March 1975 secret meeting he arranged between reproductive choice advocates and Catholic Democrats.²⁴⁸ The

²⁴⁶ Dewey Bartlett, *Congressional Record*, April 10, 1975. P. 9803.

²⁴⁷ Ibid.

²⁴⁸ Interview with Jean Weinberg by Jennifer Donnally, 10 September 2010; Interview with Anne Fox by Jennifer Donnally, 16 September 2010; Group Interview with Massachusetts Citizens for Life Activists Daniel Avila, Eleanor Rafferty, Joseph Hamel, Katherine Healy, Linda Thayer, and Anne Fox, 15 September

purpose of the meeting was to find a way for Catholic Democratic politicians to support legal abortion without alienating the Catholic hierarchy or Catholic voters. Attendees of the meeting at the Kennedy compound in Cape Cod included: Father Robert Drinan, a Jesuit Priest and representative of Massachusetts fifth district in Congress; Sargent Shriver, Kennedy's brother-in-law, who had served in the Kennedy and Johnson presidential administrations and had run for vice president in 1972; Kennedy's sister, Eunice Kennedy Shriver, the founder of Special Olympics and a right to life ally; and Pamela Lowery, the president of Massachusetts Organization to Repeal Abortion Laws. Together they came up with a defense of legal abortion that would center on the implications of an amendment establishing fetal personhood, and on the rights of poor and minority women. Their position would leave abortion's moral dimension to the Catholic Church and the realm of private belief. As private citizens, then, Catholic Democrats could declare their personal opposition to abortion, but as legislators they would not impose that belief on other American citizens.

Kennedy tested this defense in the April 10 debate over Medicaid funding of abortion. When Catholic Republican Dewey Bartlett and Conservative James Buckley of New York asked Kennedy's opinion on abortion, he refused to give it. "I believe that . . .the question [is] whether it is legal," Kennedy replied. "I am not going to get into a position, as much I am sure the Senator would like me to, of talking about my own philosophy or religious belief."²⁴⁹ Kennedy then attacked Bartlett's proposed funding ban on two accounts: would this ban eliminate necessary funding for contraception, and for abortions for victims of rape? He also attacked the bill as a violation of equal access to health care. He charged, "This is a

2010.

²⁴⁹ Edward Kennedy, *Congressional Record*, 10 April 1975, p. 9805.

14th amendment issue. It is an equal rights issue.”²⁵⁰

Supporters of the funding restrictions deflected charges of discrimination in the same way right to life activists had responded to the 1974 Medicaid funding debates, and to charges of racism during the Edelin trial: they defended taxpayers’ rights and championed the rights of unborn fetuses, including those of poor and non-white origins. Senator Buckley replied, “First, it is simply not true that denying tax dollars for practices held to be rights by Supreme Court decisions is discriminatory . . . The taxpayer is under no obligation to fund with his money any and all rights.” Bartlett added, “What I am saying is that I do not want to see the unborn children of the poor be discriminated against.” The ban on Medicaid funds for abortions and abortion referrals failed on a vote of 54 to 36. The Senate then unanimously adopted the position of black feminists and the National Welfare Rights Organizations concerning indigent women’s reproductive choices, and passed a resolution that prohibited government officials from coercing welfare recipients into obtaining abortions or being sterilized.²⁵¹

Taken together, the Edelin verdict in February and the Medicaid funding debates in April alerted abortion rights supporters that the right to life movement had shifted strategies. The movement now seemed united in pursuing abortion restrictions that disproportionately targeted poor, minority and underage women’s abortion access. In a *New York Times* editorial, Beatrice Blair, the executive director of the National Abortion Rights Action League, wrote: “A zealous, well-organized, well-financed minority is responsible for the

²⁵⁰ Edward Kennedy, *Congressional Record*, 10 April 1975, p. 9803;

²⁵¹ James Buckley, *Congressional Record*, 10 April 1975, pp. 9805; Dewey Bartlett, *Congressional Record*, 10 April 1975, p. 9815.

enormous political pressure.”²⁵² In response to this right to life strategy shift, the National Abortion Rights Action League in May held a series of protests and Abortion Action weeks across the country. They chose the slogan, “Defend Edelin, Defend Your Rights.” “The conviction of Dr. Edelin is only a part of a very strong campaign against a woman's right to choose abortion,” stated a flyer publicizing the Abortion Action Week. “The anti-abortion forces are now agreed that a good method of operation against women's rights is the 'state-rights' approach, thus in Massachusetts bills restricting or limiting abortion are constantly being introduced.”²⁵³ Conference panels for the Abortion Action weeks included: “Minor's Rights Conference on abortion and birth control,” “Conference on the special needs of high school women and abortion,” and “Seminar on Black and Third World Women and Abortion.”²⁵⁴ Abortion Action week culminated in rallies in New York, Philadelphia, Washington, D.C., Detroit, Atlanta, San Francisco, Los Angeles, Chicago, and Cleveland. Every rally raised money for Dr. Edelin’s appeals case.²⁵⁵ On December 17, 1976, nineteen months after the guilty verdict, the Massachusetts Supreme Court overturned Edelin’s conviction in a six to five decision. The court overruled the conviction because the judge had not conducted the trial appropriately.²⁵⁶ Following the successful appeal, Kenneth Edelin went on to become a civil rights advocate and pro-choice activist of international renown.²⁵⁷

²⁵² Beatrice Blair, “Men Vote, Women Die.” *New York Times*, April 3, 1975, 37.

²⁵³ “Abortion Action Week,” found in Joseph Stanton Papers, f. “Boston City Hospital Edelin Case II,” Box Untitled 3, Stanton Human Life Issues Library.

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ Nolen, *The Baby in the Bottle*, 212-216; Paige, *The Right to Lifers*, 27.

²⁵⁷ Kenneth Edelin chaired the Planned Parenthood Federation of America board of directors from 1989 to 1992 and served on both the New England and national boards of the Legal Defense and Education Fund of the National Association for the Advancement of Colored People. The Planned Parenthood Federation

In 1976, the newly elected Suffolk County District Attorney Newman Flanagan also dropped the grave-robbing charges against the four Boston City Hospital medical researchers. In the meantime, fetal research once again became legal in the United States. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research released a series of regulations that Congress approved in July, 1977.²⁵⁸

“Strength Through Unity”

On June 20, 1975, the National Right to Life Committee held its annual National Convention. Over 1500 members gathered in Denver to lay strategy and discuss movement priorities. The theme of the conference, “Strength through Unity,” highlighted right to life activists’ desire to move past the bitter debates over strategy and the Human Life Amendment that characterized the organization in 1973 and 1974. State board members elected a new Executive Board and approved the incremental strategy to restrict abortion that was first developed at the grassroots level between 1974 and 1975. Dr. Mildred Jefferson was elected president, and former Executive Director and disgraced incremental leader Robert Green of Kentucky became the organization’s vice president.²⁵⁹ Alice Harlte reported that “when it was all over Sunday noon, the facial expressions of people leaving the convention hall left no doubt that they felt that the Right to Life movement had taken a giant step

of America established an award in Edelin's name to honor people for leadership in reproductive health care and reproductive rights and in 2006, Edelin retired as the Associate Dean of Students and Minority Affairs at Boston University Medical School. See “Dr. Kenneth Edelin,” 12 December 2007. <<http://www.dredelin.com>>.

²⁵⁸ Dubow, *Ourselves Unborn*, 79.

²⁵⁹ “National Right to Life Committee names women MDs to top posts,” *NRL New*, 2 no. (August 1975).

[forward].”²⁶⁰

At her acceptance speech and presidential address, Mildred Jefferson articulated the National Right to Life Committee’s strategic turn to abortion restrictions. She exclaimed, “We will use *every* means possible to overturn the decision of the Supreme Court.”²⁶¹ Jefferson spent most of her allotted time railing against government funding of abortion, not advocating a Human Life Amendment. She described government funding as attempts to use “our tax monies . . . to destroy the poor.” She warned other Democrats against following Ted Kennedy’s path. If Democrats adopted what right to life activists considered a “pro-abortion” and “pro-death” position, Jefferson threatened, single-issue anti-abortion voters who were also loyal Democrats would have no other choice but to leave the party. Democrats like Kennedy, Jefferson said, could no longer automatically assume their fellow Catholics would support them.²⁶²

Dr. Jefferson was not the only leader to grasp the importance of her movement’s revised strategy and its potential impact on American politics. In July of 1975, Ronald Reagan wrote a nationally syndicated article reflecting on the Edelin trial. At the time, the former California governor was contemplating running for the 1976 Republican presidential nomination. “The press called it a fetus. The defense lawyer called it a fetus. The jury called it a baby. And, after they did, they convicted Dr. Kenneth C. Edelin of Boston of manslaughter,” wrote Reagan. “Dr. Edelin was frustrated and angry at the outcome, not surprisingly. That he momentarily charged the jury with racial prejudice (he is black) can be

²⁶⁰Alice Hartle, “National Right to Life Committee President takes Sen. Kennedy to Task,” *NRL News* 2 (August 1975).

²⁶¹ Emphasis mine. Ibid.

²⁶²Ibid.

attributed to the heat of the moment.” Reagan dismissed entirely any notion of jury prejudice: “There is no evidence to suggest that the jury based its decision on anything other than the charge put to them and the facts presented.” He then expressed his increasing concern “that there is a subtle, but nonetheless effective, move afoot to dehumanize babies unwanted by their mothers.” He argued that calling unborn babies fetuses were central to this dehumanizing campaign; he compared the use of “fetus to all the pejorative terms applied to various enemies to rob them of human qualities, in order to make belittling them, ostracizing them or killing them more easy. He then listed those terms: “wops, frogs, spics, micks, polacks, gooks and slopes.” By listing terms applied to white, Asian and Latino ethnic groups, and excluding terms applied to blacks, Reagan hinted that a conservative politician could use fetal rights to appeal to the working-class ethnic groups that were a core part of the Democratic Party’s New Deal coalition. From his office in July 1975, Reagan envisioned a right to life movement that would be essential to electoral politics and pivotal to forming a new conservative coalition around issues of race, class, sexuality and gender.

CHAPTER THREE

“The Right to Life Revolution”

“Will liberals capture the GOP? Can responsible Democrats find a home? Has the time come for a new party?” asked promotional material for the Conservative Political Action Conference in the February 1975 *National Right to Life News*.²⁶³ The American Conservative Union and Young Americans for Freedom, the sponsors of the conference, hoped to advance the right to life movement’s involvement in a conservative coalition they were forming. In order to do so, they invited Mildred Jefferson to attend the conference as the representative of the National Right to Life Committee. Jefferson was open to their overtures and eager to solidify such an alliance. At the end of the four-day conference, and amid news of the just-announced Edelin manslaughter verdict, attendees passed a resolution “to protect the life of the unborn child from the moment of conception.”²⁶⁴

One year later, Mildred Jefferson would make conservative coalition-building an essential component of what she envisioned as the right to life revolution of 1976.²⁶⁵ Two larger goals undergirded her plans: Jefferson wanted to turn what was a small but militant right to life minority that was strongest at the local and state level into a political force to be reckoned with at the national level. She also wanted to turn that pro-life minority into a

²⁶³ “Conservatives will consider platform, new party, life issue,” *NRL News* 2 (February 1975).

²⁶⁴ “Conservative Conference includes call for HLA in platform,” *NRL News* 2 (March 1975).

²⁶⁵ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News* 3 (January 1976).

majority by recruiting more conservatives and Evangelical and Fundamentalist Protestants to the movement. Two strategic initiatives would further these ends. Jefferson sought to make abortion a pivotal issue in the presidential primaries and fall elections and to ban federal funding of abortion and abortion referral services. These initiatives worked hand in hand to align what was now a united right to life movement with conservatives mobilizing in the Republican Party.

The Right to Life Movement, Ronald Reagan and the Rise of the New Right

The February 1975 Conservative Political Action Conference was the brainchild of a group of Washington insiders and right-wing political pundits who made up the “New Right.” These men included Richard Viguerie, Paul Weyrich, Howard Phillips, and John “Terry” Dolan; more established conservative commentators including William F. Buckley and William Rusher; and conservative politicians such as Senator Jesse Helms of North Carolina and Representative John Conlan of Arizona. Between 1973 and 1975, these men founded and led a number of conservative institutions, organizations and political committees, including the Heritage Foundation in 1973, the Committee for the Survival of a Free Congress and the Conservative Caucus in 1974, and the National Conservative Political Action Committee in 1975.²⁶⁶ These organizations created a powerful conservative establishment that would help forge grassroots conservative groups across the United States into a national coalition between 1975 and 1980.²⁶⁷ Kevin Phillips, a political columnist and

²⁶⁶ Donald Critchelow, *The Conservative Ascendancy: How the GOP Right Made Political History*. (Cambridge: Harvard University Press, 2007), 129.

²⁶⁷ Bruce J. Schulman and Julian E. Zelizer, “Introduction,” *Rightward Bound: Making American Conservatism in the 1970s*, ed. Schulman and Zelizer, (Cambridge: Harvard University Press, 2008), 5-7.

former analyst for the Nixon presidential campaigns, dubbed these men the “New Right” in 1975.²⁶⁸

The young men who made up the New Right were indebted to older conservative leaders. Most grew up in the Republican Party and met first through Young Americans for Freedom, a conservative organization founded at Buckley’s estate in Connecticut in 1960. Four years later, Barry Goldwater’s presidential campaign served as the New Right activists’ baptism by fire into the conservative political movement.²⁶⁹ By the late 1960s and early 1970s, however, these young men were eager to differentiate themselves from the “Old Right.” That group of businessmen, economists and conservative intellectuals, according to these younger men, “had been fighting liberalism since the 1930s,” and the Old Right had been losing the fight.²⁷⁰ Richard Viguerie quipped that they “spent so much time putting out liberal fires, they had little time to start any fires of their own.”²⁷¹ This new generation of conservative leaders wanted not only to start fires but also to start a revolution, echoing Mildred Jefferson’s call for a right to life revolution in 1976. Paul Weyrich said, “We are radicals who want to change the existing power structure . . . The New Right does not want

²⁶⁸ According to Richard Vigueire, the term “New Right” was first used by Lee Edwards in 1962 when he proposed a conservative platform for Young Americans for Freedom in *The New Guard* in an article entitled “The New Right: Its Face and Future.” In 1969, conservative columnist M. Stanton Evans used the term to describe the emerging conservatism on college campuses, comparing it to the New Left. Kevin Phillips was the first to apply the term to this particular group of men in 1975. See Viguerie, *The New Right*, 55.

²⁶⁹ Much of the history of modern conservatism has emphasized and explored the connections between the Old Right and New Right, even as scholars acknowledges that the “New Right” was a different movement in large part due to the establishment of conservative think tanks, media outlets, political foundations and institutions in the 1970s that would sustain the movement to the present. Scholars of American Conservatism have pointed out that the New Right was heavily indebted to the Old Right and that the issues the New Right would organize around had deeper roots in the 1950s and 1960s. New scholarship has also pointed out that female conservative leaders at the grassroots were also pivotal to this continuity between the Old Right and New Right. See Michelle Nickerson, *Mothers of Conservatism: Women of the Postwar Right* (Princeton, NJ: Princeton University Press, 2012).

²⁷⁰ Viguerie, *The New Right: We’re Ready to Lead*,) 3.

²⁷¹ *Ibid.*

to conserve, we want to change – we are the forces of change.”²⁷²

Within five months of Gerald Ford taking the oath of office in 1974, leaders of the New Right began serious discussions around dinner tables over whether the Republican Party could be their home any longer. They were unhappy with Ford’s appointments of Nelson Rockefeller as vice president and pro-choice, pro-ERA feminist Mary Louise Smith as the chair of the Republican National Committee. Rockefeller was the former governor of New York and the leader of the Republican Party’s moderate wing. Right to life activists detested Rockefeller because he was a staunch supporter of abortion rights and had signed into law the repeal of the New York criminal abortion statute in 1970. Two years later, he vetoed a bill re-criminalizing abortion for which state activists, who were predominantly Catholic Democrats, had lobbied heavily. After Rockefeller’s appointment, conservatives, including some right to life activists, began to wonder whether they should establish a third party.²⁷³ Data supported their unease. Public opinion polls at the time showed that more Republicans supported legal abortion access than Democrats. Even in 1976, only forty percent of Republican delegates to the National Convention identified as pro-life.²⁷⁴

The publication of William Rusher’s *The Making of a New Majority Party* in 1975 reinforced New Right leaders’ desire to consolidate conservative efforts. Rusher was a regular columnist for the *National Review* and had been a mentor of Young Americans for Freedom since its founding in 1960. In his new book, Rusher asserted that fifty-nine percent

²⁷² Viguerie, *The New Right*, 60.

²⁷³ Ford faced a huge Democratic majority in Congress, leaving him with little room for political maneuvering and little desire to appease his Republican right. Instead, Ford turned to moderates and liberals in his own party to chart a centrist course. He took a strong position on fiscal issues, striving for a balanced budget, but sidestepped increasingly controversial social issues such as abortion. See Critchelow, *Conservative Ascendancy*, 126-7; Link, *A Righteous Warrior*, 147; Williams, “The GOP’s Abortion Strategy”.

²⁷⁴ Williams, “The GOP’s Abortion Strategy,” 528.

of the American people were conservatives. It was past time to create a conservative coalition, Rusher charged, and if need be, a new independent party. In an attempt to get an independent party up and running in the spring of 1975, Rusher tried to convince former California governor Ronald Reagan to run for president as an independent.

Reagan rejected Rusher's overtures. The Republican Party was in shambles after Watergate, Reagan observed. Was this not the perfect time for conservatives to revitalize the party instead of establishing a new one? Reagan expressed a clear interest in launching a conservative challenge within the Republican Party to Gerald Ford's presidency. His interest in a Republican candidacy persuaded New Right leaders; ideas of a conservative third party faded as they invested in the Republican Party and in Ronald Reagan. In the summer of 1975, Reagan and the New Right began to court the various conservative organizations they hoped to weld into a coalition to win the Republican nomination.²⁷⁵ Many of the groups Reagan targeted had sent representatives to attend the Conservative Political Action Conference the previous February, including Mildred Jefferson and other members of the National Right to Life Committee.

As the newly elected president of the Committee in June 1975, Mildred Jefferson welcomed such an alliance. The burgeoning conservative revival excited the born-and-bred Texas Republican, despite the fact that a majority of the members of her organization were Roman Catholic, and, many politicians assumed, loyal to the Democratic Party. She and other National Right to Life Committee leaders had already been urging activists to disregard former party loyalties. If they were truly sympathetic to the plight of the unborn, leaders announced, they would vote on abortion and abortion alone. The political opportunity these

²⁷⁵ Paige, *The Right to Lifers*, 143-144; Critchelow, *Conservative Ascendancy*, 145.

single-issue voters presented to New Right leaders was almost irresistible. They could shift entire blocks of voters who had voted for the Democratic Party into the Republican Party by championing the anti-abortion cause. the conservative alliance forwarded two of Jefferson's primary goals: it would expand the movement's membership and sympathizers and turn a pro-life minority into a winning majority. New Right leaders also had political expertise that Jefferson needed. They could help her transform a grassroots anti-abortion effort that had helped to unite the pro-life movement from the bottom up in 1974 and 1975 into an effective, national, top-down lobbying campaign in 1976.

In September 1975, Jefferson invited New Right leaders to participate in a "Congressional Liaison" meeting in Washington, D.C. Would they, Jefferson asked, be willing to teach her and thirty other women from National Right to Life Committee state affiliates to be better lobbyists? At the meeting, Jefferson and the state participants worked with Paul Weyrich and Carl Curtis of the Committee for the Survival of a Free Congress to coordinate two legislative campaigns, to stop Medicaid funding of abortion in 1976 and to pass a Human Life Amendment.²⁷⁶ Other presenters at the meeting included American Citizens Concerned for Life leader Judy Fink, conservative activist Connie Marshner, and National Right to Life Executive Committee members Robert Greene and Ray White.²⁷⁷

Abortion and the Origins of the Christian Right

As Reagan began to contemplate a presidential campaign in the summer of 1975,

²⁷⁶ Of all the leaders of the New Right, Paul Weyrich has received recognition for his special talent in building conservative coalitions. These coalitions included anti-tax groups, anti-abortion groups, veterans' organizations, small business associations, and conservative pro-family advocates. But, as noted in Chapter 3, rhetoric and ideas linking abortion and tax also arose from the grassroots. See Critchelow, *Conservative Ascendancy*, 129.

²⁷⁷ "Congressional liaison group holds its initial meeting," *NRL News*, 2 .(October 1975).

evangelical Christian leaders of the right to life movement began to found their own organizations, separate from but in accord with the goals of the National Right to Life Committee. On July 7, 1975, twenty-five Protestant ministers and lay right to life leaders founded the Christian Action Council. The new Protestant organization's goals included reminding non-Catholics, in the words of the new chairman Harold O.J. Brown, "that virtually all Christians from the beginning have been against permissive abortion." For the right to life movement to succeed, Brown proclaimed, "We can no longer leave our legislators and judges . . . under the mistaken impression that the abortion issue is of concern only to a 'sectarian' minority in our 'pluralistic' society."²⁷⁸ A group of distinguished Protestant leaders joined Brown on the Christian Action Council's Board of Directors. They included: Mrs. Ruth Bell Graham, wife of Rev. Billy Graham, Mrs. Edith Schaeffer, wife of the famous Evangelical theologian Francis Schaeffer, Rev. Harold Lindsell, editor-in-chief of *Christianity Today*, Rev. William Bentley, president of the National Black Evangelical Association, Rev. Jacob A.O. Preus, president of the Lutheran Church-Missouri Synod, Rev. J. Robertson McQuilkin, president of Columbia Bible College, and C. Everett Koop, a prominent Presbyterian physician and right to life activist who was the head of pediatric surgery at Children's Hospital in Philadelphia.

The Christian Action Council held its first meeting at the Billy Graham Evangelistic Association in Montreat, North Carolina over the weekend of August 14, 1975. There, they agreed to support constitutional amendments that would overturn *Roe v. Wade* but did not specifically endorse a Human Life Amendment. Rev. Robert Holbrook, the executive director of Baptists for Life and a board member at-large of the National Right to Life

²⁷⁸ "Christian Action Council, new Protestant Group, is announced." *NRL News* 2 (August 1975).

Committee also attended the meeting. Holbrook told the gathered group of ministers and lay organizers "The key to changing the present situation of unlimited permissive abortion in America is first to make uncommitted American Protestants aware of the full reality of the situation."²⁷⁹ According to Holbrook and Christian Action Council members, the right to life movement's priority should be recruiting Protestants. Holbrook was not the only conservative leader to believe that a right to life revolution and a corresponding conservative counterrevolution against liberalism was dependent on Protestant involvement. Earlier in February 1975, Sen. Jesse Helms of North Carolina had told attendees at the Conservative Political Action Conference that a conservative coalition hinged on the mobilization of evangelical Christians. Without them, Helms charged, conservatives would not be able to realign American party politics and shift the country to the right.²⁸⁰

As these Protestant organizations formed, leaders of the right to life movement welcomed them as part of conservative attack against "secular humanism" and in defense of "Judeo-Christian" and "Western" values. Rev. Robert Holbrook had told the 1,500 attendees at the June 1975 National Right to Life Convention that "The Bicentennial will find us with little of the Christian roots of our nation recognizable, but replaced with a philosophy of secular humanism." The National Right to Life Committee Board, too, had accepted and promoted this rhetoric in attempts to unite conservative Catholics, Protestants and Jews. On June 22, 1975 they passed a resolution acknowledging the role of a Judeo-Christian God in their movement for the first time. "Be it resolved that we make our witness to Him [sic] who created us . . . Be it further resolved that we make our witness to Him in protecting life from

²⁷⁹ "Protestant Leaders meet at Billy Graham headquarters," *NRL News* 2 (October 1975).

²⁸⁰ Link, *A Righteous Warrior* 147.

the moment of conception to natural death, in seeking a Human Life Amendment however long it takes, at whatever cost may prove necessary.”²⁸¹

As part of the effort to recruit evangelical Protestants, *The National Right to Life News* began to expand its coverage beyond abortion. In September 1975, Alice Hartle interviewed Arizona Representative John Conlan, a speaker at the February 1975 Conservative Political Action Conference. Conlan was also the man behind Third Century Publishers, which Campus Crusade for Christ founder Bill Bright established in 1974 in order to mobilize socially conservative evangelical and fundamentalist Christians. The article focused on Conlan’s attempts to cut the grant funding for National Science Foundation programs he and other social conservatives believed “undermine[d] traditional Western values.” These programs include a course for fifth and sixth graders titled, “Man: A Course of Study” and a Florida State University program on “Human Sexuality” that, according to the *National Right to Life News*, was “apparently so hot that it is unavailable for public or congressional review.” As pro-lifers had done in 1974 and 1975, Conlan questioned the use of taxpayers’ money to underwrite these programs. He wanted the National Science Foundation to “increase its efforts in explaining to the taxpayers how their hard-earned dollars are being invested in scientific research.”²⁸²

To the delight of New Right and pro-life leaders, evangelical Christians also began to mobilize around abortion and other social issues in the fall of 1975. In October seventy-five ministers representing “every element of evangelical Christianity,” led a “Continental

²⁸¹ “A New Credo?” *NRL News* 2 (August 1975).

²⁸² Alice Hartle, “Federal funds are cut off for marketing MACOS program.” *NRL News* 2 (September 1975).

Congress on the Family” in St. Louis, Missouri. Over 2,000 Protestant clergy and their wives attended the conference. American Citizens for Life leaders Judy Fink and Marjory Mecklenburg presented seminars on abortion and local efforts to offer alternatives to abortions. Missouri Citizens for Life welcomed the conference attendees on the first day with an anti-abortion rally attended by an estimated thirty-two to thirty-three thousand people. Dr. Mildred Jefferson gave the keynote address at the rally and later attended the Continental Congress on the Family.²⁸³

As socially conservative Protestants became more politicized and involved in the right to life movement, the American Roman Catholic Church also increased its political involvement in preparation for the 1976 elections. The National Conference of Catholic Bishops released its Pastoral Plan for Pro-Life Activities on November 20, 1975. The plan thrilled right to life activists and leaders alike. It not only “significantly stepped up the church’s fight against abortion,” Jefferson wrote, but also acknowledged the grassroots consensus that emerged in non-sectarian right to life organizations across the country between 1974 and 1975.²⁸⁴ Unlike the Catholic hierarchy’s position in 1973, which relied heavily on Catholic money and leadership to pass a Human Life Amendment, now the bishops acknowledged that working against abortion was “not simply the responsibility of Catholics, nor should it be limited to Catholic groups or agencies.” Instead, the fight to make abortion illegal again called for “widespread cooperation and collaboration.” The plan prioritized both the “Passage of a constitutional amendment providing protection for the

²⁸³ “Continental Congress on Family will hear pro-life speakers,” *NRL News* 2 (October 1975): “Huge Missouri rally hears call for Bayh’s resignation,” *NRL News* 2 (November 1975).

²⁸⁴ George Dugan, “Catholic Bishops Approve a Plan to Mobilize Public Support Against Abortions on Request,” *New York Times*, November 21, 1975, 19.

unborn child to the maximum degree possible,” and attempts to restrict abortion through the “Passage of federal and state laws and adoption of administrative protection for the unborn child to the maximum degree possible.”²⁸⁵ Moreover, the bishops made it clear that they and the fifty million plus Catholics they claimed to represent would ensure that abortion was pivotal to the 1976 elections.²⁸⁶

The same day that the Pastoral Plan for Pro-Life Activities was released, Ronald Reagan formally announced his campaign for the Republican presidential nomination. His candidacy solidified the convergence of the conservative coalition first envisioned at the Conservative Political Action Conference nine months before.²⁸⁷ In December 1975, Alice Hartle published an extensive interview with Ronald Reagan as the top story in the *National Right to Life News*. When Hartle asked him why he signed California’s 1967 abortion reform statute and how he came to reverse his position, Reagan wove together numerous conservative complaints.

When a 15-year-old girl can have, under Medicaid, at the taxpayer's expense, three abortions with the same psychiatrist each time simply giving a quick, off-the-cuff diagnosis that she has suicidal tendencies, this was not what I had in mind I was shocked at this abuse of the Medicaid -- what we call MediCal in California -- program. Probably my anger about this is what led to many of our welfare reforms. . . We hadn't realized that welfare would turn around and simply say that pregnancy was sufficient cause for eligibility for the Aid for Dependent Children program. Therefore, any girl in trouble and wanting an abortion could simply go down and apply for welfare on the basis that she was pregnant. Now her father could be the president of a bank, and she would still be eligible; but, also, those privacy clauses prevented us from letting her parents know. Here is a situation where legally a doctor can't take a child's tonsil out without the parents' permission, but he can perform an

²⁸⁵ National Conference of Catholic Bishops, *Pastoral Plan for Pro-Life Activity* (Washington, D.C. : United States Catholic Conference, 1975).

²⁸⁶ For more information on the *Pastoral Plan for Pro-Life Activity*, see Young, “We Gather Together,” 193-195.

²⁸⁷ “Ronald Reagan Supports HLA,” *NRL News*, 2 (September 1975).

abortion on a child . . . an underaged girl.²⁸⁸

Reagan provided no evidence to support his anecdote against the privileged fifteen-year-old girl he cited. Hartle then asked Ronald Reagan why pro-life Democrats should vote for him. Reagan responded, "But the big thing to me is that the average man and woman in America -- the so-called middle class, the people who are making this system work . . . they're worse off than they were because government is taking almost half of every dollar they earn."²⁸⁹ Rather than defending fetal personhood and championing a Human Life Amendment, Reagan attacked federal funding of abortion as symptomatic of what would become his signature issue – a corrupt, expensive and overpowering federal government that infringed upon the rights and privileges of average American parents and taxpayers.

These newly forged conservative alliances, however, remained tentative. In January 1976, Alice Hartle warned that “there are some stumbling blocks along the road.” She cited tensions between Catholic and Protestant activists as one of those stumbling blocks: “Some exist through real or imagined lack of willingness to cooperate with the many anti-abortion people not of the Catholic faith who have been fighting valiantly to restore protection for the unborn child.”²⁹⁰ Issues of distrust and prejudice grounded in theological differences continued to undermine the ability of conservative Protestant ministers, right to life leaders and Catholic bishops to work together despite their rallying behind Judeo-Christian values. One protestant minister and pro-life leader commented, “The assumption was that it must not

²⁸⁸ Alice Hartle, “Reagan likes HLA, gives views on abortion, euthanasia,” *NRL News* 2 (December 1975).

²⁸⁹ *Ibid.*

²⁹⁰ Alice Hartle, “Will we hang together or separately?” *NRL News* 3 (January 1976).

be right if Catholics backed it, so we haven't.”²⁹¹

A large segment of social conservatives and right to life activists also hesitated to join in the New Right's campaign to take over the Republican Party. While many were willing to become single-issue anti-abortion voters, they still hoped to use their political clout to sway the Democratic Party to a pro-life position. In January 1976, one activist wrote “pro-life Democrats wait and hope, struggling with their consciences, hesitant to vote outside the party they have known and loved and yet determined not to leave out of their decision the compelling moral issue of human life.”²⁹² As Alice Hartle predicted in February 1975, the conservative coalition-building occurring throughout that year represented a “glimmer of hope” and a “suggestion of things to come” on the eve of the presidential primaries.

Ellen McCormack and Pro-Life Mobilization in the Democratic Party

Ellen McCormack was anything but a typical presidential candidate. The forty-nine-year-old housewife and grandmother had never worked for a salary, graduated from college, or even run for a public office prior to filing to run for president. McCormack's life and politics had centered on the small suburban community of Long Island, New York, and Cure of Ars Roman Catholic Parish, where she attended daily mass. McCormack's closest female friends from the parish ran her campaign organization, the Pro-Life Action Committee. The women had formed the committee in 1974 with the explicit goal of finding politicians who would be amenable to running pro-life television commercials as part of their electoral campaigns. They soon discovered the best way to do so was to recruit candidates from within

²⁹¹ John Wilder as quoted in Williams, *God's Own Party*, 119.

²⁹² “Liberal Democrats out of character,” *NRL News* 3 (January 1976).

the organization. In June 1975 they nominated Ellen McCormack to run for president while she was away on a family vacation. After some cajoling, McCormack agreed, and in July she filed to run for the presidential nomination of the Democratic Party. She set out to run for president not to win the nomination but in order to air federally subsidized pro-life television commercials supporting a Human Life Amendment.²⁹³

McCormack's campaign organization grew out of the Cur of Ars women's dialogue group's longer engagement in abortion politics. In 1970, pastor Father Paul Driscoll encouraged women in the dialog group to lobby against a proposed law that would repeal New York's criminal abortion statute. In 1971, the women founded a chapter of "Women for the Unborn" and began to place pro-life advertisements in local newspapers and the *New York Times*. Their goal was to "educate politicians and the public about the abortion issue through the media."²⁹⁴ By 1974, the group formed the Pro-life Action Committee and successfully aired a series of pro-life commercials on behalf of a Conservative Party candidate that members estimated reached 70,000 to 80,000 people in New York and New Jersey.²⁹⁵

The idea for the 1976 presidential campaign came from Eugene McMahan, a local Catholic lawyer and political consultant. Shortly after the women founded the Pro-Life Action Committee, McMahan became aware of a newly passed 1974 federal election law that sought to reform campaign finances in the wake of the Watergate investigation. The new law granted matching federal funds to any presidential candidate who raised \$5,000 or more

²⁹³ Jane Gilroy, *A Shared Vision: The 1976 Ellen McCormack Presidential Campaign* (Denver: Outskirts Press, 2010), 31-32; Stacie Taranto, "Ellen McCormack for President: Politics and an Improbable Path to Passing Anti-abortion Policy." *Journal of Policy History*, 24 (2012):265, 268-69.

²⁹⁴ Gilroy, *A Shared Vision*, 9.

²⁹⁵ Taranto, "Ellen McCormack for President," 266-268, 270; Gilroy, *A Shared Vision*, 5, 8.

in twenty states. There were no restrictions on how candidates could use the matching funds once raised, and no requirements to continue to receive the funds once the initial \$100,000 had been collected from twenty states. McMahon believed the Pro Life Action Committee could receive matching federal funds, even if it backed an unknown single-issue candidate who had little chance of winning. If this was true, the Committee could then front a candidate of their own to run pro-life campaign commercials at the expense of the federal government. The Committee quickly grasped that this was a political opportunity of a lifetime, even if it required a level of pro-life political organization that had not yet been achieved at the national level.²⁹⁶

Much to the Pro Life Action Committee's benefit, their desire to run a top-down political campaign meshed with Mildred Jefferson's larger right to life revolution goals: not only would the campaign help rally the grassroots, it would also publicize the pro-life cause through commercials, potentially recruiting new movement sympathizers. Thus Jefferson and the National Right to Life Committee quickly endorsed the campaign in August 1975. Through the Ellen McCormack campaign, right to life activists would participate in two political party battles. McCormack and her supporters fought what Jefferson later referred to as the Democratic Party's "left wing," while others worked to defeat what Jefferson referred to as the "Rockefeller wing" of the Republican Party.²⁹⁷

Everyone who participated in the McCormack campaign, however, understood the primary goal was to fund subsidized pro-life commercials. Why else? There was no chance that McCormack would win the Democratic nomination. As Jay Bowman, head of Georgia

²⁹⁶ Gilroy, *A Shared Vision*, 20.

²⁹⁷ Jefferson, *Back to the Drawing Board: The Future of the Pro-Life Movement*, xvii.

Right to Life, told a reporter in February 1976, “She’s not a serious candidate . . . But she can get equal time [on television] for the pro-life message – and she can get the Federal government to pay for the ads.”²⁹⁸ Right to life activists, whether they intended to vote for McCormack or not, supported her campaign with financial contributions. By December 1975, activists in Colorado, Florida, Indiana, Nebraska, New York, and Wisconsin had raised the \$5,000 per state required by federal campaign law. By January 1976, McCormack supporters in Kentucky, South Dakota, California, Massachusetts, Maryland, Illinois, Ohio, New Jersey, Minnesota, and Texas had also raised the required \$5,000.²⁹⁹

Contrary to some activists’ claims, McCormack’s campaign wasn’t just about the commercials. As Jefferson hoped in August 1975, McCormack set out to change the political landscape of America. She wanted to target and identify the single-issue anti-abortion vote on a national level. How many single-issue anti-abortion voters were there in America? McCormack asked. If she could get them to vote for her rather than a candidate who could win, the right to life movement would have an accounting of its electoral strength. Knowledge of the number of those voters, could in turn be used to threaten and pressure politicians, regardless of their party affiliation, into backing anti-abortion legislation. McCormack also favored a hard line position on fetal personhood and her campaign would re-focus attention on the Human Life Amendment by using it to test all Democratic politicians. Finally, McCormack understood her presidential campaign as part of a larger battle over the direction of the Democratic Party. Democratic politicians’ views on abortion would test the status of white ethnic Catholics and other social conservatives within the

²⁹⁸ Richard Steel with Ann Lallande, “The Right-to-Life Candidate,” *Newsweek*, 9 February 1976 ,23.

²⁹⁹ Janet Grant, “Democrat pro-lifer in primaries campaign funds continue to grow,” *NRL News* vol 2 December 1976:1; Gilroy, *A Shared Vision*, 77.

party.

McCormack and the Long Island housewives who made up the Pro Life Action Committee had grown up in the Catholic, Democratic working-class enclaves of New York City. They were first generation suburbanites who continued to support the male breadwinner model of the New Deal Democratic coalition and the social welfare policies and union politics that helped them and other Northern Catholic ethnics prosper under Democratic presidents in the 1960s and 1970s. Their politics sought to shore up the workingman and at-home wife as the norm in the face of huge social and economic changes that were sweeping across America. These changes threatened these women's new middle-class status and positions as homemakers, and placed new pressures on all American women and their families. By championing male breadwinners, McCormack positioned herself against contemporary feminist, who held that the model did not meet the needs of most American women, including single mothers and women with careers. Feminists charged that instead of focusing on men's employment, wages, and education, the federal government should increase women's access to jobs and improve their chances for career advancement. Policies they supported included government-funded daycare, and legal, government-subsidized abortion and birth control.³⁰⁰

McCormack's campaign and its political goals thus focused on the Democratic Party. In one flyer, the Pro-Life Action Committee argued that running in the Democratic primaries would provide the right to life movement the opportunity to attack the "reluctance of the Democratic Congress to act on the Human Life Amendment."³⁰¹ McCormack, in particular,

³⁰⁰ Jane S. DeHart, "Gender on the Right: Meanings Behind the Existential Scream," *Gender & History* 3 (Autumn 1991): 253-256; Taranto, "Ellen McCormack for President:," 264-266.

³⁰¹ Gilroy, *A Shared Vision*, 23.

wanted her campaign to target the growing number of Democratic politicians who professed their personal opposition to abortion but supported legal abortion access. This strategy, which Ted Kennedy pioneered in 1975, infuriated McCormack. Personal opposition, McCormack and a growing number of right to life leaders asserted, amounted to nothing in the high stakes of abortion politics.

The decision to target Democrats was a practical one. The Pro-Life Action Committee's strategy to air pro-life commercials relied on the Federal Election Commission's requirements that political candidates have equal airtime for commercials. Since committee members believed at the time that Gerald Ford would run unopposed in the Republican primaries, and thus significantly lessen the opportunities to run commercials, they filed in the Democratic Party.³⁰²

McCormack was not the only leader who began to mobilize grassroots activists to target Democratic politicians; other grassroots activists initiated their own campaigns. On September 17, 1975, the Senate Subcommittee on Constitutional Amendments tabled all versions of the Human Life Amendment after seventeen months of hearings. Democratic Senator Birch Bayh of Indiana chaired the subcommittee and was an aspiring presidential candidate at the time. He admitted to the press that he voted against the amendments even though he was personally opposed to abortion. Pro-life activists were furious. The next day, an estimated thirty-five to forty right to life activists from the Boston area picketed Bayh's presence at a Newton Democratic Party meeting.³⁰³ Four days later on September 21, activists from Ellen McCormack's home of Long Island launched a protest against Bayh

³⁰² Taranto, "Ellen McCormack for President," 269; Gilroy, *A Shared Vision*, 23.

³⁰³ "Massachusetts pro-lifers picket Democrats' forum," *NRL News* 2 (November 1975).

when he appeared at a Nassau county Democratic Party meeting. At the end of the week, on September 25, people from Bayh's home state of Indiana also protested him at his public appearances, a tactic they would continue to use throughout the fall whenever he returned to his home.

Right to life anger over the Human Life Amendment failure in mid-September soon transferred to any Democratic politician who professed his or her personal opposition to abortion but upheld *Roe v. Wade*. On September 27, activists from across Massachusetts organized another protest against Birch Bayh when he appeared at the Northeast Democratic Conference in Springfield. There, 1,500 key members of the Democratic Party met at the Springfield Civic Center to field questions to all the Democratic presidential nominees. One hundred and fifty members of Massachusetts Citizens for Life protested outside the conference, while thirty more who were registered Democrats attended. These thirty asked every Democratic presidential candidate about their stance on abortion. The candidates included Georgia Governor Jimmy Carter, Senator Birch Bayh, Senator Fred Harris of Oklahoma, Sargent Shriver of Massachusetts, and Representative Morris Udall of Arizona. All the presidential contenders discussed their personal opposition to abortion but refrained from endorsing a Human Life Amendment. In response, an activist from Syracuse, New York said that "I'm personally opposed but . . ." statement had "become the epitome of obnoxiousness to pro-life people throughout the country."³⁰⁴ The candidates' statements thus encouraged right to life attacks against their party. Local activists from California, Kansas, Missouri, Nebraska, and New Hampshire launched public protests outside Democratic Party

³⁰⁴ "You're right, Senator Bayh – you will be haunted," *NRL News* 2 (November 1975).

events in October 1975.³⁰⁵

McCormack and Mildred Jefferson looked to use this anger against the Democrats to further their own political goals. In a November 1975 *National Right to Life News* interview, McCormack said, “A right to life constitutional amendment is not presently supported by any of the professional politicians who are seeking the Democratic nomination.” “...unless right to life enters its own candidate, the pro-life question will be brushed aside by the Democratic presidential aspirants. And that could mean four more years of congressional inaction.”³⁰⁶ McCormack encouraged people to support her campaign in order to call attention to what she viewed as the Democratic Party’s increasing hostility to the pro-life movement.

Mildred Jefferson also blamed the movement’s failure to pass anti-abortion legislation at the federal level on Democratic politicians. In a November 1975 editorial she claimed that Democratic Senators Birch Bayh and Edward Kennedy, and Massachusetts Representative and Jesuit priest Robert Drinan, were “an unholy trinity of influential members of the majority party in Congress.” She wrote, “They vocalize repeatedly their moral opposition to abortion while leading every effort to make the practice a social reality.” She also accused the three of sharing “a common delusion that a vocal minority of women can guarantee more votes than the quiet majority of women.”³⁰⁷ Like McCormack, Jefferson then used abortion as a wedge issue to exploit ongoing shifts in the Democratic Party’s base. She asked, “Will a coalition of the politi-feminists and liberal minorities win the presidential

³⁰⁵ See “You’re right, Senator Bayh – you will be haunted,”; Judy Yacio, “Bayh greeted by pickets while seeking support;” “Prayer Vigil held during Notre Dame speech;” Frances Frech, “Bayh added to ‘unwanted’ list;” Elizabeth Healy, “Bayh picketed day after vote;” “Hoosiers protest Bayh panel vote;” “Bayh’s vote on amendments protested on Long Island” all articles found in *NRL News*, 2 (November 1975).

³⁰⁶ “Ellen McCormack’s campaign to bring out pro-life issues.” *NRL News* 2 (November 1975).

³⁰⁷ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News* 2 (November 1975).

nomination for Senator Bayh if he seeks it?”³⁰⁸ To ensure Bayh’s defeat, Jefferson coordinated a national campaign from Washington, D.C. Right to Life members continued to protest outside of Bayh’s campaign events until he dropped out of the race in the spring of 1976.³⁰⁹

Right to life activists, however, did not just protest Democratic politicians that fall; they were also disenchanted with Republican leaders. President Ford, they charged, was too reluctant to engage the abortion issue; he would not have their support until he endorsed the Human Life Amendment. To that end, seventy-five activists from the D.C. area gathered to protest outside the White House on November 12, 1975. Nellie Gray, president of the National March for Life and a board member of the National Right to Life Committee, organized the protest. “Our purpose in the monthly picketing,” Gray told the press, “is to make sure that the right to life is the number one political issue in next November’s elections.”³¹⁰

In the midst of all these protests against politicians, Ellen McCormack launched her national campaign for the Democratic nomination on November 16, 1975. At a press conference in Boston, McCormack charged that, “No man does more to promote abortion than Edward Kennedy.” Echoing Jefferson’s earlier criticisms of the senator, McCormack attacked him for his pivotal role in defeating the Bartlett amendment that banned government funding of abortion earlier that spring.³¹¹ Though the House and Senate had yet to vote on a Human Life Amendment, the right to life movement had collected all the Congressional

³⁰⁸ Ibid.

³⁰⁹ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News* 3 (February 1976).

³¹⁰ “Monthly picketing set at White House,” *NRL News* 2 (December 1975).

³¹¹ Gilroy, *A Shared Vision*, 53.

voting records over abortion funding bans from the past three years, and each candidate's position on government funding of abortion became a campaign litmus test in 1976.

McCormack's announcement of her candidacy was followed four days later by Reagan's announcement that he would run for president in the Republican primaries. Jefferson greeted both Reagan's and McCormack's campaign with enthusiasm. While in different political parties, the two campaigns had complemented each other in the fall of 1975 and would continue to do so. McCormack, while not a serious candidate, attacked Democratic Party politicians who failed to support the Human Life Amendment, and used abortion to test the status of socially conservative Catholics and evangelical Christians in the Democratic Party. Reagan, a serious candidate, hoped to exploit right to life voters' discontent with the Ford White House and with Democrats to advance a conservative coalition within the Republican Party. The right to life efforts and plans of 1975 within both parties prepared for Jefferson's 1976 right to life revolution. In January of that year, Jefferson reflected, "The year 1975, for the most part, was a time of planning, preparation and projection for the pro-life movement."³¹² Pro-life activists and leaders waited with anticipation to implement their plans during the upcoming Democratic and Republican primaries, shocking their opponents and the press when abortion took over the political scene in January 1976.

"Two weeks in the winter when media, candidates began to hear"³¹³

On January 15, 1976, Democratic Presidential nominee Jimmy Carter was in the

³¹² Mildred Jefferson, "Lifelines from the President's Desk," *NRL News* 3 (January 1976).

³¹³ Dexter Duggan. "Two weeks in the winter when media, candidates began to hear." *NRL News* 3 (March 1976).

basement of Holy Springs Church in Creston, Iowa; the late night meeting was part of Carter's turn-out-the-vote effort four days before the Iowa caucuses. A "handsome young matron" rose and asked an exhausted Carter if he would support a constitutional amendment that placed the same restrictions on abortion as a 1970 Georgia criminal abortion statute that Carter had passed as governor. The Georgia law, which the Supreme Court overturned in *Doe v. Bolton*, restricted access to abortion except in cases of rape, incest, or fetal deformity, or when a pregnancy threatened the health of the mother. Carter paused and answered her softly, "Under certain circumstances, I would." The Iowa right to life movement response was immediate. Carter's ambiguous statement was the most promising answer they had received from any Democratic presidential candidate other than Ellen McCormack, who was not running in the Iowa primary. Over the weekend, right to life forces mobilized on behalf of Jimmy Carter. By Sunday, January 18, Catholic pastors attached Carter's anti-abortion statement to Sunday church bulletins. Pro-life teams manned phone banks to run a last-minute "marathon get out the vote" telephone campaign.

Carter won the Iowa causes with twenty-eight percent of the delegates the following Monday; the victory established him the frontrunner for the Democratic presidential nomination, a position he would never lose.³¹⁴ The press and his political opponents attributed Carter's victory to grassroots right to life mobilization that weekend. Senator Bayh in particular blamed Carter for playing the anti-abortion vote to his favor in Iowa, especially since Carter refused to endorse a Human Life Amendment. *The Washington Post* conservative columnists Rowland Evans and Robert Novak, on the other hand, claimed that

³¹⁴“Jimmy Carter makes abortion the issue,” *Lifeletter '76* (February 5, 1976). Pre-Presidential Papers, 1976 Presidential Campaign Issues Office, Noel Sterrett Clippings – Domestic Issues. Box 128 “Pornography through Cultural Affairs,” folder “Abortion.” Jimmy Carter Papers.

Carter had achieved what had seemed to be the impossible: according to them, Carter had outdone his opponents “by winning anti-abortion conservatives without losing pro-abortion liberals.”³¹⁵

On January 15, the same evening as Carter’s whispered conversation in Iowa, President Ford decided how his campaign would handle the abortion issue. In the comfort of the oval office, he debated four position statements his staff had drafted and debated throughout the fall. As House minority leader in 1973, Ford had co-sponsored the Whitehurst constitutional amendment that overturned *Roe* and *Doe* by giving the states the power to legislate abortion.³¹⁶ Ford, however, had not given his stance on abortion as president. Since taking the oath of office in August 1974, he had also acted in ways that upset right to life activists; his appointment of several prominent pro-choice Republicans, including Nelson Rockefeller and Mary Louise Smith, was highly unpopular with right to life activists. Then in August 1975, Betty Ford came out in support of the *Roe* decision. In a *60 Minutes* interview, she said “it was the best thing in the world when the Supreme Court voted to legalize abortion.”³¹⁷ After Betty Ford’s interview no one was sure where the president stood, but right to life activists were irate. Mildred Jefferson charged, “It has never been my presumption that sharing a President’s bed automatically infused any woman with wisdom,

³¹⁵Rowland Evans and Robert Novak, “Carter ‘Whispers’ on Abortion,” *The Washington Post*, January 17, 1976, A15.

³¹⁶ Memo for the President from Jim Cannon. Subject: Position of the President on Abortion.” Not dated., Counsel to the President, Philip Buchen Files. General Subject Files, Box 1 folder Abortion (1), Ford Presidential Library.

³¹⁷ Memo for the President from Jim Cannon and Phil Buchen. Subject Abortion. January 9, 1976. Counsel to the President Philip Buchen Files, General Subject Files. Box 1, folder Abortion (1), Ford Presidential Library., For a more in-depth discussion of the Betty Ford interview and the social conservative backlash against it, see Young, “We Gather Together,” 188-89.

knowledge, intelligence or sound judgment.”³¹⁸ Joseph Stanton of Massachusetts wrote to Ford telling him that the First Lady’s statement had lost Ford his vote in the upcoming election.

As Ford contemplated his position on January 15, he was aware of intense pro-life pressure coming to bear on him. The previous December Ronald Reagan had backed the Human Life Amendment. Chances were slim that right to life activists would support Ford over Reagan, the president reasoned, because he continued to favor the more moderate states’ rights anti-abortion constitutional amendment he had originally sponsored in 1973. The actions of right to life leaders seemed to support Ford’s conclusions. On January 14, Nellie Gray had released a statement noting the president’s unwillingness to schedule a meeting with pro-life leaders for January 22, 1976, the day of the March for Life and the third anniversary of the *Roe* and *Doe* decisions.³¹⁹ On the same day, Mildred Jefferson wrote a letter to the president as a representative of the National Right to Life Committee. She reminded Ford of what she claimed were the one million plus members of her organization and urged him to clarify his position on abortion.³²⁰

Fully aware that pro-life Republicans were more likely to back Reagan, Ford came to a moderate position on abortion that he and his strategists hoped would capture the sympathy of a majority of American voters.³²¹ “As a matter of personal philosophy . . . my belief is that a remedy should be available in cases of serious illness or rape,” Ford wrote. “Personally I do

³¹⁸ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News* 2 (October 1975).

³¹⁹ “White House Officials finally agree to see pro-life delegation,” *NRL News* 3 (March 1976).

³²⁰ Mildred Jefferson to the President, January 14, 1976. . Counsel to the President Philip Buchen Files, General Subject Files. Box 1, folder Abortion (1), Ford Presidential Library.

³²¹ Critchelow, *Conservative Ascendancy*, 125.

not favor abortion on demand.” After stating his personal view, the president offered his policy position; as he had in 1973, he continued to support a states’ rights constitutional amendment.³²² Ford notified his staff of his decision on January 16, and resolved the Nellie Grey situation. He refused to meet with Gray and her colleagues in person, but set up a meeting between his staff and the national leaders on the morning of January 22. It was the first time a president invited right to life leaders to a White House meeting.

At the thirty-minute meeting Nellie Gray and U.S. Coalition for Life leader Randy Engel took the president’s staff by surprise. Instead of focusing on the Human Life Amendment, as they had expected, Gray and Engel took the Ford administration to task for supporting Medicaid funding of abortion. “Every tax dollar the federal government pays for convenience abortions is taken away from the genuine health needs of citizens,” Randy Engel charged. “If the administration was really interested in helping the poor, they would find better ways than helping them to kill their babies.”³²³ The two stated that the President should issue an executive order cutting off the Medicaid funding, or at least initiate an investigation into government funding of abortion.³²⁴ In response, Ford’s staff promised to look into the regulations in question.

White House staff then shared the president’s moderate position on anti-abortion constitutional amendments. This time, the activists behaved as the staff expected them to. Pro-life leaders were less than enthusiastic about Ford, and, some were even hostile. A few

³²²Memo for Phil Buchen and Jim Cannon from Jim Connor. Subject: Abortion. January 16, 1976. Counsel to the President Philip Buchen Files, General Subject Files. Box 1, folder Abortion (1), Ford Presidential Library.

³²³ “White House officials finally agree to see pro-life delegation.” *NRL News* 3 , (March 1976).

³²⁴Memo from Sarah Messengale. Subject: Meeting with Representatives of three anti-abortion groups, Thursday, January 22, 1976, 10:45 – 11:15 Am. Filed January 27, 1976. Counsel to the President Philip Buchen files. General Subject Files, Box 1 folder Abortion (2), Ford Presidential Library.

hours after the White House meeting, Nellie Gray attacked President Ford in front of the estimated 65,000 people attending the National March for Life rally.³²⁵ She announced that President Ford's administration was "synonymous with Massacre Unlimited," because it "approve[d] of the killing of preborn children and using tax dollars for the barbaric deeds."³²⁶ Grey also read a telegram from Ronald Reagan pledging support for the movement and for a Human Life Amendment. The pro-life vote in the Republican Party seemed set; Reagan had won it.³²⁷

Ellen McCormack, the March for Life's featured speaker, also attacked government funding of abortion. At the time of the rally, McCormack was six days away from reaching her matching funds goal, and her campaign was starting to gain national media attention. Editorial writers questioned whether McCormack should receive federal funds, given the fact that the purpose of her campaign was to fund pro-life commercials. McCormack compared this argument against her candidacy to the campaign against government funding of abortion. As long as the government used taxpayer's money to fund abortions, McCormack told the March for Life Rally, she wouldn't hesitate to use the taxpayer's money to fund pro-life commercials.³²⁸

This combination of events in the last two weeks of January achieved at a national level what single-issue right to life activists had achieved in select states and localities such as Kansas and Boston in the past three years. "Overnight, abortion had 'arrived' as the hottest

³²⁵Dexter Duggan. "Two weeks in winter when media, candidates began to hear." *NRL News* 3 (March 1976).

³²⁶"Massacre Unlimited." *NRL News* 3 (February 1976).

³²⁷Williams, *God's Own Party*, 130.

³²⁸"Life march shows grassroots faith." *NRL News* 3 (February 1976).

issue in the just-beginning primary campaigns” wrote a pro-life publication on February 5.³²⁹ From that point on, right to life activists ensured that presidential candidates declared their position on government funding of abortion and the Human Life Amendment. Abortion was also an issue in both the Democratic and Republican Primaries. While Reagan and Ford held different positions, Ellen McCormack’s campaign kept abortion at the forefront of most Democratic primaries.

Reagan versus Ford

In February 1976, things were not going very well for Reagan or other conservatives in the Republican Party. Reagan had yet to win a primary; Ford narrowly defeated him in the Iowa caucuses and New Hampshire primaries and decidedly trounced him in Massachusetts, Vermont, Florida and Illinois. Reagan’s campaign came to hinge on the March 23 North Carolina primaries. There, the state organization of his deeply conservative ally Jesse Helms squared off against the moderate organization of Republican Gov. James Holhouser. Helms and his aides at the North Carolina Congressional Club ran a statewide campaign that emphasized Reagan’s conservative ideology, optimized Republican voter turn-out, and increased Reagan’s exposure in the state. As part of these efforts, Emma O’Steen and the Western North Carolina Pro-Life Action Committee sent letters to pastors and ministers who read them to their congregations the Sunday before the primary. That same Sunday, leaders of North Carolina State Right to Life presented a plaque with a silver medallion to Reagan in Asheville in order to honor his pro-life stance. On March 23, Reagan won North Carolina by a

³²⁹“Jimmy Carter makes abortion the issue.” *Lifeletter '76*.

margin of 12,000 votes, revitalizing his campaign.³³⁰

Following the North Carolina primary, Reagan ran a tit-for-tat primary campaign against Gerald Ford. The race revealed a profound internal split between moderate and conservative Republicans that the anti-abortion vote revealed. Due to his support for the pro-life movement, Reagan out-pollled Ford among Catholic Republicans and did well with conservative Evangelical Protestants.³³¹ Both were key voting groups that had helped win Richard Nixon the presidency in 1972. Many Republican leaders, regardless of their stance on abortion, also hoped to recruit Catholics and Evangelicals into their party to form a new majority coalition. Taking an anti-abortion position seemed to be an excellent way to win these voters over. For example, Reagan had won a huge victory in Texas, sweeping all the state's delegates on May 1. There, Ellen McCormack's staff blamed pro-Reagan Republicans for foiling her campaign efforts: Reagan's supporters had run a television commercial that encouraged pro-life Democrats to cross party lines and support Reagan. It seems that Texas was the first state in which so-called Reagan Democrats switched their affiliation on the abortion issue alone.³³² By the end of the primaries in June 1976, Reagan had won twenty-three states to Ford's twenty-seven. Neither candidate had the necessary 1,130 delegate votes needed to secure the nomination in June 1976; Ford was one hundred votes short while Reagan was two hundred votes short.³³³

³³⁰See "Presentations Made to Honor Pro-Life Candidates," *The Concept*, 3 (April 1976): Link, *A Righteous Warrior*, 149-158.

³³¹ Williams, "The GOP's Abortion Strategy," 527.

³³² "McCormack campaign rolls on; primary results anger opposition." *NRL News* 3 (June 1976).

³³³ Critchelow, *Conservative Ascendancy*, 148.

The Pro-Life Movement Splits from the Democratic Party

As the Republican Party nomination battles dragged on, Jimmy Carter and his campaign staff began to strategize about how to present a solid, unified Democratic Party capable of winning the White House. Carter kept his position as the Democratic Party frontrunner following the Iowa caucuses, and in April 1976, he secured the Democratic presidential nomination. The general election then became the focus of Carter's campaign staff and Democratic Party leaders. No one wanted a repeat of the divisive and violent 1968 and 1972 Democratic National Conventions. This time around, Carter and party leaders would not tolerate dissension on the convention floor. Conflicts over the platform would be worked out beforehand so that television audiences would see a strong Democratic Party fully supporting the Carter nomination.³³⁴

Throughout the spring of 1976, feminists and right to lifers lobbied Democratic Platform Committee members to include their respective positions in an abortion plank. "Although there are prominent exceptions, more and more Democrats seem willing to have our party identified in the public arena as the party of abortion," Ellen McCormack reported to committee members. "If this trend continues . . . millions of pro-life Democrats across the country are prepared to look for some other party to support." She then warned that the nine per cent of the voters who supported her in Vermont, the eight percent in South Dakota and the five percent in Indiana and Kentucky would be pivotal for Democrats in close elections. Shouldn't Democratic politicians and Party leaders care about the right to life movement and meet its demands? McCormack asked.³³⁵

³³⁴ Sandra Salmans and Eleanor Clift, "All for One, One for all," *Newsweek*, June 28, 1976, 19.

³³⁵ For McCormack voting percentages, see Williams, *God's Own Party*, 130. To see how right to life activists interpreted her campaign, see "Political advice given pro-lifers at workshop," *NRL News* 3 (August

Despite the lobbying efforts, the Democratic Platform committee voted against including any abortion statements in the platform. Like most politicians in 1976, the drafting subcommittee members deemed the issue too controversial, emotional, and dangerous. Any position, whether for or against abortion, would alienate a Democratic Party base. Why chose between feminists and Catholics when you didn't have to address the issue? In face of the committee's intransigence, feminists switched tactics and began to lobby Jimmy Carter's campaign staff to include a plank opposing efforts to criminalize abortion and efforts to pass the Human Life Amendment. They cited the significant number of delegates willing to support their plank, and if need be, to help bring the abortion plank to the convention floor. They convinced Carter's staff, who then pressured the Democratic Platform Committee to adopt an abortion stance on June 16. The final wording read:

We fully recognized the religious and ethical nature of the concerns which many Americans have on the subject of abortion. We feel, however, that it is undesirable to attempt to amend the United States Constitution to overturn the Supreme Court decision in this area.³³⁶

A firestorm quickly erupted in Catholic newspapers and anti-abortion publications.

Ellen McCormack, right to life activists, and Catholic Church officials were livid. They moved quickly to protest the platform and to define abortion as an issue that would drive Catholics out of the Democratic Party.³³⁷ A Catholic priest wrote in the *St. Louis Review*: "The platform makes it official. The Democratic Party doesn't want Catholics."³³⁸

1976).

³³⁶Janet Grant, "Democratic Convention blended bitter and sweet." *NRL News* 3 (August 1976).

³³⁷Taranto, "Ellen McCormack for President," 281.

³³⁸Rev. Edward O'Donnell, as quoted in Janet Grant, "Democratic Convention blended bitter and sweet," *NRL News* 3 no 8 (August 1976).

Others also hastened to criticize the platform. Harold Brown of the Christian Action Council compared Jimmy Carter to Pontius Pilate, the Roman official who refused to acquit Jesus Christ. Carter, Brown said, aligned himself “with the pagan Roman position on the value of human life” rather than the Christian one.³³⁹ Ellen McCormack and the Pro-Life Action Committee set to work on a publicity campaign against the Democratic Party, whose leaders had already alienated McCormack in their preparation for the National Convention when they refused to give her floor space to set up a pro-life booth. They also gave her and her campaign staff only one floor pass and four gallery seats to curtail any attempts to bring the abortion plank to a floor debate. McCormack described her failed attempts to gain a convention floor booth and passes for her campaign staff as evidence of the Democratic Party’s increasing hostility to the pro life movement.

When the Democratic Party released its platform on June 16, the Pro Life Action Committee scrambled to pull together the last of its federal funds to protest the platform committee, and to air a series of commercials against Jimmy Carter during the convention in July. By that point, Ellen McCormack had little to no funds left because Congress had passed reforms to the 1974 Federal Elections laws to prevent another campaign like hers from ever happening again. Ford signed the reforms into law on May 11, and McCormack’s ability to gain matching federal funds ended on June 25, 1976.³⁴⁰ She had just enough funds to air two more national commercials. “The Democratic Party will officially become the party of abortion,” McCormack warned in the first ad. In the second, she told Americans that “Jimmy Carter, by forcing his views upon the entire Democratic Party,” had “disenfranchised

³³⁹As quoted in “ “, *NRL News* 3 (June 1976).

³⁴⁰ “McCormack campaign rolls on; primary results anger opposition,” *NRL News* 3 (June 1976); Taranto, “Ellen McCormack for President,” 278.

millions of pro-life Democrats.”³⁴¹

At the same time, Nellie Grey and the March for Life organized a national protest to occur at the Democratic National Convention in New York City. An estimated 10,000 right to life activists from across the country came. Once again, Ellen McCormack gave the keynote address and focused on government funding of abortion. She bemoaned the fact that the Democratic Party of her childhood was gone. The solution to poverty, McCormack asserted, was “not to set up abortion clinics and to pressure the poor to take the lives of their unborn children.”³⁴² She then led a march from Central Park to Madison Square Garden, carrying a sign that said: “Jimmy Carter to be born again one must first be born. Stop Abortion.”³⁴³

The attacks against Carter and the Democratic Party at the June and July conventions led *National Right to Life News* editor Alice Hartle to announce: “The Republican national convention has a clear opportunity to be the good guys to the pro-life movement.” “Will the Republican Party take advantage of this ready-made situation offered up on a silver platter?” she asked.³⁴⁴

Indeed, strategists from Ford’s campaign staff had begun to pay attention to overtures from activists during the June National Right to Life Convention. The same weekend as the convention, Ford strategists read “Reflections on Abortion and Catholic Votes.” The memo argued that “even a modestly anti-abortion position could win millions of votes.” Because Carter and the Democratic Party came out strongly against a Human Life Amendment, these

³⁴¹ Janet Grant. “Democratic Convention blended bitter and sweet.” *NRL News* 3 (August 1976) .

³⁴² Ellen McCormack as quoted in Jane Gilroy, *A Shared Vision*, 170.

³⁴³ *NRL News* 3 (August 1976).

³⁴⁴ Alice Hartle, “Some options for the Republican Party,” *NRL News* 3 (August 1976).

Republican strategists believed that Ford could not only win over voters in the Democratic Party by emphasizing his moderate abortion position, and also shore up the support of Reagan Republicans and secure his party's nomination.³⁴⁵

The Hyde Amendment and the Solidification of a Conservative Republican Alliance

On June 24, 1976, Republican Rep. Henry Hyde, a conservative Catholic from Illinois, proposed an amendment to a House appropriations bill. The amendment cut all federal funding for abortions to Medicaid recipients. In a succinct speech before the House, Hyde expressed his moral outrage over abortion. He declared that his proposed amendment was not about cutting government costs or helping the poor; it was about saving “the most defenseless and innocent of human [life], the unborn.” To counter arguments that the funding ban would discriminate against poor women, Hyde argued that society denies poor women many things, thus Congress had “the choice of what [it] will give them.”³⁴⁶ Following a brief debate between eight representatives in which only one defended indigent women's equal access to exercise the abortion right, the House passed the Medicaid cuts, with no exceptions for rape, incest, deformity, or the mother's health. 199 representatives voted for the ban, 165 voted against it, and 67 abstained.³⁴⁷

On the same day, Mildred Jefferson praised the House vote as a “crucial victory” at the opening of the National Right to Life Convention in Boston. Titled “Cradle for Liberty,” the convention played on 1976 bicentennial themes. Jefferson told the more than 3,000

³⁴⁵ Young, “We Gather Together,” 197-198; Williams, “The GOP's Abortion Strategy,” 528.

³⁴⁶ Congressional Records, House, June 24, 1976, p. 20410..

³⁴⁷ Alice Hartle. “HEW funding abortion rider in conference.” NRL News, 3 (August 1976). .

convention attendees that "We in the United States are standing at the same kind of crisis point that the colonists did in 1776 . . . we have decided to meet that crisis point and we will start the right to life revolution in this country." She then argued that the goal of the right to life revolution was "to restore human affection [so that] the economic disability or status of unwed mothers would not lead them to destroy the lives of their children." Finally, Jefferson attacked Jimmy Carter and the Democratic Party for its inclusion of an anti-Human Life Amendment plank in its platform the week before. She said that if Jimmy Carter, "who wants to run as a Christian crusader, does not understand the moral objections to abortion, then he does not understand what running as a Christian crusader is."³⁴⁸

The next day, the National Right to Life Committee's Board of Directors made the passage of the Hyde Amendment their first priority. The ban on funding abortions would be the organization's major goal in the six months following the convention, especially since efforts to pass a Human Life Amendment through the Senate had failed in April. As Mildred Jefferson later put it, "the fight to cut-off the government funding of abortion is the single most critical fight in the movement, second only to the Human Life Amendment."

Robert Marshall, a leader of the U.S. Coalition for Life, explained why abortion funding was so important in a 1976 guide to pro-life electoral politics: "The engine that keeps the abortion movement going is money." "Abortion could be perfectly legal, but if there was no material gain . . . you could be sure that most of the children put to death since January 22, 1973 would be alive today." Marshall pointed out that cutting of the supply of money to abortion providers was relatively easy and could be done in the immediate future. Unlike the Human Life Amendment, a ban on abortion funding did not require an onerous

³⁴⁸ "Archbishop Sheen, "Dr. Jefferson address first convention session." *NRL News*, 3 (August 1976).

campaign. Marshall also argued that the funding ban would be one of the most effective legislative strategies to save thousands of what he considered unborn children. In 1976, some right to life activists estimated that the federal government subsidized approximately thirty percent of the abortions performed in the United States. If the money stopped, Marshall and other to life leaders reasoned, so too would the abortions.³⁴⁹

Acknowledging the importance of the funding ban, organizers of the National Right to Life Convention invited Henry Hyde to give Saturday's keynote address. One day after Hyde's victory in the House, he appeared before fifteen hundred convention attendees gathered in Faneuil Hall. Hyde introduced himself: "I stand before you as a 634-month-old fetus."³⁵⁰ After his speech, Hyde joined hands with Mildred Jefferson and they raised their arms in celebration of the amendment. Attendees gave them both a standing ovation.³⁵¹

To buttress efforts to pass the funding ban, leaders at the convention looked to minority pro-life activists to launch charges of genocide and population control. A strategy it had perfected in 1974 and 1975. Erma Clardy Craven, Constance Redbird Uri and Xavier Suarez, all minority pro-life leaders, had joined Mildred Jefferson to accuse the federal government and abortion rights supporters of population control. Craven was a black social worker from Minnesota and a dedicated Democrat; in 1972, she published "Abortion, Poverty, and Black Genocide," an essay that quickly became a classic read for pro-life activists across the country.³⁵² Uri was a Choctaw physician, and Saurez was a Cuban

³⁴⁹ Robert Marshall, *Bayonets and Roses: Comprehensive Pro-Life Political Action Guide* [Rockville, MD]: Marshall, 1976.

³⁵⁰ "Convention sidelights . . ." *NRL News* 3 (August 1976).

³⁵¹ Alice Hartle, "HEW funding abortion rider in conference." *NRL News* 3 (August 1976).

³⁵² Jane Gilroy, *A Shared Vision*, 67.

American activist from Miami, Florida. All three leaders believed government-subsidized abortion, birth control, and sterilization were a coercive way for the government to limit their communities' populations. Like Mildred Jefferson, they understood that their role as representatives of racial minorities helped to buttress the predominantly white right to life movement's credibility; their presence and support for population control arguments also deflected any accusations of racism within the movement. For example, a white convention presenter suggested to attendees that the best way to convert liberal ministers to the anti-abortion cause was to send "in a couple of women who can talk up women's lib or a black who can deal with exploitation."³⁵³

On Sunday June 27, Craven, Uri, and Suarez appeared with Mildred Jefferson and ten other national pro-life leaders at a press conference, though none of the three served on the National Right to Life Committee Board of Directors or represented any other major pro-life organization. "We resent and oppose vigorously an attempt by the establishment to limit our population by inducing us to abort our unborn children," Suarez told the press. Uri added that the "major thing that concerns the Indian people is why, in this bicentennial year, is the United States government still murdering Indians [through] family planning."³⁵⁴

While the rhetoric attacking abortion as a form of population control had changed little since the early 1970s, thanks to Jefferson and other female pro-life leaders' efforts in 1975 and 1976, the movement now had a broader conservative coalition supporting the initiative to cut abortion funds in Congress. This coalition troubled Erma Clardy Craven and Constance Redbird Uri deeply; at the convention, they criticized the right to life movement's

³⁵³ Rachel Gold to Barbara Lindheim. Subject: National Right to Life Convention, June 29, 1976. Box 13, folder "Correspondence, 1976." Takey Crist Papers.

³⁵⁴ "Leaders answer questions at press conference." *NRL News* 3 (August 1976).

growing alliance with conservatives, pointing out that those politicians sought to cut welfare programs and education funds that improved their respective communities. Craven and Uri also expressed doubt about how their own race and rhetoric played into pro-life movement strategy and its alliance with a conservative movement. At a poorly-attended panel on minorities, Craven questioned what she considered her role as a token in a “movement which call[ed] itself 'pro-life' but then refuse[d] to deal with the lives of any but those who are yet to be born.”³⁵⁵

Craven and Uri’s protests and critiques were in vain. Leaders of the movement and the National Right to Life Convention of 1976 overwhelmingly endorsed conservative coalition building and openly invited an alignment with the Republican Party. The Convention program itself advanced coalition building; the organizers invited conservative leaders to participate in panels alongside established pro-life leaders. Representatives from the conservative American Legislative Exchange presented “Is Your School’s Curriculum Anti-Life?” That panel attacked the National Science Foundation’s “Man: A Course of Study,” and reinforced earlier complaints from conservative Republican and Arizona Representative John Conlan. Paul Weyrich of the Committee for the Survival of a Free Congress took part in a panel on effective congressional lobbying with U.S. Coalition for Life leader Robert Marshall. The two men had met when Marshall was a congressional aide and Office of Economic Opportunity program analyst.³⁵⁶

Marshall distributed copies of *Bayonets and Roses*, his 1976 political strategy book for the pro-life movement. In it, he outlined his ideal conservative coalition and theorized

³⁵⁵ See Rachel Gold to Barbara Lindheim. Subject: National Right to Life Convention, June 29, 1976. Box 13, folder “Correspondence, 1976.” Takey Crist Papers.

³⁵⁶ “Leaders answer questions at press conference.”

that conservative and pro-life leaders could encourage a convergence of different groups of people and belief systems into a powerful political force. “There was the possibility of ideological compatibility among those who opposed abortion, supported capital punishment, opposed the increasing tyranny and corruption of the government, and who supported the traditional American value structure,” Marshall wrote.³⁵⁷ He hoped that the right to life movement’s alliance with conservative organizations and its further exposure to conservative thought would broaden the meaning of pro-life, so that the term came to represent larger value systems and cultural conflicts about the role of religion in society, gender roles, and sexual norms.

The National Right to Life Committee’s decision to dedicate itself to the passage of the Hyde Amendment and to foster coalition-building complemented another shift in movement strategy. Dr. Carolyn Gerster, a Protestant from Arizona and the newly-elected chair of the National Right to Life Committee Board of Directors, emphasized the importance of the upcoming congressional races over and above the presidential race.³⁵⁸ “This battle is going to be won or lost in the halls of Congress. This is a hard, cold political fact,” Gerster stated.³⁵⁹ Using the roll call records of an April 28, 1976 Senate vote to table the Human Life Amendment, Gerster introduced a “deadly dozen” list of senators. She urged activists from these senators’ states to work non-stop to ensure their defeat in November.³⁶⁰

³⁵⁷Rachel Gold to Barbara Lindheim. Subject: National Right to Life Convention, June 29, 1976. Takey Crist Papers, Accession 2003 -0118, Box 13, F. “Correspondence, 1976.” Sally Bingham Centers for Women’s History and Culture, Duke University, August 30, 2011.

³⁵⁸ “National Right to Life Committee Board Chairman hits politicians’ abortion stand.” *NRL News* 3 (July 1976).

³⁵⁹ Alice Hartle, “Dr. Gerster says human life must precede all loyalties.” *NRL News* 2 (August 1975).

³⁶⁰ Alice Hartle, “Tabling motion prevails on Helms HLA effort in Senate.” *NRL News* 3 (June 1976).

In turn, Gerster and other pro-life leaders planned to use the records generated by the upcoming Hyde Amendment votes in the Senate and House to target those who failed to align with the pro-life movement.

On June 28, one day after the conclusion of the National Right to Life Convention, a Senate vote reinforced the Committee's determination to pass the Hyde Amendment.

Responding to the June 24 House vote, the Senate voted 57 to 28 to exclude the amendment from the Department of Health, Education and Welfare Department's appropriation bill.³⁶¹

Senators overwhelmingly opposed the Hyde's strict language, which did not allow abortion funding for indigent women under any circumstance; a majority of senators indicated they would support a compromised ban that allowed for exceptions for the victims of rape and incest, and those whose pregnancies threatened their health. However, right to life leaders were unwilling to compromise; they believed that making exceptions would allow most indigent woman to receive an abortion at the taxpayer's expense. State leaders of the National Right to Life Committee affiliates and their lobbyists immediately began to implement the national campaign Jefferson had planned at the September Congressional Liaison meeting. With the assistance of Paul Weyrich, Jesse Helms, Henry Hyde, and congressional members of the Committee for the Survival of a Free Congress, the activists let representatives know that they would be held accountable in November for their vote on the funding bill, and pro-life activists would work against anyone who opposed the funding ban or supported compromise language.³⁶² They backed up their threats by citing their role in the

³⁶¹ "Senate Votes," *NRL News*, 3 (September 1976).

³⁶² "Can we let them off the hook?" *NRL News* 3 (June 1976,); Thea Rossi Baron, "Hyde Amendment Big Victory; Fight Goes On," *National Right to Life Committee, Inc. Report*, 1 (January 1977); Seth S. King. "Abortion Ruling is Expected to Affect Restrictive Laws in at Least 26 States." *New York Times*, 2 July 1976, 8.

recent Presidential primaries and the percent of single-issue anti-abortion voters that Ellen McCormack's campaign had identified. The lobbyists pointed out that these single-issue voters would swing against any candidate who faced a close race in November.

As the Hyde Amendment lobbying campaign took off, two July 1 Supreme Court decisions undermined the National Right to Life Committee's efforts to restrict abortion access. In *Planned Parenthood of Missouri v. Danforth*, the court voided a number of restrictions passed by an estimated twenty-six states since 1973. In a 6-3 decision, the court held that states could not require a woman to obtain her husband's consent before having an abortion. In a 5-4 decision, the court ruled that states could not adopt a hard-and-fast requirement that women under the ages of eighteen needed both parents' consent prior to receiving an abortion. The court then struck down a Missouri statute that prohibited saline amniocentesis after the first twelve weeks of pregnancy and a requirement that doctors performing an abortion endeavor to save the life of the fetus during second-term procedures.³⁶³ In the second decision, *Belotti v. Baird*, the court hinted that it would be open to a less stringent parental consent legislation if the law allowed for a mechanism to determine if and when an adolescent girl was mature enough to pursue an abortion without her parent's knowledge.

The July Supreme Court decisions served as a rallying cry for conservatives and pro-life activists who saw them as an attack on the status of the family in American law and society. Dr. John C. Wilke, the newly elected Executive Vice President of the National Right to Life Committee, said that the "split decision of the U.S. Supreme Court can only be described as a disastrous blow to

³⁶³ "Women's abortion rights extended," *Facts on File World News Digest*, July 17, 1976.

marriage and family life in the United States.”³⁶⁴ Ellen McCormack claimed the Supreme Court had mandated that the “state has more power over the minors of this country (than their parents).”³⁶⁵ Archbishop Bernardin, the head of the National Conference of Catholic Bishops, told the press that, “This sadly mistaken decision makes abortion more constitutionally significant than the rights of parents to rear their children . . . (and) the rights of husbands to participate fully in all decisions affecting their marriages.”³⁶⁶

In response to the Supreme Court decisions, Ronald Reagan echoed these charges. He then linked his criticisms of the decisions to the ongoing struggle over the Hyde Amendment.

Even those who disagree must certainly be concerned about one facet of government’s involvement in abortion. The pregnancy of an underage girl automatically makes her eligible for welfare on the Aid to Dependent Children program. This, in turn, makes her eligible for Medicaid and a free abortion regardless of her family’s means. To add insult to injury, welfare rules forbid government for informing her parents. Thus, government is in the position of conspiring with an underage child to provide her with an abortion, while keeping knowledge of her situation from her parents.³⁶⁷

With these rhetorical attacks, Reagan articulated a growing dissatisfaction with the federal government and a reactionary defense of the family that continued to win the support of conservative Christians of all denominations for his campaign. The recruitment of these voters was particularly important to Reagan in July, when he was still scrambling to win enough delegates to defeat Gerald Ford for the Republican presidential nomination. Ford, meanwhile, was trying to imagine how to unite the Republican Party behind his candidacy.

³⁶⁴ “Pro-life leaders level blasts at S.C. court decisions,” *NRL News* 3 (July 1976).

³⁶⁵ “Ibid.

³⁶⁶ Linda Mathews. “Court Overrides Parental, Spousal Veto of Abortion” *Los Angeles Times*, July 2, 1976, B1.

³⁶⁷ “Pro-life leaders level blasts at S.C. court decisions,” *NRL News* 3 (July 1976).

An Incomplete Right to Life Revolution

In July, Sen. Bob Dole of Kansas endorsed Gerald Ford for president; Dole hoped to be the vice presidential nominee, and he encouraged the president to swing to the right on abortion in order to win. Dole claimed that if Ford approved the Human Life Amendment he would gain the support of much of Reagan's conservative base. Dole also believed that Ford could replicate his own come-from-behind victory against Bill Roy in 1974. Champion the small but militant anti-abortion movement, Dole urged. To test his theory, Dole met with representatives of Ellen McCormack's presidential campaign and worked with Sen. Jesse Helms and members of the North Carolina Congressional Club to ensure that a plank in support of the Human Life Amendment would appear in the Republican platform. Ford complied and Dole's strategy succeeded despite opposition from Republican feminists. Ford secured the nomination in late July; Dole won the vice presidential nomination; and the Republican Party endorsed efforts to pass a Human Life Amendment.³⁶⁸ It seemed that the Republican Party and the right to life movement had aligned perfectly.³⁶⁹

Ford then made the anti-abortion plank central to his fall campaign strategy. A Ford aide told a *New York Times* reporter in September that the campaign sought, "above all, a concentrated attempt to convert to Republicanism a substantial percentage of working-class Catholics in California and in the 10 states that form an arc around the Great Lakes from metropolitan New York through Wisconsin." In many of these industrial states, Catholics constituted fourteen to thirty-thirty percent of the general population.³⁷⁰ The Ford campaign

³⁶⁸ Williams, "The GOP's Abortion Strategy," 513, 529; Critchelow, *Conservative Ascendancy*, 149; Link, *A Righteous Warrior*.

³⁶⁹ Alice Hartle, "GOP to focus on abortion," *NRL News*, 3 (September 1976).

³⁷⁰ "Who's Ahead: What a State-by-State Survey Shows," *U.S. News and World Report*, September 20, 1975, 12.

believed a strong anti-abortion position would be enough to sway a number of these Catholics to vote for the president. The actions of the National Conference of Catholic Bishops were a boost; many bishops told their parishioners that abortion was the most important issue in the campaign. Then, in an unprecedented move, the National Conference of Catholic Bishops showed a bias for Ford. For example, Ford attended the Forty-First Eucharistic Congress in August where he addressed an estimated 100,000 Catholics in the audience. Cardinal Krol, who was in charge of the Congress, welcomed Ford's presence and, in a clear act of disapproval of Carter, refused to read the Democratic candidate's prepared statement. In a more publicized exchange, the Conference expressed "dismay" with Carter's candidacy and his position on abortion while they were "encouraged" by Ford and his position on abortion after they met with both candidates in late August and early September.³⁷¹

As Ford and Dole moved the Republican Party to the right on abortion, and their Catholic strategy seemed to be paying off, the ongoing Congressional debates over abortion funding showed that not all party members followed them. Republican Senators Edward Brooke of Massachusetts and Robert Packwood of Washington led the fight against the Hyde Amendment in August and September. Brooke was the first African American senator elected from Massachusetts and a leader of the party's moderate wing. At the time, he was also the only black senator serving in Congress. He charged that "the Hyde Amendment discriminates against the poor who cannot afford the cost of an abortion but must rely upon Medicaid. It would not put an end to abortions, but simply would price them out of reach of

³⁷¹ Young, "We Gather Together," 205; Williams, "The GOP's Abortion Strategy," 531.

the neediest of our citizens."³⁷² He and Sen. Packwood also believed the ban violated a woman's constitutional right to terminate a pregnancy and would be ruled void by the Supreme Court. Despite Brooke and Packwood's opposition, Republicans showed more proportionate support for the funding ban than Democrats, further solidifying the pro-life movement's alliance with the Republican Party.³⁷³

In a show of political strength, the pro-life movement continued to lobby members of the House to maintain the abortion funding ban without exceptions, increasing the numbers of representatives supporting the measure with each vote while working on senators to pass the ban. In a letter before an August 10 House vote on the H.E.W. appropriations bill, the National Right to Life Committee declared that members who opposed the ban were "unwittingly joining in a class war against the poor by using Medicaid funds to get rid of the poor."³⁷⁴ On August 10, the House voted to retain the funding prohibition without any exceptions. On August 25, the Senate voted against the House version of the amendment once again. Congress was at an impasse, and representatives and senators entered into conference to resolve the disagreement. Then on September 17 and in response to intense pro-life lobbying, the Senate passed a compromised version of the Hyde Amendment. At Brooke's urging, the Senate's version banned Medicaid funding of abortion except for cases "where the life of the mother would be endangered." Congress passed this version of the Hyde Amendment on September 30. It was the pro-life movement's greatest legislative victory to date.

³⁷² Senator Edward Brooke, *Congressional Record*, 17 September 1976, 30989.

³⁷³ Nick Thimmesch, "No sidestepping on abortion issue," *Chicago Tribune*, Sept 2, 1976, A4.

³⁷⁴ Janet Grant, "Pro-life strength shown in Hyde amendment vote." *NRL News* 3 no 9 (September 1976).

The right to life movement's shift away from a Human Life Amendment and towards the Hyde Amendment created a political opportunity for Jimmy Carter. Unlike Gerald Ford, who had not declared his opposition to government funding of abortion until September 1976, Carter had supported the ban throughout his candidacy. Carter now used his consistency to oppose an emerging alliance between the right to life movement, the Republican Party, and the Catholic bishops. In speeches and in response to questions from the press, Carter reiterated that the government should not be involved in funding abortions because some citizens equated the procedure with murder. He also emphasized his personal opposition to abortion. Carter's outspoken support of the Hyde Amendment helped to sway a number of pro-life activists back to his candidacy.

Ford's campaign inadvertently assisted Carter in September 1976. The Republican staff approached the abortion issue by working with the Roman Catholic hierarchy, not right to life leaders. For example, the White House launched an investigation of the Department of Health, Education and Welfare's abortion fund because the National Conference of Catholic Bishops urged Ford to take executive action on abortion funding at a September 10 meeting. Nine months earlier, right to life leaders Randy Engel and Nellie Gray had requested a similar investigation, and the White House had done nothing. The investigation was thus too little and too late for many anti-abortion leaders. Ford's prompt action following the meeting with the bishops may have also stirred the feelings of Protestants and lay Catholics against the Catholic hierarchy for dominating the movement's politics.

Ford's campaign staff also isolated right to life leaders in September. First, Ford swung back to his moderate stance on abortion. He asserted that the Republican platform supported his state's rights approach to a constitutional amendment overturning *Roe v. Wade*,

and not the Human Life Amendment. This undermined the main reason any right to life activists would support his campaign over Carter's: now both Carter and Ford endorsed the Hyde Amendment and neither supported the Human Life Amendment. Ford also refused Dr. Jefferson and other leaders of the National Right to Life Committee's requests for a meeting in mid-September; Jefferson had demanded to meet after learning of the high-profile meeting with the Catholic bishops.³⁷⁵

By October 1976, many pro-life activists were not sure who the worse candidate was, or if there was much a difference between the two. Ellen McCormack reflected the feelings of many anti-abortionists when she told a reporter that, "It will be a devastation to this country and to the unborn if Carter is elected president," but, she added, Ford, "leaves much to be desired." "I'm in the same dilemma as a lot of people in this election . . . That of choosing the lesser of two evils."³⁷⁶ This frustration worked in Carter's favor in the election. Right to life activists as well as white ethnic Catholic voters from the North, and evangelical and fundamentalist voters from the South, would have to vote on other issues than abortion.

Ford's campaign recognized the error of its ways in October and sought to reconcile its differences with the right to life movement. To re-connect with pro-life leaders, the campaign hired Marjory Mecklenburg and established a "pro-life desk" in the national campaign headquarters. Mecklenburg was arguably the wrong person to appoint. Mildred Jefferson wrote, "So far as the national campaign is concerned, the people of the right-to-life movement were given the back-of-the-hand. . . . When the Republican campaign decided on a "Pro-Life Desk" it was staffed without consultation with anyone who is now central to the

³⁷⁵ Young, "We Gather Together," 213.

³⁷⁶ Bernie Hunhoff, "Elle McCormack says Carter election would be a 'devastation,'" *The NRL News* 3 (November 1976).

right-to-life movement or part of the current consensus."³⁷⁷

On November 2, Jimmy Carter narrowly defeated Gerald Ford to become president. Carter won 50.8 percent of the popular vote to Ford's 48.02. While Carter won the majority of Southern Baptist and Catholic voters, he failed to win the majority of evangelical and fundamentalist Protestants by two percentage points.³⁷⁸ Neither candidate excited right to life activists in the ways that Ronald Reagan's and Ellen McCormack's candidacies had in the primaries. Because Ford failed to fully capture the movement's backing, pro-life leaders and grassroots activists did not view his defeat as a blow to their own movement.

“There are times when failure can be magnificent”³⁷⁹

One day after the Hyde Amendment became law federal judge John Francis Dooling, Jr. suspended the enactment of the amendment pending a class action lawsuit filed by Cora McRae. McRae was a 24-year-old Brooklyn woman who suffered from varicose veins and blood clots. When she discovered she was pregnant in September 1976, she sought an abortion at a local Planned Parenthood clinic because the pregnancy threatened her health. Staff told her there was no Medicaid funding available for her abortion due to the impending legislation. Even though McRae received an abortion partially funded by Medicaid, she filed a class action lawsuit on October 1 against H.E.W. On October 22, Judge Dooley ruled the Hyde Amendment unconstitutional and stopped its enforcement. He upheld all the arguments of the plaintiff on the grounds that Medicaid is a joint fiscal partnership between states and

³⁷⁷ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News* 3 (December 1976).

³⁷⁸ Williams, *God’s Own Party*, 132.

³⁷⁹ Archbishop of Oakland to Ellen McCormack, July 20, 1976 as quoted in Jane Gilroy, *A Shared Vision*, 179.

the federal government and “the needy are citizens no less of the United States than of the states of their residence.”³⁸⁰ In short, Dooling found that the Hyde Amendment violated the constitutional rights of the poor at the federal level because state Medicaid services relied so heavily on federal funding. A cut in federal funding would, in effect, cut the state services. On November 8, the Supreme Court refused to block the use of Medicaid funds for elective abortions until it ruled on the appeal of the federal government.³⁸¹ As a result, eligible women continued to receive federal funds for abortions in 1976 and 1977. Pro-life activists were outraged. Janet Grant of *The National Right to Life News* wrote, “The real fruits of labor of the pro-life labor to limit abortions through passage of the Hyde Amendment by Congress have not yet been realized.”³⁸² The battle over the Hyde Amendment wording and its enforcement would continue in the years to come.

Still, pro-life leaders rejoiced in the victories brought on by the right to life revolution as 1976 came to a close. Reflecting on the Ellen McCormack campaign, the Archbishop of Oakland wrote, “There are times when failure can be magnificent.” His words were apt for the right to life revolution and its goals: though the Hyde amendment passed, the government could not enforce it, and though right to life activists had succeeded in polarizing the political parties over abortion, the expected realignment of voters had yet to occur. Ronald Reagan did not win the Republican nomination, but his 1976 campaign helped to mobilize a conservative coalition and to solidify the ties between the pro-life movement, social conservatives, and leaders of the New Right.

³⁸⁰Max H. Seigel. “U.S. Court Overturns Curb on Medicaid Abortions.” *New York Times*, October 23, 1976, 61.

³⁸¹Lesley Oelsner, “High Court Rejects Abortion Curb Now.” *New York Times*, November 9, 1976, 77.

³⁸²Janet Grant, “Challenges Prevent Enforcement of Hyde amendment prohibition,” *The NRL News* 3 (November 1976).

By the close of 1976, Jefferson and many of the leaders of the National Right to Life Committee had come to believe that the conservative Republican alliance represented the future of the movement. While Carter won the election and Democrats remained in control of the House and Senate, a freshmen cohort of conservative Republican congressmen would become outspoken advocates for the pro-life movement and social conservatives in the years to come. They included Senators Richard Lugar of Indiana, Orrin Hatch of Utah, John Danforth of Missouri, and Representative Robert Dornan of California. With an eye on these men, Jefferson told activists in December 1976, “The right-to-life movement can learn good lessons from the 1976 presidential campaign ... Campaigns are not won by wishful thinking or good intentions. Winning the big ones requires planning, persistence, dogged determination, money and hard work by lots and lots of people. It is helpful to have strongly-committed, reliable allies.” One month later, Jefferson made it clear that the Democratic Party was not the movement’s future or part of what she considered a new political landscape. She wrote, “The national right-to-life movement is only three years old yet we held our own nationally against the mighty combination of the powerful Democratic machine and union politics.... We are painfully forging a new politics that will break the slavery of the people to machine loyalties and win them to support principle. This principle will make the protection of human life the absolute priority of this society.”³⁸³

³⁸³ Mildred Jefferson, “Lifelines,” *NRL News*, 3 no 12 (December 1976).

CHAPTER FOUR

“This is War!”³⁸⁴

“It’s about time that all of us realize that a war is going on – a war against evil, the evil of abortion,” declared James Wesolowski, a Kentucky pro-life leader. “For too long, the pro-life cause has been run along one dimension only, and that dimension has been staid and respectable.” But, he charged in June 1976, “Now is the time to take up arms in a unique type of warfare – a war to save lives, a war against death.” Wesolowski believed that, “Even the respectable element should think in terms of warfare and direct its energies toward strategic targets.” Foremost among those targets was government funding of abortion and abortion clinics. “Knock out the ball-bearing factories or the refineries and you stop the war-making capacity of the enemy.” The writer then commanded activists to “go to abortion mills to sit-in, blocking entrances, doorways, and halls with the express purpose of disrupting these obscene establishments’ grisly work.” Throughout his editorial, Wesolowski reiterated two salient points: “Pro-lifers must abandon fears of radicalism” and “This is War!”³⁸⁵

Between 1977 and 1979, grassroots right to life activists would answer Wesolowski’s call to arms. New strategies emerged that challenged Mildred Jefferson’s presidency of the National Right to Life Committee and her top-down right to life revolution. Once again, activists and leaders found themselves arguing over the Human Life Amendment, power

³⁸⁴ James Wesolowski, “Pro-lifers must abandon fears of radicalism . . . this is war!” *NRL News* 3 (June 1976).

³⁸⁵ *Ibid.*

distribution between the grassroots and the organization's national headquarters in Washington, D.C., and the role of the pro-life movement in a larger conservative coalition mobilizing in the Republican Party. These conflicts helped fuel a period of remarkable growth and diversity within the pro-life movement and laid the foundations for another internal consensus generated by grassroots members. Right to life activists united to fight abortion funding at all levels of government, from their respective counties to the U.S. capitol. The momentum in the movement shifted away from Mildred Jefferson and her office and back to the state and local organizations.

A better-organized and funded feminist lobby campaign for federal funding of abortion convinced pro-life activists that they were in a war against feminists. To fight this war and to win the battle over government funding, pro-lifers joined a "pro-family" conservative coalition that was organizing against the International Women's Year Conference. Even activists who resisted the movement's growing alliance with Republicans and conservatives at the outset of 1977 now took actions that solidified that alliance. While the pro-life movement did not support all the issues championed by the larger pro-family coalition, the coalition embraced the pro-life call for an anti-abortion constitutional amendment as an essential test for politicians. The pro-family coalition then won a series of major electoral victories in 1978; these victories paved the way for the 1980 Reagan conservative counter-revolution and the realignment of the American electorate as it shifted to the right.

Ellen McCormack and the Constitutional Convention Call

On the eve of the 1976 elections, former presidential candidate Ellen McCormack

gave the keynote address at the North Carolina State Right to Life Convention. Four weeks earlier, Judge Dooling of New York had stopped the enforcement of the Hyde Amendment through a court injunction in response to a legal case challenging the funding ban's constitutionality; now, pro-life activists had no idea if or when federal funding of abortion and abortion referrals would stop. Dooling's injunction helped convince McCormack to challenge Mildred Jefferson's vision for the movement and the uncompleted goals of her 1976 right to life revolution. McCormack charged that efforts to restrict abortion access failed to address the real problem, and unborn babies would continue to die unless the United States ratified a Human Life Amendment. For two long years, McCormack and activists who held a hard line on fetal personhood had followed Jefferson as she pursued the ban on government funding of abortion. The Hyde Amendment had two consequences that troubled some right to life activists; it had consolidated alliances with conservatives in the Republican Party that more liberal activists, and those who wished to remain loyal to the Democratic Party, resented. The right to life revolution also concentrated power at the national level at the expense of the grassroots, where the movement was strongest and most innovative.

At the North Carolina State Right to Life Convention McCormack introduced a new strategy that provided the perfect excuse for these internal battles to erupt. She argued that The National Right to Life Committee and other pro-life organizations should not focus their efforts to pass a Human Life Amendment on Congress, since that legislative campaign was "so painfully slow it [was] similar to running up against a stone wall." Why was the movement stuck on this strategy, McCormack wondered, when there were two ways to pass a constitutional amendment? One was to pass an amendment through two-thirds of Congress and then send the amendment to the states for ratification. The other required two-thirds of

the states to call a constitutional convention where an amendment could be drafted and then ratified by Congress. Why not concentrate the Human Life Amendment campaign where the movement was strongest, at the state level? Why not turn the campaign over to grassroots activists and coordinate a state-by-state constitutional call? If national leaders adopted this strategy, McCormack believed grassroots pro-life activists could lobby two-thirds of the fifty state legislatures to call for a constitutional convention within a short time.³⁸⁶

Unlike her unifying presidential race in 1976, McCormack's call for a constitutional convention shattered the consensus the movement had gained under Mildred Jefferson's presidency.³⁸⁷

Opposition to the constitutional convention strategy varied. Some activists claimed that the convention would shift energies away from Congress at the wrong moment. Since the movement had just persuaded Congress to pass the Hyde Amendment, its biggest national victory to date, shouldn't it continue to pressure Congress? After all, right to life activists now better understood how to lobby at the national level. Others argued that a constitutional

³⁸⁶Ellen McCormack, "Let's not put all of our eggs in one basket . . ." *NRL News* 4 (February 1977).

³⁸⁷ The constitutional convention strategy's origins dated back to 1974. The hard line Kansas Right to Life Affiliates was the first state organization to lobby its legislature for a constitutional convention. Goodson justified her organization's 1974 efforts on behalf of a constitutional convention as part of an amendment strategy that she believed should take priority over any efforts to restrict abortion access. "Many things have been suggested which might diminish in some way the effect of the Court's decision. Legislation to ensure that no one is coerced (such as welfare patients) or forced to perform or assist at abortions, or to pay for abortions through taxes," wrote Goodson in January 1974. But, she argued, "the cause of the unborn will be better served . . . by expanding our efforts in a rigorous campaign to pass the Human Life Amendment to the Constitution." While the Kansas House passed the constitutional convention call in March 1974 under heavy pro-life pressure, it failed in the Senate. It then crossed state lines, where Missouri Citizens for Life successfully lobbied the legislature to call for a convention in April 1975. In January 1976, right to life activists in South Dakota and New Jersey attempted to pass convention calls. Thanks to New Jersey's efforts McCormack and her Pro-Life Action Committee became aware of the strategy even though they failed to convince the New York State Right to Life and the New York Catholic Conference to adopt it in the fall of 1976. See Patricia Goodson to Right to Life Affiliates of Kansas, January 19, 1974 found in Robert Bennett Papers, f. "Abortion, January and February 1974," Spencer Research Library, University of Kansas. Janet Grant, "Con-con draws reaction from pro-abortionists and pro-lifers," *NRL News*. 4 (May 1977); States pass calls for a convention," *ibid.*: "Rhode Island passes call," *The NRL News* 4 (June 1977).

convention would increase pressure on Congress while rallying the movement's grassroots. Still others feared that a convention would not just pave the way for a Human Life Amendment but would become an open forum for any special interest group to amend the U.S. Constitution. How could pro-life activists guarantee that the convention would adopt their version of the Human Life Amendment rather than a weaker version? Or worse yet, was there any guarantee that a convention would not adopt an amendment that guaranteed the right to abortion? Those with a more conservative outlook weighed the benefit of a Human Life Amendment against the risk a constitutional convention could pose as a veritable Pandora's Box that threw open to change all the United States' legal traditions and government institutions. Of all the amendments that the United States had ratified, they pointed out, none had come through a constitutional convention.

In response to these arguments, constitutional convention supporters asked: If not now, when? The Human Life Amendment had stalled in Congress since the Senate Judiciary Subcommittee had tabled all anti-abortion amendments in 1975. There was no indication the newly elected 94th Congress would take up a Human Life Amendment, and every indication that Congress was even more reluctant to debate such an amendment in 1977 than it had been in 1973. When was the National Right to Life Committee going to again take up the Human Life Amendment? Was the National Right to Life Committee going to forever chip away at *Roe v. Wade* instead of establishing fetal personhood?

While differences in religion and leadership styles had informed the Human Life Amendment strategy divisions in 1973-74, this time the divide was largely about partisan politics. As McCormack and her allies rallied for a constitutional convention, they also tried in vain to win back support from the Democratic Party. In January 1977 McCormack helped

to found Democrats for Life, and also continued to champion an independent third party in New York to thwart the state's largely pro-choice Republican Party. These efforts reflected McCormack's larger goal: she wanted to keep the National Right to Life Committee, which was still dominated by Catholics, a single-issue, non-partisan organization. With that in mind, it was not surprising that many of the states that first called for a constitutional convention had both large Catholic populations and Democratic parties sympathetic to the pro-life movement. Nor was it surprising that Pat Goltz, the president of Feminists for Life, was one of McCormack's staunchest allies. They positioned themselves against conservative activists led by Jefferson who pushed for the National Right to Life Committee to broaden its single-issue politics and adopt positions on other issues. Conservative pro-lifers also fostered the movement's growing alliance with the Republican Party even though the alliance could never be official lest the organization lose its tax-exempt status.

The debate over a constitutional convention became a heated battle at the grassroots throughout 1977 and 1978. In February 1977, Louisiana and Indiana passed constitutional convention calls, and a new national pro-life organization formed, Americans for a Constitutional Convention.³⁸⁸ Due largely to Jefferson's opposition, the National Right to Life Committee's Board responded by passing a strong resolution endorsing the congressional route to passing a Human Life Amendment on March 23, 1977.³⁸⁹ However, by May, New Jersey, Rhode Island and South Dakota had also called for a constitutional convention.³⁹⁰ Then pro-life leaders from Jefferson's home state of Massachusetts defied her

³⁸⁸ "Group formed to work for a constitutional convention," *NRL News* 4 (February 1977).

³⁸⁹ "NRL takes a stronger stand against Convention Call," *NRL News* 4 (May 1977).

³⁹⁰ "States pass calls for a convention," *NRL News* 4 (May 1977); "Rhode Island passes call," *NRL News* 4 (June 1977).

directives and successfully lobbied their Democratic-controlled legislature to pass a constitutional convention call on June 8, 1977.³⁹¹

Dr. Joseph Stanton of the Value of Life Committee and Katherine Healy, the president of Massachusetts Citizens for Life, had come to believe the constitutional convention call was a good strategy. Massachusetts Citizens for Life already had persuaded their legislature to pass many abortion restrictions between 1973 and 1976. These restrictions included parental consent laws, spousal consent laws, and requirements that physicians do everything in their power to save fetuses that showed any sign of life during an abortion; the Supreme Court had overturned most of these laws in 1976. In response, Massachusetts Citizens for Life began to work harder for the Human Life Amendment. Also, the Massachusetts activists did not see McCormack's call as very different from the incremental path they had steered all along. They agreed with McCormack that the constitutional convention calls were a way for states to do something proactive for the Human Life Amendment and to rally their supporters at home.

By endorsing McCormack's plan Massachusetts Citizen's for Life's Executive Board opposed Mildred Jefferson's presidency of the National Right to Life Committee. That spring, they elected Phillip Moran to replace Jefferson as the state's representative on the National Right to Life Committee's Board of Directors. Once Jefferson was no longer a board member she could not run for any offices on the executive committee, including the presidency.³⁹² Thirty-five years later, Jefferson still found it too difficult to talk about precisely what happened between her and other Massachusetts Citizens for Life leaders to

³⁹¹ "Bay state Calls for Convention," *NRL News* 4 (July 1977).

³⁹² Interview with Phillip Moran and Mildred Jefferson.

cause the break: she referred to it as a betrayal, became somber, and held her silence. An editorial Jefferson drafted in the spring of 1977 hints at the personal toll the constitutional convention conflict took on her. She wrote, “No abortion-advocate’s attacks can measure up to the aggravated assaults I have had to endure from some of the people who are supposed to be on our side.”³⁹³ Unfortunately, that was not the only grassroots challenge Jefferson had to face as President in 1977.

“Now is the time to take up arms, literally”³⁹⁴

“If I saw a child in the street whose life was endangered even though it would be a risk to myself, I would have to take the risk to save the child,” stated Jeannette Reinecker of Takoma Park, Maryland. “I don’t see any difference between the born and unborn child.” In the summer of 1975, Reinecker founded Women Against Massacre and Brutality (WOMB) with five other women and their husbands. They drafted a three-page logistical plan that set a tight schedule for a clinic sit-in, and practiced letting their bodies go limp in preparation for their arrests in special role-playing sessions. The WOMB activists also decided that only women would participate in the clinic sit-in. As one of the husbands and leaders later recalled, “You had to get across something that would break the [pro-life] stereotype of misogynistic males who were trying to control women.”³⁹⁵ On the Saturday morning of August 2, 1975, the six women occupied the waiting room of the Sigma Reproductive Health Center in Takoma Park, Maryland. Three of the six carried their infants in their arms as their

³⁹³ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News*, 4 (March 1977).

³⁹⁴ James Wesolowski, “Pro-lifers must abandon fears of radicalism . . . this is war!”

³⁹⁵ Burch Balch as quoted in James Risen and Judy Thomas, *Wrath of Angels* (New York: Basic Books, 1993), 61.

husbands waited outside. In the afternoon, police arrested the women for trespassing on the clinic grounds.³⁹⁶

Leaders of WOMB had already obtained the services of a pro-life lawyer who took on their case pro bono. The lawyer argued that his client's trespass was driven by a compelling motive: they wanted to save the lives of unborn children. His argument failed to sway the judge, who convicted all six women of trespassing, a misdemeanor. WOMB counted the first clinic sit-in as a success anyway. According to members of WOMB, the event generated "a remarkable amount of media coverage" because they "found the media eager to explore this new 'radicalism' among seemingly conservative people."³⁹⁷

Over a year later, on October 6, 1976, a second group of pro-life women organized a sit-in at the National Health Care Service clinic in Cleveland, Ohio. Police arrested eight women after they entered the clinic, sat down and began to sing "Where have all the babies gone, doctors killed them everyone." The lyrics were from a song "Give Life a Chance" set to the melody of the anti- Vietnam War protest song "Where have all the flowers gone." The women had been protesting outside several Cleveland women's health clinics for months. At some point that summer they decided to take the next step and stage a sit-in. They formed People Expressing a Concern for Everyone (PEACE) and contacted a sympathetic lawyer to handle their trespassing charges and trial. By December 1976, the *National Right to Life News* nicknamed the women the "Cleveland 8" and reported on the progress of their trial and eventual trespassing convictions.³⁹⁸

³⁹⁶ See Reisen, *Wrath of Angels*, 61-62.

³⁹⁷ "Women submit to arrest in pro-life civil disobedience," *NRL News* 2 (October, 1975).

³⁹⁸ "Women arrested for refusing to leave Cleveland abortion clinic," *NRL News* 3 (November 1976); "Unborn's personhood to be argued at trial of Cleveland protestors," *NRL News* 3 (December 1976); "Protestors trial in Cleveland is cancelled," *NRL News* 3 (January 1976).

In January 1977, the Washington, D.C. activists from WOMB won their sit-in movement's first legal victory. After protesting at the Northern Virginia Women's Medical Center outside Washington, D.C., the first sit-in in which men also participated, a Virginia judge ruled in the activists' favor and dropped the trespassing charges. He accepted the reasoning that since the sit-in activists were trying to save unborn babies' lives they had a compelling reason to trespass on clinic grounds. Shortly after the verdict John Cavanaugh-O'Keefe, one of the men arrested, founded the Pro-Life Non-Violent Action Project. The organization supported the development of local organizations dedicated to non-violent clinic sit-in protests.³⁹⁹

Pro-life activists would come to know Cavanaugh-O'Keefe as the father of pro-life civil disobedience. Cavanaugh-O'Keefe came from a more liberal Catholic background than many of the leaders of the National Right to Life Committee. While at Harvard between 1968 and 1976, O'Keefe had participated in the anti-war movement. In 1970, he had filed as a conscientious objector and opted to serve his country as a hospital orderly at a Boston mental health institute rather than as a soldier. In a nod to the feminist movement, he and his wife had hyphenated their names when they married in 1976; they wanted their joint names to reflect their equal partnership and standing in marriage. In the wake of *Roe v. Wade*, Cavanaugh-O'Keefe became aware of Massachusetts Citizens for Life and the Value of Life Committee. Neither organization captured the young man's interest. He later called Stanton's Value of Life Committee a weekend right to life organization; its activists approached the movement as a hobby to pursue in their free time, not the life-or-death issue it was. Viewing his anti-abortion activism as an outgrowth of his anti-war activism, Cavanaugh-O'Keefe

³⁹⁹ "Police arrest eight at clinic," *NRL News* 4 (February 1977); Risen and Thomas, *Wrath of Angels*, 64.

argued that the best way to counter violence was through a radical commitment to human rights and non-violent protest. He saw the anti-abortion movement as consistent with his more liberal pasts. “Sit-ins are changing the nature of the struggle,” he wrote in March 1977. “Our simple recognition of the unborn as human is coming into focus more clearly.... By sitting in, we really do say, physically as well as verbally: I am with that child and if you reject him, you must reject (eject) me first.”⁴⁰⁰ Sit-in activists, like pro-life activists pursuing a constitutional convention, re-affirmed the importance of establishing and defending fetal personhood.

In March 1977, Cavanaugh-O’Keefe joined Ellen McCormack in critiquing both Mildred Jefferson’s leadership and the results of her 1976 right to life revolution. He wrote: “If the abortion question were merely a particular battle line in the continuing ideological struggle between ‘liberals’ and ‘conservatives’, then the proper tactics would be speeches, conventions, legislation, etc.,” but “it is truly a question of basic human rights, cutting across ideological lines.”⁴⁰¹ If pro-life activists held that a fetus was a person and abortion was murder, Cavanaugh-O’Keefe concluded, “We should be willing to risk more than our vote.”

For pro-life activists willing to risk arrest, clinic sit-ins could achieve a number of goals that more traditional political engagement had not. Moreover, the goals of clinic sit ins breached the divide between pro-life activists who argued for fetal personhood and those who stressed abortion restrictions. Cavanaugh-O’Keefe was sure that clinic sit ins saved fetal lives, intimidated abortion providers, made clinics more expensive to run, brought publicity to the pro-life movement, and generated court cases that could help establish fetal

⁴⁰⁰ John O’Keefe. “Sit-ins give ‘honest picture’ of pro-life struggle.” *NRL News*. 4 (March 1977).

⁴⁰¹ *Ibid.*

personhood. Above all, the use of non-violent protests brought into focus what sit-in activists believed to be the violence of abortion. Sit-in protesters placed themselves between those they considered murderers and their victims, the pregnant woman and her unborn child. Both the rhetoric and the actions of these activists popularized a sense of apocalyptic conflict that James Wesolowski's editorial had captured with the simple statement, "This is War!" Even opponents of clinic sit-ins as a strategy began to adopt the language of war to explain the polarizing effect of abortion on the American populace.⁴⁰²

This "abortion war" was heightened by a series of arsons at clinics that occurred as the clinic sit-ins started. On June 27, 1975, Joseph C. Stockett set fire to a Planned Parenthood clinic in Eugene, Oregon. He later wrote to *The National Right to Life News* to explain his actions; like Cavanaugh-O'Keefe, he stated "I believe that a man is morally responsible for every act of killing he has knowledge of but does not attempt to prevent." On February 23, 1977 another anti-abortionist set fire to a recently opened Planned Parenthood clinic in St. Paul, Minnesota. The fire caused \$60,000 of damage. National Right to Life Committee leaders condemned the arson but blamed Planned Parenthood, not the person who committed the crime: "Planned Parenthood has become so fat and comfortable with its status quo, its financial resources and its judges that it howled in ferocious indignation against the attack on itself," wrote Dexter Duggan in the *National Right to Life News*. Echoing Cavanaugh-O'Keefe's articulation of abortion as violence, he charged that Planned Parenthood committed a level of violence against women and children that no other violent

⁴⁰² O'Keefe, "Sit-ins give 'honest picture' of pro-life struggle,"; Wesolowski, "Pro-lifers must abandon fears of radicalism . . . this is war!"; Reverend Joseph O'Weber, "Priests objects to radicalism as a right-to-life weapon," *NRL News* 4 (February 1977). For analysis of the role of clinic sit-ins in promoting a paramilitary pro-life culture, see Carol Mason, *Killing for Life: The Apocalyptic Narrative of Pro-Life Politics*, (Ithaca, New York: Cornell University Press, 2002), 9-14.

act, no matter how damaging to clinic property, could ever equal.⁴⁰³

National Right to Life leaders thus embraced the rhetoric of abortion as violence that clinic sit-in activists had made popular. What National Right to Life Convention planners had announced as a “time to take stock” after the November 1976 elections now evolved into a four-part conference entitled “Alive in Chicago” in the spring of 1977. The four conference themes, one for each day of the meeting, were: “Our Increasingly Violent Society – How,” “Our Increasingly Violent Society – Why,” “Stemming and Reversing the Tide of Violence – The Task of Everyman,” and “The Making of a Candidate 1978/1980: Legislative, Congressional, and Presidential.”⁴⁰⁴ This evidence then mapped onto what activists believed was an irreconcilable value conflict of values. Panelists and speakers at the convention compared legal abortion in the United States to the Holocaust. Charging that German’s general lack of respect for human dignity led the Nazi government to perpetuate horrendous crimes against Jews, Gypsies, the disabled and the mentally challenged, pro-life leaders claimed that now American’s lack of respect for human life and dignity was causing the murder of millions of innocent fetuses. At various panels and speeches, leaders pondered how to combat what they considered an “anti-life” mentality that was growing stronger in America the longer abortion remained legal.⁴⁰⁵

While Mildred Jefferson’s presidency had been under threat before the conference, a series of events in the spring and early summer helped her secure an at-large position on the

⁴⁰³ Joseph Scheidler, “3 Violent Acts: Anger over abortion issue — tragic aftermath,” *NRL News* 5 (January 1978); Dexter Duggan, “Minnesota abortion clinic fire draws PP outrage; arson cause,” *NRL News* 4 (April 1977); Dexter Dugann, “On the Clinic Fire,” *NRL News*. 4 (April 1977).

⁴⁰⁴ National Right to Life Convention ’77 Program, found in *NRL News* 4 (April 1977).

⁴⁰⁵ According to *NRL News*, Rabbi David Graubart told audiences in the June 16 keynote that “‘Because we lost millions of children (to the Nazis), we don’t want millions of children to die’ through abortion.” Sr. Mary Lou Kagen, a nurse and midwife from Illinois charged, “The Holocaust is not over yet . . . in very subtle ways, we are doing the same thing.” See “Convention Hears Rabbi,” *NRL News* 4 (August 1977).

National Right to Life Committee Executive Board and to win a third term as president. Jefferson approved of the idea of an abortion war that the clinic sit-ins generated. She rallied conservative pro-lifers around two ideas that could convert the pro-life activists who challenged her leadership and change the political direction of the movement. First, Jefferson declared that the pro-life movement was at war with feminists. To wage that war effectively, she announced that right to life activists had to join the broader conservative coalition that McCormack and Cavanaugh-O'Keefe had criticized.

According to Jefferson, the war that pitted feminists against anti-abortion activists represented a clash between two worldviews. In August 1977, Jefferson said that feminists lived in “a gray world, without love, romance, courtesy and charm; a mean world, where children are considered an inconvenience or a handicap; an unsettling world, where every emotional encounter becomes a battleground and every human experience a fresh chance for self-pity and selfish preoccupation.” She concluded: “I do not want their kind of world.”⁴⁰⁶

Mildred Jefferson and the War Against Feminism

On Sunday June 5, four hundred conservative women stood in pouring rain to hear Mildred Jefferson speak at a rally to counter Minnesota's International Women's Year conference in St. Cloud. Two years earlier, Congress had passed an act that both established and funded a series of International Women's Year conventions; Congress hoped that American women of various ethnic, racial, religious and socio-economic backgrounds would convene in Houston in 1977. Using the federal money, government-appointed International Women's Year committees organized state conferences at which women could meet to reach

⁴⁰⁶ Mildred Jefferson, “Lifelines from the President's Desk,” *NRL News* 4 (August 1977).

a consensus on a “National plan of action” that would benefit all American women. Over 4,000 Minnesota women attended the state convention the first weekend of June 1977 to nominate a series of delegates to attend and to make policy recommendations for the International Women’s Year Conference to be held in Houston in November.⁴⁰⁷

In preparation for the state convention, Minnesota Citizens for Life had formed a loose coalition with state chapters of Stop-ERA, the Eagle Forum, the League of Catholic Women and other women’s church groups. Their coalition did not have an official name, but they united against a series of feminist-backed policies that included support of the Equal Rights Amendment, legal abortion, and acknowledgment of gay and lesbian rights. The conservative coalition of an estimated six hundred women then worked to pass their resolutions on Friday and Saturday, June 3 and 4. They also lobbied against resolutions that recommended that abortion remain legal and that supported government funds to subsidize the costs of abortions for women on public assistance. When the state convention passed the feminist-backed policy recommendations on Saturday night, the conservative women walked out. On Sunday, they held a counter-rally where Jefferson berated feminists and condemned the Minnesota International Women’s Year state commission.⁴⁰⁸

The National Right to Life Committee had long opposed the International Women’s Year. Two years before, on December 5, 1975, the Committee on Reproductive Freedom of the National Commission on the International Women’s Year had released a series of recommendations that outraged pro-life activists. The committee recommended that the

⁴⁰⁷ Marjorie Spruill, “Gender and America’s Right Turn,” *Rightward Bound*, ed. Bruce Schulman and Julian Zelizer (Cambridge: Harvard University Press, 2008), 71-72.

⁴⁰⁸ Marjorie Spruill, 76-77; Janet Grant, “Pro-Life Missouri Women elected IWY delegates,” *NRL News* 4 (July 1977).

President and Congress should reject all anti-abortion constitutional amendments and any federal legislation that would limit legal abortion services; state legislatures, should also bring their laws into compliance with the Supreme Court's *Roe* and *Doe* decisions; the federal and state governments should both work to provide abortion services for indigent women under Title XIX of the Social Security Act. In response to these recommendations, National Right to Life Committee leaders directed their members to write to their legislators in protest. Anti-abortion leaders urged women in particular to write to Congress conveying how upset they were that the International Women's Year Conference "would be used to espouse anti-life policies at the taxpayers' expense." As with their ongoing attempts to restrict abortion funding, the National Right to Life Committee had suggested in 1975 and 1976 that the best way to combat the International Women's Year and its recommendations was to defund the program.⁴⁰⁹ Two years later, pro-life leaders looked to the International Women's Year Conference as pivotal to solving their movement's recent divisions concerning strategy. For Mildred Jefferson, the International Women's Year presented the perfect opportunity to strengthen conservative coalition-building within the Republican Party that those who preferred a Human Life Amendment had begun to challenge in the fall of 1976 and winter of 1977.

Jefferson was not the only conservative leader to see the International Women's Year conference as a potential moment of convergence between conservative social and political organizations. Conservative icon and anti-feminist Phyllis Schlafly had long been courting the pro-life movement by the time the first state International Women's Year conventions commenced in February 1977. In a December 1974 *Phyllis Schlafly Report*, she had argued

⁴⁰⁹ Felicia Goeken. "Commission recommendations on abortion come as no surprise." *NRL News* 3 (April, 1976).

that the Equal Rights Amendment would protect a woman's right to choose abortion, and pushed for a pro-life anti-ERA alliance.⁴¹⁰ These alliances between National Right to Life Committee affiliates and the anti-ERA movement flourished in many states. For example, Kansas Right to Life worked against the state's ratification of the Equal Rights Amendment in 1972, and joined forces with the state's Stop-ERA chapters in an attempt to rescind ERA ratification in 1977 and 1978.

The National Right to Life Committee Board, however, refused to take a position on the ERA until 1978. Prior to that, the board had argued that it was a single-issue organization and that releasing a position statement on the Equal Rights Amendment fell outside its purview. Many pro-life activists backed the board's decision. Elizabeth Moore, a National Right to Life Committee lobbyist and staff member in Washington, D.C., pleaded for the movement not to associate with the anti-ERA movement as late as April 1977. To Moore, women who belonged to Stop-ERA had "the public image of being ultra-conservative or reactionary." She did not think of herself in that way. Like other female activists concerned about women's issues in the pro-life movement, Moore argued that feminists and others would best help women in crisis pregnancies by advocating for better welfare policies and health care, not abortion funding.⁴¹¹ Moore was not alone.

Feminists for Life also continued to advocate for the Equal Rights Amendment. The group believed that in order to support single mothers who chose to carry their pregnancies to term, the pro-life movement should sympathize with the larger education and employment goals of feminism. In 1977, Pat Goltz, the president of Feminists for Life, was one of the

⁴¹⁰ "ERA spells abortion, Phyllis Schlafly says," *NRL News* 2 (January 1975).

⁴¹¹ Elizabeth Moore, "Readers argue abortion effects of Equal Rights Amendment," *NRL News* 4 (April 1977).

strongest advocates of the constitutional convention call because she believed a Human Life Amendment would resolve the abortion issue without the pro-life movement having to mobilize against feminism. Conservative arguments linking the ERA to abortion did not cause the larger pro-life movement to embrace anti-feminism as a strategy; organized feminist opposition to the Hyde Amendment did.

In 1976, the Hyde Amendment had been an unpleasant surprise for feminists and the abortion rights movement; they could no longer rely on the *Roe and Doe decisions* to protect American women's access to legal abortion. In response they formed political coalitions and made indigent women's access to government funding of elective abortions a top policy priority along with the Equal Rights Amendment. Planned Parenthood Federation of America teamed with the American Civil Liberties Union to launch lawsuits challenging the constitutionality of state and federal abortion fund bans. These organizations then joined with the National Abortion Rights Action League, the National Organization for Women, and the International Women's Year State commissions to launch a lobbying campaign to overturn the Hyde Amendment in 1977. Between June and mid-July, forty-five states held International Women's Year Conventions, and thousands of women across the country voted to support government funding of elective abortion and other family planning services for women who otherwise could not afford them. These women insisted that government subsidized reproductive health care was essential to the betterment of all American women.

While the Hyde Amendment had yet to be enforced in 1977, no pro-life activist wished to see it overturned. By endorsing abortion funding, the International Women's Year Conventions that took place between February and July 1977 helped to support Jefferson's presidency of the National Right to Life Committee, since even Jefferson's opponents agreed

that working for the Hyde Amendment's enforcement and its re-passage in the face of feminist opposition was more important than any pro-life movement internal battles. "I'd like to ask convention supporters to join me in giving Dr. Jefferson a vote of confidence as an indispensable leader in the pro-life movement and as a personal friend," wrote Pat Goltz of Feminists for Life. "We have a lot of work to do. So let us stop throwing brickbats at each other and get busy."⁴¹²

The Pro-Family Convergence: The Hyde Amendment and International Women's Year

On Friday June 17, Representative Henry Hyde proposed another abortion funding ban amendment to the 1978 appropriation bill for the Health, Education and Welfare Department. The House once again ratified the funding ban.⁴¹³ The same day, the National Right to Life Committee elected Mildred Jefferson to her third term as president and reached another period of consensus despite the ongoing constitutional convention controversy and the burgeoning clinic sit-in movement. The Board of Directors agreed that the new Hyde Amendment would remain the movement's top priority until the federal government enforced last year's amendment, and until Congress passed another abortion funding ban.

On Monday June 20, one day after the National Right to Life Convention ended, the Supreme Court released *Maher v. Roe*. The legal case originated in Connecticut and challenged that state's 1974 ban on abortion funds. In a 6-3 vote, the Court ruled that the Connecticut law that cut state Medicaid funding of abortion was constitutional. In the Court's view, funds for abortion were a different legal matter than a woman's access to abortion.

⁴¹² Pat Goltz, "Letters to the Editor," *NRL News* 4 (May 1977).

⁴¹³ Mary Russell, "House Bans Use of U.S. Funds in Abortion Case; House Votes a Prohibition, 201-155, of Use of U.S. Funds in Abortion." *The Washington Post*, June 18, 1977, A1.

Because a state was not responsible for an indigent woman's poverty, the Court ruled that cutting Medicaid funds was not an undue burden on poor women. As long as the state did not place any obstacle on a poor woman seeking an abortion, for example by prohibiting her from using her own private funds, it could cut state Medicaid funds for abortions. This ruling signaled to Congress that the Hyde Amendment would now pass judicial muster. Nine days after they released the decision, the Supreme Court vacated Judge Dooling's earlier injunction against the enforcement of the 1977 federal Hyde Amendment, clearing the way for the amendment's enforcement and its re-passage in 1977.⁴¹⁴

As the battle over federal abortion funding heated up in June and July, the pro-life movement turned to the other conservative women's organizations it was aligning with in opposition to the International Women's Year. The two campaigns worked closely together to mobilize a broad spectrum of conservatives by pushing an anti-feminist, anti-government and anti-tax rhetoric. Right to lifers had long complained that government funding of elective abortions violated the rights and sensibilities of American taxpayers who equated abortion with murder. At the heart of conservative women's complaints against the International Women's Year was their contention that feminists did not represent the majority of American women, and that the federal government had given feminists preferential treatment as a special interest lobby group when it funded the International Women's Year. "We haven't been given taxpayer's money to promote our beliefs," wrote *National Right to Life News*

⁴¹⁴Spencer Rich, "Senate Votes Curb on Use of Federal Funds for Abortion," *The Washington Post*, June 30, 1977, A14; Adam Clymer, "Senate Vote Forbids using Federal Funds for Most Abortions," *The New York Times*, June 30, 1977, 36; Spencer Rich, "Conferees Deadlock on Abortion Money; 'Affirmative Action' Approved," *The Washington Post*, July 21, 1977, A2; Spencer Rich, "Federal Funding of Most Abortions is Ended; Medicaid Funding is ended for most abortions for poor," *The Washington Post*, August 5, 1977, A1; Morton Mintz and Myra MacPherson, "Court Clears Curb on U.S. Abortion Aid; Court Approved Hill Curb on Funding for Abortions; Medicaid can be denied," *The Washington Post*, June 30, 1977, A1; David Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (Berkeley: University of California Press, 1998), 629.

editor Janet Grant in July 1977. “Any time Congress wants to vote five million dollars for the right to life movement, we’ll take it!”⁴¹⁵

When it became clear that a majority of International Women’s Year state conference attendees supported the feminist-backed policy recommendations, conservative women changed tactics; they no longer sought to participate in the convention but to protest it, and, if possible, to shut it down. In July 1977, they began to pressure Congress to hold a series of legislative hearings on how the International Women’s Year’s funds had been and were continuing to be used. Nellie Gray, the president of the National March for Life, headed a national citizens’ review committee on International Women’s Year.⁴¹⁶ Gray worked to halt government funds supporting both International Women’s Year and Medicaid abortion funds in the summer and fall of 1977. She turned to North Carolina’s Sen. Jesse Helms, who proved to be a pivotal ally in both campaigns. Conservative women’s discontent over the International Women’s Year state conferences also led them to form a national coalition on July 15, 1977. The coalition, housed in Houston, began to organize a counter -rally and “pro-family” convention to be held on the same weekend as rival conference. One of the most effective members of the national coalition was Ira Early, chairman of Life Advocates of Houston, where the national International Women’s Year Conference would be held.

On September 15, Sen. Helms oversaw a series of ad hoc Senate hearings about the International Women’s Year. As with the ongoing Hyde Amendment battles, the conservative women who testified wanted to halt all government funding of the International Women’s Year, thereby cancelling the upcoming November Houston conference.

⁴¹⁵ Janet Grant, “Orchestration by IWY,” *NRL News* 4 (July 1977).

⁴¹⁶ Janet Grant, “Women fight for voice in IWY state meetings,” *NRL News* 4 (June 1977).

Conservative women from Maryland to California lined up to speak against what they considered their unfair treatment at the hands of feminists at state International Women's Year Conventions. They complained that the state International Women's Year meetings had been led and directed by women espousing a "radical feminist philosophy," whose leaders had not allowed them to voice their views. Instead, they manipulated the International Women's Year meetings so that "abortion-on-demand," support for the ERA, and "approval of lesbianism and sexual promiscuity as fully valid alternatives" became part of the national plan of action. The conservative women also accused International Women's Year organizers of bigotry directed toward the Catholic and Latter Day Saints churches, hatred of men, and animosity toward conservative women.⁴¹⁷

While Helms' hearings served as way for conservative women to come together and air their grievances on a national stage, the Hyde Amendment was even more essential to many conservative women. It would be the pro-family movement's first major policy victory and would solidify the ongoing local and state battles over abortion funding. Under intense pressure from both the pro-life/pro-family coalitions and the feminist coalitions, Congress had a difficult time working out compromise language for the new Hyde Amendment.⁴¹⁸ Lobbyists on both sides of the issue also used the heated controversy around abortion to demand support from their congressional representatives before the upcoming 1978 elections. Unable to reach a compromise on the Hyde Amendment, Congress failed to pass a budget for H.E.W. on September 28, the federal fiscal year deadline.⁴¹⁹

⁴¹⁷ "Boost for pro-life seen in responses to IWY meetings," *NRL News* 4 (September 1977).

⁴¹⁸ *New York Times*, September 8, 1977, section 3, 11.

⁴¹⁹ "Anti-Abortion Stand Reaffirmed in House; Conference Today," *The Washington Post*, September 28, 1977, A8.

The lobbying battle over the Hyde Amendment continued into October, drawing the media's attention to what appeared to be a new and powerful pro-life and pro-family movement. An October 1977 *New York Times* survey of thirteen states found that the pro-life movement gained strength from other conservative organizations such as "Stop ERA." Due to this coalition building and growth, the survey showed that the pro-choice movement could not match the pro-life movement in funds raised, number of organizations, or numbers of activists willing to demonstrate and protest on a routine basis.⁴²⁰ Jefferson's strategy of working with other conservatives and supporting the pro-life war against feminism was paying off.

In November, Mildred Jefferson joined Anita Byrant, Nellie Gray, Phyllis Schlafly, and California congressman Robert Dornan to headline the pro-family counter-rally to the International Women's Year Conference at the Houston Astrodome complex. After attending the convention and the rally, Jefferson came to the conclusion that pro-life cooperation with feminists would no longer be possible. Describing her experience with feminists at the Houston conference, Jefferson wrote a series of brief but telling notes:

Pain resulted from seeing the chip-on-the-shoulder hostility and hatred directed by them toward men and children, especially the unborn child. Detached tolerance was necessary to find anything of value in feminist effort, to find out if the search for equality of opportunity could provide a common meeting ground. No more.⁴²¹

For the first time, Jefferson made opposition to the ERA one of her top priorities. She then reiterated her more militant rhetoric, calling feminists "terrorists" and "tyrants" that right to

⁴²⁰The 13 states surveyed were New York, New Jersey, Connecticut, Massachusetts, Michigan, Florida, Maine, Alabama, Kentucky, Texas, Illinois, Washington, and California.

⁴²¹ Mildred Jefferson, "Lifelines from the President's Desk," *NRL News* 5 (January 1978).

life activists had to oppose.⁴²²

Two and a half weeks after the meeting in Houston, on December 7, 1977, Congress passed the Health, Education, and Welfare budget, with the Hyde Amendment attached.⁴²³ That victory became the pro-family movement's first success in changing national policy, which not only strengthened the coalition but also helped various affiliated organizations raise money that they could then contribute to other conservative causes. Reverend John F. Wilder, the founder of Christians for Life, summed up the coalition's feelings in one word: "Jubilation." His organization had raised \$9,000 since its official incorporation in May of 1977 in order to work for the Hyde Amendment. The National Right to Life Committee did even better; in direct-mailing fundraisers, twelve percent of their eleven million active supporters donated money. (Typically, only two percent of Committee members donated in direct mailing fundraisers). The Washington office's budget increased four-fold, from 250,000 dollars to over one million dollars, in 1977. The Hyde Amendment campaign had paid off royally.⁴²⁴ Moreover, the Hyde Amendment debates of 1977 showed the pro-life movement could halt Congress and bring its deliberations to a standstill. Rep. Daniel J. Flood, a Democrat from Pennsylvania who had served in Congress for thirty-two years, told a reporter "This issue took more debate and more votes than any other issue since I've been on the Hill."⁴²⁵

⁴²² "Excerpts from Dr. Jefferson's Speech at Houston," *NRL News* 5 (January 1978).

⁴²³ Martin Tochlin, "Accord on Abortion Collapses Again," *New York Times*, November 2, 1977, 19.

⁴²⁴ Laurie Johnston, "Abortion Foes Gain Support as They Intensify Campaign," *The New York Times*, October 23, 1977, 1, 24.

⁴²⁵ "Bitter House-Senate battle ends – for now," *NRL News* 5 (January 1978).

“Elective Abortion Funding comes under state’s fire”⁴²⁶

On August 4, 1977, the Department of Health, Education and Welfare announced that it would enforce the Hyde Amendment restrictions imposed by the 1977 appropriations bill in the wake of the *Maher v. Roe* decision. At the time, fifteen states had laws prohibiting the use of Medicaid funds for abortion. The remaining thirty-five, including Kansas, North Carolina and Massachusetts, funded elective abortions for women on public assistance. Since federal Medicaid funding subsidized roughly one third of all abortions performed yearly in the United States, paying up to ninety percent of the costs, the announcement came as a shock to state governments. The majority of them were left scrambling to come up with abortion funds for the remainder of the 1977 fiscal year. Further complicating the funding crisis, some state legislatures had ended their 1977 sessions, making it more difficult to pass emergency funding measures to aid women on public assistance.

As a result of the H.E.W. directive, many governors faced a difficult choice: they could either transfer funds from an existing state program to cover the costs of elective abortions, or completely cut state abortion funds.⁴²⁷ Nineteen of the thirty-five state governments that had provided state funds for abortions came to the same conclusion: they no longer could afford to pay for elective abortions. As Republican Gov. Robert Bennett of Kansas wrote, “I very much wanted to continue the program but I was caught in a box primarily as a result of the federal abortion decision.” He cut Kansas abortion funds the

⁴²⁶ “Elective Abortion Funding comes under State’s Fire,” *NRL News* 4 (September 1977).

⁴²⁷ B.D. Colen and Myra McPherson, “Court Hears Hill Curb on U.S. Abortion Aid; Abortion Rulings Raise Difficult questions for the States Rulings, Muddle Issue,” *The Washington Post*, June 30, 1977, A1. See also “North Carolina Department of Human Resources Division of Social Service to State Abortion Fund Fact Sheet,” Box 12 folder “Abortion Reference Index Illustrated-Financial,” Takey Crist Papers; Charles F. Laird to Governor Robert Bennett, August 12, 1977, Robert Bennett papers; “Abortion Ruling hit,” *The Washington Post*, August 7, 1977, C10; Patrick B. Augustine, State Rep. 110th District to Robert Bennett, August 18, 1977, folder “Abortion (September-December, 1977,)” Robert Bennett papers,.

second week of September.⁴²⁸

In Massachusetts, Democratic Gov. Michael Dukakis vowed he would continue the Massachusetts state abortion fund in lieu of the federal cuts. For five years, he had vetoed every bill that cut the state's abortion fund for women on public assistance, and his vetoes stood because Massachusetts Citizens for Life had never gained enough state senate seats to override the vetoes. This was in part because Massachusetts Organization to Repeal Abortion Laws (MORAL) focused its funds and political energy on maintaining, and, if possible, increasing the number of state senators who supported the right to abortion. After the Hyde Amendment enforcement in August, Massachusetts Citizens for Life stepped up their lobbying efforts for House Bill 6327, which would cut state funds for abortion. On August 4, the same day as the HEW announcement, Charles Swain and a Boston "action for life" group climbed up the 175-foot state capitol dome to hang a seven-foot sign. "HR 6327 Pro-Life" greeted legislators and Boston commuters the next morning. Swain planned the illegal break-in and sign hanging to coincide with debate over the state's version of the Hyde Amendment that took place the following afternoon. By Friday August 5, the Massachusetts House and Senate passed HR 6327. On Monday August 8, Gov. Dukakis vetoed the bill. Massachusetts, he said, would continue to support the reproductive choices of all women, including women on public assistance.⁴²⁹

Massachusetts Citizens for Life tried a new tactic in response. Rather than proposing another legislative bill, they attached a funding ban as a rider to a highly popular state

⁴²⁸ Robert F. Bennett to Donald J. Smith, MD. September 6, 1977, folder Abortion (1974-1976), Robert Benett Papers.

⁴²⁹ Robert J. Turney, "Massachusetts to continue providing abortions to recipients of Medicaid," *Boston Globe*, August 4, 1977, 3.

employee pay raise bill. They hoped the governor would not veto the legislation and they would be able to finally slip the ban past Dukakis. Massachusetts Citizens for Life and the Catholic Church also stepped up their lobbying efforts. In homilies and announcements, priests denounced Catholic representatives who had failed to vote for either the bill or the rider cutting abortion funds. The aunt of Sen. Jerry D'Amico was shocked one Sunday morning to hear her priest denounce her nephew for opposing the amendment. D'Amico later told reporters "I'm used to political pressure – but it's a different kind of pressure when God is involved." Still, the senator insisted that he could not vote to cut funds because "the indigent should not be deprived of parity in medical services." Despite this pro-life activity, Gov. Dukakis vetoed the state employee pay raise on November 10 because of the bill's abortion rider. In December, the legislature sustained the veto, making Massachusetts one of sixteen states still funding abortion in the wake of the Hyde Amendment enforcement in August. The abortion rider's defeat taught Katherine Healy, the president of Massachusetts Citizens for Life, an important lesson: to stop the state's abortion funding pro-life activists would have to defeat Gov. Dukakis in the 1978 election.⁴³⁰

North Carolina also continued to fund abortions due to the will of its Democratic Gov. James Hunt and a Democrat-controlled legislature. Hunt and North Carolina's legislators viewed abortion funding as part of the state's progressive family planning program. These legislators took pride in the fact that North Carolina was the first state to subsidize birth control for women on public assistance during the Great Depression. Abortion funding, they believed, was part of this progressive heritage. In the wake of the August 4

⁴³⁰ Mildred Jefferson, "Lifelines from the President's Desk," *NRL News* 4 (October 1977); Myra MacPherson, "Abortion Opponents Focus on States Still Funding Them," *Washington Post*, November 17, 1977 A3; Nancy Koster, "15 States still funding abortions," *NRL News* 5 (January 1978).

H.E.W. directive, Hunt worked with state legislators and county governments to increase the state's funds for poor women: he offered to share the costs of subsidizing abortions with city and county governments that were willing to contribute money to a state abortion fund. This state-county share program helped to make up some of the deficit in federal funds, but fell far short of the federal funds that had paid for approximately ninety percent of the 3,552 abortions North Carolina women on public assistance had received in 1976.⁴³¹

In the fall of 1977, North Carolina Right to Life made ending government-subsidized abortion their first priority, and National Right to Life Committee president Mildred Jefferson fully endorsed their efforts and priorities. At the time, North Carolina's organization was small compared to other state affiliates, and North Carolina Right to Life had achieved no electoral victories and had not passed any anti-abortion legislation. Their campaign to cut government funding for abortion was ambitious and would achieve several goals; potentially it would save some fetuses' lives, and it would be a rallying point to build the local and state movement's membership and political power.

To end the state-county abortion funds, North Carolina pro-life activists pursued strategies that mirrored some of the National Right to Life Committee's tactics at the national level. Their campaign, however, focused on the grassroots. Local pro-life leaders increased their base of support by forging pro-family coalitions that were also mobilizing against the International Women's Year and public school sex education programs in the fall of 1977. As part of these efforts, they focused on inviting apolitical Fundamentalists and Evangelical Christians into participating in local politics. "It is up to YOU the citizens of those counties to put a stop to this. It is no longer out of your control. It is YOUR money, your elected

⁴³¹ Don Matthews and Jane Sherron De Hart, *Sex, Gender and the Politics of ERA*, (New York: Oxford University Press, 1990), 194.

officials, and your responsibility,” wrote Dan Horley in the North Carolina Right to Life Newsletter.⁴³²

In Raleigh, John Dowd created a pro-family coalition that served as an example to other state chapters. Dowd was the president of Wake County Right to Life and served on North Carolina Right to Life’s board. In September, he recruited Reverend T. Marshall Collins of the Tabernacle Baptist Church to speak with him at a Wake County Social Services Board public hearing on the proposed county abortion fund. The same month, Dowd met Reverend Coy Privette, the President of the N.C. State Baptist Convention. At the meeting, Privette told Dowd that the majority of Baptists in the state were in sympathy with North Carolina Right to Life and promised his full support in the campaign to cut the state abortion fund.⁴³³ Dowd also coordinated a Wake County Right to Life prayer service and planning meeting at the Mormon Church of Latter Day Saints in downtown Raleigh in September. There forty activists gathered to hear Carl Anderson, Jesse Helm’s Congressional aide. Anderson spoke about all the ongoing pro-life initiatives happening in September 1977, including the recent enforcement of the Hyde Amendment, the ongoing attempts to pass the 1978 Hyde Amendment ban in Congress, and protests against the North Carolina state-county abortion fund. While Anderson pleased the audience when he stated that the Hyde Amendment had saved over 3,000 lives a day (a figure no one substantiated), it was clear that Wake County had its work cut out for it to stop the county abortion fund.⁴³⁴ Despite Dowd’s work, the Wake County Commissioners voted in October 1977 to provide \$10,000 in county

⁴³² “North Carolina News,” *The Concept* 4 (September 1977).

⁴³³ *Ibid.*

⁴³⁴ “Wake County RTL doings,” *The Concept* 5 (February 1978).

funds for abortions.⁴³⁵

Other North Carolina Right to Life chapters worked with the newly formed Women's Conservative Caucus, which had come into being in response to the International Women's Year. The state organizations' speaker bureau had made two pro-life presentations to Women's Conservative Caucus members in the fall of 1977, one to the Rockingham County Area Women for the Christian Churches and the other to the Winston-Salem's Women's Conservative Caucus, formerly the local STOP ERA chapter.⁴³⁶ On November 11, 1977, several representatives from the Women's Conservative Caucus attended the North Carolina Right to Life Convention where state president Emma O'Steen praised their efforts against the International Women's Year Conference that would take place the next weekend in Houston. Mildred Jefferson, who gave the convention's keynote address, also praised the state pro-family coalition, announcing that the state's pro-family movement would be necessary to end the state-county abortion fund share program.⁴³⁷ She then went on to criticize government funding of abortion as a form of black genocide, and population control against poor people.

“The mighty army of the people is on the move”⁴³⁸

In January 1978, Mildred Jefferson asked herself a question that continued to plague her presidency: “Why can't [pro-life] people get together in one organization?” She then answered her own question. “There are too many people from many different backgrounds,

⁴³⁵ *The Concept* 4 (October 1977); “Wake County RTL Doings.”

⁴³⁶ *The Concept* 4 (September 1977); *The Concept* 4 (October, 1977).

⁴³⁷ *The Concept* 4 (November 1977); “Convention Drawing a Must,” *The Concept* 4 (September 1977).

⁴³⁸ Mildred Jefferson, “Lifelines from the President's Desk,” *NRL News* 5 (January 1978).

philosophies, experiences and temperaments to get along together for very long.” Under Jefferson’s National Right to Life Committee presidency, the Hyde Amendment had kept this diverse and growing pro-life movement together, allowing it to move in one conservative direction for three years. As 1978 dawned, the pro-life movement had lost the one policy and goal every activist could rally around. Was there any strategy or policy that could replace it and unite the movement? The Human Life Amendment could not; it continued to be divisive. Activists still could not agree on the amendment’s wording or on McCormack’s constitutional convention call strategy. Now, the Hyde Amendment and questions of government funding of abortion also drove divisions. For activists from the sixteen states that continued to subsidize abortions, including Massachusetts and North Carolina, eliminating that funding remained the top priority. For the remaining thirty-four states, priorities differed. Should they focus on passing abortion restrictions and creating new barriers between abortion providers and their clients, or on preparing an all-out Human Life Amendment campaign? One sentiment, however, was universal: pro-life activists continued to believe they were in an abortion war against feminists.

Due a lack of a national consensus, the pro-life movement waged a de-centralized war on several fronts. By July 1978, six more states passed constitution convention calls, bringing the total to twelve. Clinic sit-ins spread. In January and February alone, sit-ins occurred in Alaska, Indiana, Massachusetts, Minnesota, Ohio, and Virginia.⁴³⁹ By the spring, St. Louis, Missouri became a hotbed of activity as established leaders of Missouri Citizens for Life joined a younger group of activists in weekly sit-ins at abortion clinics. The participation of

⁴³⁹ See “Protests, Sit-Ins, Non-Violence Intensifies,” “Alaska, New York also in protest action,” “4 Arrested in Minneapolis,” “Indiana Youth Selects Jail,” and “Boston pro-lifers choose jail,” in *NRL News* 5 (February 1978).

Missouri Citizens for Life leaders in civil disobedience set off a series of heated debates at the national level that culminated at the 1978 National Right to Life Convention in St. Louis. Mildred Jefferson and others argued that it was imperative that the two movement strategies not cross-pollinate; the National Right to Life Committee could not be financially responsible or liable for the illegal acts of the non-violent civil disobedience movement. While Jefferson understood the rage that fueled the sit-ins, she also believed their strategy “was a dangerous detour which the right-to-life movement and our country can ill-afford.”⁴⁴⁰ Jefferson wanted politics and education to rule the pro-life movement.

Other activists undermined abortion clinics by passing new city, county, and state regulations. Pro-life activists in Akron, Ohio led the way in January 1978. There, a 23-year-old Jewish law school student made his hometown the front line in what activists on both sides were coming to refer to as the abortion wars. Martin Weinberger was a law student at Boston University when a question captured both his heart and mind. What kind of abortion regulations would the Supreme Court allow under the *Roe* and *Doe* decisions? This was not an original question; incremental pro-life activists and movement lawyers had been debating it since 1973. What was original was how Weinberger arrived at an answer. He wanted women who were seeking abortions to consent to the procedure after they had been informed of what he believed were all the facts. This included learning all the biological stages of fetal development through what Mildred Jefferson described as “graphic information about the development of the unborn child.”⁴⁴¹ As part of this pro-life narrative, abortion counselors were supposed to convey the belief that a fetus was a human being from the moment of

⁴⁴⁰ Mildred Jefferson, “Lifelines from the President’s Desk,” *NRL News* 5 (January 1978).

⁴⁴¹ *Ibid.*

conception as a medical fact. The ordinance also required clinic staff to tell women the age of the fetus they carried and when it would reach viability, as well as any and all potential psychological and physical harm a woman could suffer as a result of abortion. Finally, clinic staff would have to provide information about adoption agencies and childbirth resources to a woman before she consented to an abortion. The legislation then mandated a twenty-four hour waiting period between the counseling and the procedure to ensure that women fully thought through their decisions. Weinberg presented his legislation as being pro-woman, claiming it empowered women to make better-informed choices concerning their pregnancies.⁴⁴²

Whether his proposed city ordinance actually accomplished informed consent was debatable. At the time, most abortion providers asked for a patient's consent and had already developed procedures for discussing the risks associated with abortion through professional meetings of the National Abortion Federation and the American Congress of Obstetricians and Gynecologists. What Weinberg proposed was that abortion clinics also require women to hear a series of pro-life narratives concerning abortion and fetal development that would be presented to them as incontrovertible scientific fact. The twenty-four hour waiting period between counseling and the procedure set up yet another restriction for women to overcome in order to have an abortion; this was particularly true for poor women from rural areas. If the ordinance passed and these women were coming in from out of town, they would now have to stay overnight at a hotel or arrange two visits to the clinic on two separate days, sometimes a weeks-long delay that not only lengthened their pregnancies but also increased both the

⁴⁴² See Anne Marie Segedy, "Testimony continues Akron Ordinance," *NRL News* 5 (March 1978); Anne Marie Segedy, "'Model' City Ordinance holds up – pattern for other communities?" *NRL News* 5 (April 1978).

costs and risks of their abortions. The intent to restrict abortion access in Akron became even clearer when the ordinance also included other popular pro-life injunctions that had been tried in other states and localities since 1973. One required parental consent or judicial bypass for young women under the age of fifteen; the other required physicians to perform abortions past the first trimester in hospitals, not clinics.⁴⁴³

While the ordinance itself represented a new pro-life legislative model, the pro-life activity on its behalf also revealed significant changes in the pro-life movement as a result of the formation of the pro-family coalition in 1977. Leading into the Akron City Council vote on February 28, local pro-life forces organized an all-night prayer vigil outside the municipal building. Protestant ministers from local Baptist, Presbyterian, and Lutheran churches spoke at the vigil as well as the Catholic bishop of Akron. Six hundred people from different denominations attended, including a handful of activists from neighboring states who wanted to duplicate the ordinance in their own towns and cities. When the City Council approved the measure 7-6, shouts of “praise God” were heard in the audience. Some even called it a miracle, the result of the concentrated prayers of so many Christians coming together. This too was a tactic other pro-life activists sought to emulate in addition to passing similar abortion restrictions in their own towns and states.⁴⁴⁴

In North Carolina, similar interdenominational efforts had been going on for a long time. Now, however, they would be influential in state politics. In January 1978, Rev. Roy

⁴⁴³ Segedy, “Testimony continues Akron Ordinance,”; Segedy, “‘Model’ City Ordinance holds up – pattern for other communities?”

⁴⁴⁴ The Akron ordinance inspired activists from Appleton, New York to copy it. Massachusetts and Missouri soon followed, seeking to pass the restrictions at the state level. The Akron ordinance continued to inspire multiple pro-life activists in towns and cities to pass such regulations until the Supreme Court ruled all the Akron restrictions unconstitutional in 1984. See Segedy, “Testimony continues Akron Ordinance,” *NRL News* 5 (March 1978); Segedy, “‘Model’ City Ordinance holds up.”

Privette, the president of the North Carolina Baptist Convention, began to coordinate a series of eighty “mission meetings” to discuss members’ political engagement and to assess the positions of potential candidates in local and state races.⁴⁴⁵ He had already vowed to North Carolina Right to Life that the state’s Southern Baptists were with the organization in spirit. Through the mission meetings, Southern Baptists began to participate in pro-life politics. Privette was not the only Protestant minister to organize in North Carolina. Rev. Curtis Carrington, a black AME Church minister from Greensboro and a North Carolina Right to Life board member, had been organizing Protestant ministers in North Carolina since 1976. By June 1978, he had gained the support of the Greensboro Ministerial Association and the High Point Baptists Association, and had organized 1,000 North Carolina ministers into a loose coalition in opposition to the state abortion fund.⁴⁴⁶

In the spring of 1978, North Carolina Right to Life relied on these church groups to lobby for a bill banning the use of state funds for abortion and abortion referral services. To gain support for the bill, North Carolina Right to Life funded a March 1978 public opinion survey that asked two thousand North Carolinians, “Do you think the Government should help poor women with her medical bills if she wants an abortion?” 41.5 percent said yes, 44.3 percent said no and 14.2 percent did not know.⁴⁴⁷ Despite what appeared to be a split public opinion, the House tabled the state abortion funds ban in June. In response, North Carolina Right to Life activists looked to the local and state primaries and fall elections. They issued candidate surveys and began to target county commissioners and state representatives

⁴⁴⁵ *The Concept*, 4 (October 1977).

⁴⁴⁶ *The Concept* 5 (June 1978); *The Concept* 5 (February 1978).

⁴⁴⁷ *The Concept* 5 (March 1978).

they wanted to unseat in order to pass bans on abortion funding at the county level in 1979. Some chapters followed the example of Cattawba County's Citizens Against Tax Funded Abortions, a political action committee that won county seats for all but one of their candidates.⁴⁴⁸

In 1978, these pro-family coalitions not only rallied against the state abortion fund but also engaged in the ongoing battles in the state house over the ratification of the Equal Rights Amendment, and proposals for sex education programs in the public schools. Particularly upsetting to pro-family activists was the Planned Parenthood film "About Sex" that some schools in Raleigh and Charlotte had begun to incorporate into their curriculum. The film covered such topics as abortion, masturbation, contraception, and homosexuality, discussing them within a relativistic view that challenged the idea of sexual normality. In Raleigh, Wake County Right to Life helped to organize parents in opposition to the health education program's director's decision to air "About Sex" and won a school board ban on the film.⁴⁴⁹ The state's pro-life speaker's bureau also continued presentations at churches and private Christian academies to recruit activists across a broad denominational spectrum. Instead of speaking on abortion alone, they presented talks titled "Marriage and Family" to discuss the wider topics of sexuality and relationships, and address the pro-family coalition's opposition to the ERA, abortion, sex education, and gay rights. George Miller, a progressive Democratic state representative from Durham, recalled in an interview that there was little to no difference between these organizations. The same conservative people showed up at the same

⁴⁴⁸ "Victory . . . Victory . . . Victory," *The Concept* 6 (January 1979).

⁴⁴⁹ "State Roundup," *NRL News* 5 (June 1978).

state hearings concerning any legislation dealing with sexuality and gender.⁴⁵⁰

As the pro-lifers waged these battles in 1978, challenges to Jefferson's presidency of the National Right to Life Committee mounted. In November 1977, some Board members, led by Jack Wilke, began to question Jefferson's handling of the organization's finances. Despite the influx of funds during the Hyde Amendment battles in 1977, by 1978 the organization had a \$200,000 debt.⁴⁵¹ Others questioned what they increasingly viewed as her imperial style of leadership. In 1975 Jefferson had rallied against the idea of any Moses-like leader arising to save the movement; in 1978 she referred to herself as the movement's sole general. In 1975 she also appeared to champion the diversity of grassroots initiatives, in 1978 she insisted, "The right-to-life movement must avoid at all costs the inclination to move off in all directions at once." Jefferson wanted to continue to lead centrally-coordinated campaigns out of the national office. She also had no plan of resigning or retiring, and a growing number of grassroots activists came to believe that Jefferson planned to remain president of the organization for as long as it would take to overturn *Roe v. Wade* or to pass a Human Life Amendment. This was an unsettling idea to many activists and state leaders, even the conservatives among them who favored Jefferson's strategies but also believed in term limits, and feared concentrations of power in any one leader's hands.⁴⁵²

In June 1978, the National Right to Life Committee Board elected Dr. Carolyn Gerster, another prominent Protestant and physician who had been Chairman of the Board under Jefferson, president of the organization. While campaigning for the office Gerster

⁴⁵⁰ *The Concept* 5 (March 1978).

⁴⁵¹ Carolyn Gerster, "We Sought to Bring Life," *NRL News* 7 (June 1980).

⁴⁵² Mildred Jefferson, "Lifelines from the President's Desk," *NRL News* 5 (March 1978).

promised a two-year term limit and revealed a five-year plan to pass a Human Life Amendment. Her plan focused on the upcoming 1978 and 1980 congressional elections. “The Human Life Amendment,” Gerster declared, “will become a reality if we send the men and women to Washington who will vote for it and if we elect the state representatives who will ratify it.”⁴⁵³ In addition to focusing on congressional campaigns through the Life Amendment Political Action Committee, Gerster and the National Right to Life Committee Board endorsed the constitutional convention call as an important strategy to pressure Congress, overturning Jefferson’s 1977 decision. Gerster’s presidency would better reflect the pro-life movement’s recent shift from Washington, D.C. to the grassroots and state levels.

Jefferson was shocked. She lost not only the presidency, but also her position on the National Right to Life Committee’s Executive Committee and Board as a Director-at-large. Since she had already lost her position as representative of Massachusetts Citizens for Life, she now found herself completely excluded from the leadership of the organization. In one day, she had gone from being the central decision-maker to someone with no power to affect decisions. It was a drastic fall for her. “In the heat of battle, I have been unhorsed,” Jefferson wrote.

The 1978 Elections

As 1978 dawned, Republican Sen. Jesse Helms of North Carolina viewed the pro-family coalitions in his home state and at the national level as vital to the upcoming election. In November 1977, a public opinion poll found that seventy-five percent of North Carolina voters were undecided and only fourteen percent favored Helms.⁴⁵⁴ Moreover, in 1978, for

⁴⁵³ Dr. Carolyn Gerster, “From the President’s Desk,” *NRL News* 5 (August 1978).

⁴⁵⁴ Link, *A Righteous Warrior*, 195.

every North Carolinian registered as a Republican, there were three Democrats. In order to overcome these odds, Helms and his team began to pay close attention to the state's pro-family coalition, of which North Carolina Right to Life was a part, while building a larger conservative network of donors nationwide. Two years earlier, Helms had signed an exclusive fundraising contract with Richard Viguerie for the present re-election campaign. Between January and July 1977, Viguerie had helped to raise 1.4 million dollars; by November 1978, Helms' campaign chest held over seven million dollars. Most of his funds came from out-of-state donors who on average contributed between twelve and fifteen dollars; over one hundred thousand Americans contributed to keep the conservative in office.⁴⁵⁵ Despite outspending his Democratic opponent fifty-two to one, Helms eked out a victory, winning only fifty-three percent of the North Carolina vote. "Senator No" won re-election in large part because conservatives in states other than North Carolina rallied to his campaign.

The National Right to Life Committee sought to accomplish a similar feat. In September 1977, Mildred Jefferson and Carolyn Gerster had founded the Life Amendment Political Action Committee as the political arm of the National Right to Life Committee. The PAC's sole purpose was to elect a pro-life Congress capable of passing a Human Life Amendment. While LAPAC's board members and staff overlapped with the National Right to Life Committee's, it quickly became clear that Paul and Judy Brown, a Catholic couple, were leading it.

The Browns had joined the National Right to Life Committee on the eve of the 1976 elections and quickly moved up in the ranks of the Washington, D.C. headquarters. They

⁴⁵⁵Ibid., 193-194.

were Mildred Jefferson's strongest allies in the headquarters during the constitutional convention controversy, and like Jefferson they cultivated close ties with leaders of the New Right. Paul Weyrich of the Committee for a Survival of a Free Congress had invited the Browns to attend the weekly meetings of the Library Court, a group of men and women from approximately fifty organizations concerned with social issues. At the Library Court, the Browns met Richard Viguerie and hired him to handle direct mailing fundraising for LAPAC. Paul Weyrich and Viguerie also taught the Browns a lesson that right to life activists across America were learning in 1977 and 1978: their success and that of the pro-life movement depended on their ability to unite with other conservatives.⁴⁵⁶

In 1978, Paul Brown worked with Robert Sassone, a population analyst, to draft a plan to elect a pro-life congress. Sassone zeroed in on a tactic that local pro-life activists had learned and applied since the Dole-Roy Senate race in 1974. He proposed that the political action committee carefully select close congressional races where a five to ten percent single-issue vote could decide the outcome. This time, however, the funds, money and strategy would be directed nationally rather than locally, as they had been in political races since *Roe v. Wade*. If pundits predicted that your district's pro-choice congressional representative would win in a landslide, Sassone and Brown urged you to spend your money and time fundraising for a tight campaign race in another state. They reasoned it was better to win a battle in another state than to lose in a landslide at home. LAPAC's strategy was similar to the one Sen. Helms was employing in North Carolina; both raised money at the national level and focused it on key elections at the state and local level.

Paul Brown announced LAPAC's first congressional target in July 1978: Edward

⁴⁵⁶ "Political action group's establishment announced," *NRL News* 5 (October 1977). See also Page, *The Right to Lifers*, 146-150.

Brooke. Brooke was vulnerable; one of the most prominent liberal Republicans in office, he was increasingly out of step with his party. In a predominantly Democratic and Catholic state, he had led Senate opposition to the Hyde Amendment in 1976 and 1977, making him a national anti-abortion target. Massachusetts Citizens for Life and Catholic bishops also were organizing against both Brooke and Governor Dukakis, making it clear that they would treat abortion as the most important issue for Catholics to consider in the upcoming elections. Finally, in January 1978, a scandal had erupted over whether or not Brooke had lied on his divorce deposition concerning the state of his finances and what appeared to be a questionable purchase of Caribbean island property.⁴⁵⁷

Because Brooke and Dukakis belonged to different political parties, Massachusetts Citizens for Life focused on both the primaries and general elections. Avi Nelson, a popular conservative radio talk show host, ran against Brooke in the September 19 Republican primary. Nelson rallied the state's Republican Party base against the liberal senator who more often voted in line with the Democratic Party. According to Massachusetts Citizens for Life activists, many progressive Democrats switched party affiliation during the primary to ensure Brooke's nomination. This left Democratic Governor Michael Dukakis with less support. The majority of Massachusetts Citizens for Life members registered as Democrats voted at precinct level for Ed King, a stout pro-lifer. King defeated Dukakis for the gubernatorial nomination on September 19, eliminating the man who had maintained the state's abortion fund through vetoes since 1974. In the general election, Massachusetts Citizens for Life rallied behind Paul Tsongas, a Democrat who supported abortion rights, to ensure that Brooke would not be elected again. Better to vote Brooke out because he was the

⁴⁵⁷ Paige, *The Right to Lifers*, 148; "Pro Life Candidates Riding Upswing," *NRL News* 5 (July 1978).

most ardent defender of poor and minority women's abortion access during the Hyde Amendment debates. The strategy worked. In 1979, Ed King signed into law a state ban on abortion funds. The young daughter of Anne Fox, who masterminded Massachusetts Citizens for Life's 1978 electoral efforts, sat on his lap.

The biggest pro-life electoral victory in 1978, however, occurred in Iowa. In March, Paul Brown contacted local and state pro-life leaders in Iowa to raise the possibility of organizing against Democratic Governor Dick Clark. Two years earlier, Iowa pro-life activists had flexed their growing political muscles when they organized on behalf of Jimmy Carter in the presidential primaries, and Brown and members of the LAPAC board believed the same grassroots mobilization could be used to defeat Dick Clark. Carolyn Thompson, "a dynamic and beautiful lady," responded to LAPAC's letters asking for volunteers. Described as a "ball of fire," Thompson began to organize town and county political coordinators. At the same time, Roger Jepsen, a "true born again Christian" running in the Republican primaries, came out against all federal funding for abortion and in support of a Human Life Amendment. With Thompson's assistance, Jepsen won the Republican primary in June with 61 per cent of the vote. LAPAC then funded a series of surveys of Iowa voters. Brown and Thompson came to the conclusion that "a united and state-wide pro life effort could produce a minimum of 10 per cent of the vote." To do so, it was imperative that Thompson convince the majority of the state's pro-life movement, who were registered as Democrats, to switch party allegiances and vote for a Republican on the sole issue of abortion. They invited fifty state anti-abortion leaders to a special session of the 1978 National Right to Life Convention in St. Louis on June 30; most of the fifty came back convinced that they had to support

Jepsen.⁴⁵⁸ In the final Sunday before the election, volunteers blanketed church parking lots with pro-life, pro-Jepsen pamphlets. Jepsen's come-from-behind victory stunned political pundits. The 1978 elections showed that the pro-family coalition was not a fluke and not only a response to the International Women's Year campaign. The coalition had arrived and was set to change American politics.

No Turning Back

On January 22, 1979, Eleanor Smeal of the National Organization for Women called for organizations on both sides of the abortion divide to meet. In the wake of the Hyde Amendment defeat, Smeal believed it was imperative that the two sides of the abortion war come together and "seek ways to lesson the need for abortion, to reduce the instance of unwanted pregnancy, and to end the polarization and violence that surround the abortion issue." NOW planned a February 14 conference, which would focus on alternatives to abortion and the promotion of birth control. Dr. Carolyn Gerster refused to attend. "I asked for an announced moratorium on the violence done to women and children in abortion clinics during the one day of the meeting with the understanding that the gesture would be symbolic only and carry no legal implications," wrote Gerster. When Smeal and other feminists refused Gerster's request, most national leaders of pro-life organizations refused to attend the conference,⁴⁵⁹ but a small group of young women from PEACE, the clinic sit-in activists from Ohio, agreed to come. At the conclusion of the conference, one of the PEACE activists approached the podium. To the shock of the press and feminist leaders, she unveiled the body

⁴⁵⁸"LAPAC Chief Describes Iowa Shocker," *NRL News* 5 (December 1978).

⁴⁵⁹Dr. Carolyn F. Gerster, "From the President's Desk," *NRL News* 6 (March 1979).

of a one-pound fetus that had been aborted two days earlier and taken from a medical waste disposal site. The next day, PEACE held a funeral and buried the fetus in a Catholic ceremony, setting up a permanent monument to both the fetus and their protest.

The PEACE protest ended any possibility of compromise or meeting of the minds between pro-life activists and feminists; both movements had come to believe they were in an all-out war. Carolyn Gerster wrote, “For one moment at that conference the walls of rhetoric must have crumbled revealing the true meaning of the words 'termination of pregnancy.’” The PEACE activist meant to bring the conference back to what she considered the core issue: abortion killed. “It is an exercise in futility to address peripheral issues on which we could agree while avoiding the subject of abortion,” Gerster concluded.⁴⁶⁰

At the 1979 National Right to Life Conventions, the war between feminists and the pro-life movement became even more entrenched. The organizers invited anti-feminist Phyllis Schlafly to take part in the conference, tellingly called “The Family: Yesterday-Today-Tomorrow.”⁴⁶¹ The National Right to Life Committee Board also passed its first resolution opposing the Equal Rights Amendment. A new mood of urgency prevailed as the activists prepared for the 1980 elections. Carolyn Gerster reflected, “We stand at the crossroads . . . The battlefields may be the halls of Congress, the voting booth, or the courtroom, but it is a revolution, none the less.”⁴⁶²

⁴⁶⁰Ibid.

⁴⁶¹“National Right to Life Convention Advertisement,” *NRL News* 6 (April 1979); “Hour by Hour Chronology,” *NRL News* 6 (July 1979).

⁴⁶²Dr. Carolyn Gerster, “From the President's Desk,” *NRL News* 6 (September/October 1979).

CHAPTER FIVE

“The Split”⁴⁶³

"It was really something, truly a coalition . . . experience," wrote Jack Wilke in September 1981. "Everyone [saw] abortion as the most 'diabolical evil' of this century, a blot upon our society, one that must be erased if our nation is to survive." Wilke was reflecting on a Religious Roundtable Rally for Life at the Dallas Convention Center on September 3, 1981. New Right leader Edward McAteer had organized the meeting to protest the appointment of Ronald Reagan's first Supreme Court nominee, Sandra Day O'Connor. Conservative leaders charged that Reagan had betrayed one of his 1980 campaign promises to them. Instead of appointing a Supreme Court Justice who had strong pro-life credentials, as the 1980 Republican Platform stipulated, Reagan nominated a woman who had supported a liberalized abortion law as an Arizona state legislator in 1972. Six thousand anti-abortion activists attended the Rally for Life to hear speeches from conservative stars and pro-life leaders. Former National Right to Life Committee presidents Carolyn Gerster and Mildred Jefferson appeared on stage next to Jerry Fallwell, Howard Phillips, James Robinson, Phyllis Schlafly, and Paul Weyrich.⁴⁶⁴

A year before, on August 21 and 22, many of those speakers shared the same stage in Dallas with Ronald Reagan at the Religious Roundtable's first National Affairs Briefing.

⁴⁶³ Jack Wilke, "A History of Pro-Life Leadership: For Better or For Worse," in *Back to the Drawing Board*, 127.

⁴⁶⁴ Jack Wilke, "Roundtable Meeting . . . An Experience," *NRL News* 8 (September 7, 1981); Adam Clymer, "Nomination of Judge O'Connor Protest by Abortion Foes at Rally," *New York Times*, 4 September 1981, A8.

Reagan had told that audience of fifteen thousand religious leaders: “I know you can’t endorse me. But I want you to know that I endorse you and what you are doing.” Historians have often cited this 1980 National Affairs Briefing as a moment of crystallization: the Christian Right had arrived, and its long-term alliance with the Republican Party had begun.⁴⁶⁵ That triumphant 1980 moment, while important, is misleading. Pro-life leaders and Christian Right leaders at the time believed that by uniting behind Reagan and electing him president, they could accomplish their political goals, including a Human Life Amendment. But by August 1981, their profound optimism had faded. Reality had set in during Reagan’s first one hundred days in office. Instead of championing social conservative policies, the president and Republican leaders pressed for economic reforms. “We did not achieve a political revolution in 1980,” stated New Right leader Paul Weyrich. “What we earned . . . was only the right to the social-issue agenda.”⁴⁶⁶ In other words, social conservatives had become a force to reckon with in the Republican Party and nation, but had not won enough support from the general American public to dictate policy.

The 1981 Rally for Life produced a more telling example of the uneasy alliances between the Christian Right, the pro-life movement and Republican politicians than the earlier rally. Instead of supporting Reagan, leaders of the conservative organizations were protesting what they saw as Reagan’s betrayal, and the Christian Right broke away from the pro-lifers. Rather than directly challenging Reagan and attacking O’Connor, Rev. Jerry Fallwell and Rev. James Robinson spoke on the importance of general opposition to abortion. National Pro-Life Action Committee Director Peter Gemma told the crowd that the

⁴⁶⁵ Williams, *God’s Own Party*, 187-188.

⁴⁶⁶ James M. Perry, “The New Right Campaigns for its Social Issues,” *Wall Street Journal*, September 11, 1981, 30.

O'Connor nomination made the pro-life movement "look like fools" for supporting Reagan's election. A conflict over fetal personhood was simultaneously causing the social conservative alliances undergirding the Reagan Coalition to rip apart at the seams. Within two weeks of the 1981 Rally for Life, a pro-life coalition arose to oppose an anti-abortion constitutional amendment. This schism was so deep that the pro-life activists joined pro-choice advocates to lobby against the proposed amendment throughout 1982. Pro-life activists learned a hard political lesson: the unity they had forged to support Reagan in 1980 was based more on achieving an electoral goal than a real consensus on policy.⁴⁶⁷ When it came time to draft and pass anti-abortion legislation and a Human Life Amendment, conflicts within the pro-life movement and the Christian Right reemerged.

The Human Life Amendment and the Rise of the Christian Right

In June 1979, National Right to Life Committee President Carolyn Gerster set out a three-year plan to pass a Human Life Amendment through Congress. She predicted that the 1980 elections would be the turning point. If pro-life forces could win enough Congressional seats and elect a sympathetic president, they could pass a constitutional amendment overturning *Roe v. Wade* before the decision's ten-year anniversary in 1983. The plan included three initiatives to identify and mobilize pro-life voters. Through a phone drive by local and state chapter affiliates, they planned to contact every registered voter in the United States and inquire about their views on abortion and their support of a Human Life Amendment. The organization then planned to establish political action committees at the local and state level in order to mobilize the identified pro-life voters. The National Right to Life Committee also mandated that all its affiliates create their own three-year plans. Local

⁴⁶⁷ Self, *All in the Family*, 367-370.

and state chapter affiliates had to become better organized and more efficient, and to improve their fundraising and communication capabilities to prepare for what the Committee leaders believed would be the post-1982 state ratification battles.⁴⁶⁸

Following the June 1979 convention, leaders set to work to implement the three-year plan. A number of states had formed local pro-life political action committees before the 1978 elections, and two national pro-life political action committees also existed. In 1977, Father Charles Fiore had founded the National Pro Life PAC while leaders of the National Right to Life Committee founded the Life Amendment PAC under the direction of Paul Brown.⁴⁶⁹ When Paul and Judy Brown and their followers broke from the National Right to Life Committee in 1979, the organization founded its own affiliated PAC. National Right to Life Committee leaders believed the Browns had become too closely aligned with the New Right. President Carolyn Gerster maintained that “peripheral issues will divide the movement” and that “the organization must remain non-partisan and non-sectarian in order to achieve a broad base of support.”⁴⁷⁰ Unlike Paul Brown’s Life Amendment PAC, the National Right to Life Committee PAC supported both Republican and Democratic candidates in 1980. For example, their PAC gave money to Democratic senator and Human Life Amendment co-sponsor Thomas Eagleton from Missouri.

While the upcoming presidential race was important, Congress remained the

⁴⁶⁸ “National RTL convention draws record turnout,” *NRL News* 6 (July 1979); Jeanne Miller, “Human Life Amendment Passage by 1983,” *NRL News* 7 (July 21, 1980); “Citizen's Lobby to Bolster Pro-life Effort,” *NRL News* (7 December 22, 1980); Gerster, “We Sought to Bring Life.”

⁴⁶⁹ Paige, *The Right to Lifers*, 149.

⁴⁷⁰ Joann Rubeck, “Political Action Committees wave of the future,” *NRL News* 6 (July 1979); “Pro Life Pac Conference May 4-6,” *NRL News* 6 (March 1979); “Ellen McCormack said to be 95% convinced to try Presidential re-run,” *NRL News* 6 (June 1979); Scott Sherry, “Political Action Committee Formed,” *NRL News* 6 (September/October 1979); “The Pro-life Movement Taking it to the Polls,” *NRL News* 7 (February 1980).

overwhelming focus of the National Right to Life PAC and its affiliates. As Carolyn Gerster had argued since 1976, Congress, not the president, would decide the fate of the Human Life Amendment. Local and state-level activists began to plot two-step campaign strategies. They first focused on the primaries, knocking out pro-choice Republicans or weakening pro-choice Democrats. For example, South Dakota Right to Life targeted Sen. George McGovern; in the state primaries, they ran staunch pro-life Democrat Larry Schumaker against him. To beat Schumaker, who pulled thirty-eight percent of the Democratic vote, McGovern had to dip into his campaign chest for the general election, weakening his re-election chances. The pro-life Democrats then planned to give their votes to George McGovern's pro-life Republican challenger, Jim Abner, in the general election. The pro-life movement, it seemed, had come of political age.⁴⁷¹

Pro-life activists were not the only ones displaying a new level of political sophistication and voting discipline in 1979. The same year that Carolyn Gerster proposed her three-year plan, Protestant ministers established a number of conservative evangelical and fundamentalist political organizations. In January Robert Grant, an independent Baptist minister from California who had founded the anti-gay-rights organization, American Christian Cause in 1978, established Christian Voice. Under the umbrella of the pro-family movement, the new organization expanded its political efforts to attack legal abortion and the ERA, argue for a return to biblical values, and lobby for school prayer. Within six months, Christian Voice's membership had grown to 100,000, and by 1980 the organization claimed that thirty-seven thousand Christian ministers were on its mailing lists.⁴⁷²

⁴⁷¹ Sandy Faucher, "NRL PAC involved in five of nine June 3 Primaries," *NRL News* 7 (June 16, 1980).

⁴⁷² Williams, *God's Own Party*, 164-166.

Between January and June 1979, key leaders of the New Right also entered into serious discussions with Rev. Jerry Falwell about mobilizing Protestants into the conservative political movement and the Republican Party. From his seat of power in Lynchburg, Virginia, Falwell ran a televangelist empire. His weekly *Old-Time Gospel Hour* appeared on 375 stations across the country and by 1979, his fundamentalist Liberty College was flourishing. Falwell was no stranger to politics either. In 1976 he endorsed Gerald Ford for president, and celebrated the nation's bicentennial with an "I love America" celebration tour. When he aired broadcasts on pornography, abortion, and homosexuality in 1978, he caught the attention of Presbyterian theologian Francis Schaeffer.

At the time Schaeffer was touring America with Dr. C. Everett Koop to promote their anti-abortion book and film *Whatever Happened to the Human Race?* The two men showed the film in churches, auditoriums, and stadiums across the country, causing a number of scholars and activists to credit Schaeffer and Koop with doing more to mobilize evangelical and fundamentalist Christians than any other leaders. Koop had served on the Christian Action Council's board of directors since its founding in 1975 and on the board of Americans United for Life since its founding in 1972. In 1980, he became a board member-at-large of the National Right to Life Committee.⁴⁷³

In 1978, Francis Schaeffer urged Falwell to take his fight against secular humanism to the political arena after viewing his broadcast on abortion. Schaeffer insisted to the Baptist minister that it was acceptable to forge alliances across religious denominations, with Catholics, Jews and non-fundamentalists, a controversial move that in the past had fractured and limited evangelical and fundamentalist Christian political participation. In June 1979, New Right leaders Ed McAteer, Howard Phillips, Paul Weyrich, and Richard Viguerie

⁴⁷³ "Three At-Large NRLC Board Members Elected." *NRL News*, 7 no 13, (29 September 1980).

traveled to Lynchburg to meet with Falwell, and founded the Moral Majority, a partisan political organization that did not threaten the tax-exempt status of Falwell's ministries. Like the Christian Voice, the Moral Majority board consisted of Baptist veterans of local and state single-issue campaigns against abortion, the ERA, gay rights, and pornography. Falwell supported using the Human Life Amendment as a campaign litmus test, thus aligning the Moral Majority with the National Right to Life Committee on abortion.

A master at self-promotion, Falwell quickly made the Moral Majority the leading conservative Christian political organization in the country. While his claims regarding the Moral Majority's membership and its ability to mobilize voters never matched the reality, Falwell's influence in the media and in the Reagan campaign was extensive. Reagan appointed Robert Billings, the Executive Director of the Moral Majority, to be his campaign's religious liaison. In 1982, Reagan staff member Morton Blackwell wrote Falwell that he was the minister with the most influence with Reagan and his administration. Despite Falwell's success in gaining media attention and political influence, few of the nation's leading televangelists or Southern Baptists rallied to the Moral Majority. Falwell also failed to recruit across denominational lines; only one member of his board was not Baptist, and most state leaders were ministers who belonged to Falwell's Baptist Bible Fellowship International.⁴⁷⁴

To forge unity between the various factions of Southern Baptists, fundamentalists, and televangelists that Falwell's Moral Majority could not achieve, New Right leader Ed McAteer created another Protestant political organization in 1979, the Religious Roundtable. Its executive director, James Robison, was a thirty-six-year-old Southern Baptist

⁴⁷⁴ Williams, *God's Own Party*, 177-79, 189.

televangelist from Dallas. In 1980, he became the first major Protestant televangelist to address the March for Life in Washington, D.C. He also had good relations with both Jerry Falwell and Pat Robertson, two televangelists who often butted heads with one another over theology and politics. The Religious Roundtable would lead the way in uniting evangelical and fundamentalist Christians with the single-issue groups that had forged the pro-family movement in 1977 and 1978. Taken together, the mobilization of the socially conservative single-issue groups and Christian conservatives was a force to be reckoned with on the eve of the 1980 elections. National Right to Life Committee leader Jack Wilke claimed, “The recent movement of evangelical Protestantism into an activist role of support for the prolife movement has been the most significant blood transfusion given to our movement in the last several years.”⁴⁷⁵

However, this coalition of conservatives was fragile in 1980. No one understood that fragility better than Ronald Reagan’s campaign strategists and advisors. Reagan’s team had tried to bring Christian voters and conservative leaders together and into the Republican camp in 1976. They failed. This time, they were determined that the story would end differently. Starting in 1979, Reagan’s staff followed the divisions and fights within the pro-life movement and the emerging Christian Right. They paid close attention to the policy and strategy debates that had animated the pro-life movement, created memos detailing the differences between national anti-abortion organizations, and tracked the development of pro-family and Christian political groups. They drafted position statements that would appeal to the largest number of conservative Christian voters and single-issue activists without alienating any one faction.

⁴⁷⁵ Jack Wilke, "The Prolife Movement Has Cause for Hop,." p. 9 *NRL News* 7 (July 21, 1980).

On July 27, 1979, Reagan solidified the support of the National Right to Life Committee: in a letter to Rep. Henry Hyde, he endorsed both a Human Life Amendment and the ongoing state constitutional convention call that the National Right to Life Committee had backed in 1978. Characterizing the constitutional convention as a last resort, Reagan mostly attacked the Supreme Court decisions concerning abortion as an intrusion of the state into private family life. Reagan covered all bases to capture the full support of the pro-life movement. National Right to Life Committee President Carolyn Gerster met with Reagan for a more extensive discussion in the fall of 1979, and came back with a glowing report and a new level of excitement. Reagan, Gerster reported, seemed to be the real deal. He would champion their cause, and he was electable.⁴⁷⁶

In the spring and summer of 1979, Reagan and his staff also made inroads into the emerging Christian Right. Reagan had much to account for: he was a divorcee who never attended church. As such, he was anything but the ideal Christian candidate, according to the dictates of many churches, but Reagan had fervently upheld a civil religion that opposed Communism since the 1960s. He spoke of America as “a city upon a hill” for the world to look up to, and as a country whose liberty was blessed by divine providence. During his 1976 campaign for president, he had told a California evangelical radio talk show host that he had a born-again experience. Reagan also quoted favorite passages of the Bible off the top of his head on the campaign trail. All this did much to win over conservative Christians to his campaign. His staff also made sure to set up meetings and visits to the major leaders and churches associated with the emerging Christian Right.

⁴⁷⁶ “Reagan Backs HLA, Con-Con,” *NRL News* 6 (September/October 1979).

Victory through Unity

The National Right to Life Committee PAC endorsed Ronald Reagan for president on January 21, 1980.⁴⁷⁷ The early endorsement was controversial in many pro-life circles; some charged that the organization had tipped its hand too early, and had lost its political bargaining power to make Reagan and other candidates meet pro-life demands. Committee president Gerster responded that Ronald Reagan was the only viable pro-life presidential candidate. She believed it was imperative that single-issue anti-abortion voters understand that they had no other candidate for whom to vote in the primaries and general election. Pro-life voters then were to register in the Republican Party, unless voting in the Democratic primaries was part of a state or local chapter plan to elect a pro-life congressional representative.

Not all right to life activists jumped on the Reagan bandwagon.⁴⁷⁸ When Republican moderate George H. Bush won the Iowa caucuses, the leader of Iowa Right to Life blamed Reagan's loss on the fact that the majority of pro-lifers in the state voted in the Democratic caucuses. Iowa activists, the majority of whom came from Catholic Democratic backgrounds, believed that it was more important to defeat Ted Kennedy than it was to elect Ronald Reagan. Up until that time, Iowa's single-issue anti-abortion voters had been models for the rest of the movement: in 1976, they helped to make Carter the front runner in the Democratic

⁴⁷⁷ "Reagan Endorsed by NRL PAC," *NRL News* 7 (February 1980); "NRL PAC Endorses Five Incumbent U.S. Senators" *NRL News*, 7 no 1 (February 1980); Faucher, "Grassroots PAC Ready for '80 Elections," *NRL News* 7 (April 1980).

⁴⁷⁸ In addition to McCormack's dissent from the pro-life movement's alliance with the Republican Party, some pro-life activists expressed dismay with the movement's growing ties with the New Right and Religious Right. According to one activist, the New Right was "swinging the axe at some prolife people in Congress simply because they are liberals." He concluded "I, for one, (and there are lots more like me) believe in protecting and fostering life at all stages . . . not just the unborn life, and I believe that all human beings have a right to a sufficient amount of the resources of this world in order to sustain and enhance that life after they are born." See Bill Mangin, "Urges RTL distance from 'New Right'" *NRL News* 7 (October 13, 1980).

race, and in 1978 they shifted to the Republican Party to elect Roger Jepsen in the most publicized senate race of the year. In contrast to Iowa Right to Life's analysis, the press blamed Reagan's Iowa loss on poor strategy, since he had stopped campaigning in the state the week before the caucuses.

Following Iowa, Reagan and National Right to Life Committee leaders came to understand the importance and the difficulty of recruiting pro-life Democrats to Reagan's campaign. Their message remained the same: if one was a single-issue anti-abortion voter, Reagan was the only presidential candidate for whom one could vote in the primaries and general elections. Committee leaders reinforced this dictate: in the spring, Carolyn Gerster and her colleagues condemned Ellen McCormack for attacking Reagan. McCormack was again running for president as the leader of the New York state-based Right to Life Party. In March, when Bush was still running a close race with Reagan, McCormack's Pro-Life Action Committee ran a series of ads against Reagan in Illinois, New Hampshire, Massachusetts, Vermont and Florida. In the ads, McCormack asked anti-abortion voters to think carefully before giving their vote to Ronald Reagan. She pointed out that as governor of California in 1967, Reagan had signed into law a reform in the state's criminal abortion statute. That reform, she claimed, helped pave the way for the *Roe* decision. She then pointed out that since 1973, Reagan had not held elected office and so lacked a voting record to prove his pro-life credentials. McCormack asked how sincere Reagan was in his pro-life beliefs, and what he would do once he was in office.⁴⁷⁹

The National Right to Life Committee Board stood firmly behind Reagan, and by

⁴⁷⁹ See David Gaetano, "Editorials," *NRL News* 7 (April 1980); Carolyn Gerster, "An open letter to Ronald Reagan," *NRL News* 7 (April 1980); Mary Meehan, "Reagan Pressured by McCormack," *NRL News* 7 (June 2, 1980).

May, George H. Bush had dropped out of the race. With Reagan's presidential nomination secured, Committee leaders set two goals. They wanted the various factions of the pro-life movement to unite behind Reagan, regardless of strategy preferences and party loyalties. They also hoped to translate movement unity into the Human Life Amendment campaign following what they believed would be sweeping electoral victories in 1980.

To encourage unity, the National Right to Life Committee hosted a summit with twelve other national anti-abortion organizations on June 2, 1980. It would be the first of two summits in June; both were unprecedented in terms of the number of organizations that attended, and the willingness of leaders who had bitterly fought one another in years past to cooperate. Representatives came from the American Life Lobby, the Christian Action Council, the Ad Hoc Committee in Defense for Life, Friends for Life, LIFE PAC, Americans United for Life, the National Youth Pro-life Coalition, March for Life, Right to Life Crusade, and the National Right to Life Committee and its PAC. Mildred Jefferson and Judy Brown, who had both left the National Right to Life Committee, returned to the table. At the day-long summit, the various leaders debated a strategy to pass a Human Life Amendment through Congress in 1981 and 1982. The election of pro-life senators, representatives and Ronald Reagan was essential. The leaders believed Reagan would be able to pressure a number of congressmen who were moderate on abortion to vote for a Human Life Amendment, helping to push the amendment through what would be a very close congressional battle. The twelve anti-abortion organizations also agreed that they had to coordinate their efforts to pass a Human Life Amendment. The leaders, however, did not discuss when to establish fetal personhood or how to word a Human Life Amendment. These were the very matters that had created most of the movement's divisions since 1973.

Apparently it was one thing to achieve pro-life unity in electoral politics, but quite another to achieve it on policy.⁴⁸⁰

Two weeks later, Dr. Jack Wilke won the presidency of the National Right to Life Committee in the most peaceful transfer of power in the organization's history. Outgoing president Carolyn Gerster remained on the board and vowed to work with Jack Wilke to back Reagan, and to see the human life campaign she started in 1979 finished. In his first days in office Jack Wilke made these movement priorities clear. He organized a committee of the movement's top lawyers to draft a Human Life Amendment that the entire movement could rally behind, including those organizations that had broken away from the National Right to Life Committee since 1973. Wilke also called for greater cooperation between the national pro-life organizations; he hoped to bring these splinter organizations back into the Committee fold. Finally, Wilke and Gerster met with Ronald Reagan at his campaign headquarters in Anaheim, California during the National Right to Life Convention. At the meeting, Reagan assured the two leaders that they would have his support in their efforts to pass a Human Life Amendment. He also promised to do everything he could to stop government funding of abortion and abortion referral services under his administration.

The pro-life campaign to stop federal Medicaid funding of abortion once again aided in efforts to unify the movement. On June 30 representatives of ten of the twelve organizations that had met on June 2 gathered again in Washington, D.C. They met for a joint press conference celebrating the Supreme Court's *Harris v. McRae* decision that upheld the Hyde Amendment. Also in attendance were the lawyers from the Americans United for

⁴⁸⁰ Gerster, "We Sought to Bring Life,"; "Pro Life Leaders Unite in Reaction," *NRL News* 7 (July 7, 1980).

Life Legal Defense Fund who had argued the case before the court. The organizations gathered for what many considered was the final victory of the Hyde Amendment. There was no longer any doubt that *Roe v. Wade* did not provide constitutional grounds to establish equal access to abortion under the law.⁴⁸¹

In July, the Republicans set out a party platform for the pro-life movement and emerging Christian Right to unite behind. Not only did the party refuse to endorse the Equal Rights Amendment for the first time in forty years, it also added three new abortion planks to its 1976 platform backing a Human Life Amendment. The Republicans now opposed any government funding of abortion, supported efforts to establish parental consent and notification laws for adolescents. Finally, in a more controversial move, the platform advocated for the appointment of federal judges “who respect traditional family values and the sanctity of innocent human life.” For the first time, a political party placed a judicial ideological test in its platform.

The platform encouraged National Right to Life Committee leaders’ efforts to rally pro-life Democrats behind Reagan and the Republican Party. Jack Wilke, who had supported pro-life Democrats in his native Ohio, led the charge. He created a compelling, simplistic, and inaccurate narrative to explain the complex, ongoing voter realignment in America. Wilke theorized that Republicans had become the ruling party by opposing slavery in the nineteenth century and by championing freedom and equal protection under the law for all. Democrats had forged their own coalition in 1932, according to Wilke, by becoming the party of the “defenseless:” Democrats defended the rights of the poor, the less fortunate, and minorities. Now, Wilke asserted, Republicans were creating a new coalition by defending

⁴⁸¹ “Pro Life Leaders Unite in Reaction,” *NRL News*.

those least able to protect themselves, fetuses, and Democrats had become the party of violent death. Wilke concluded that the best thing pro-life Democrats could do in 1980 was vote for Republicans. "It seems to me that the only salvation of the Democratic Party is for the nation to send Mr. Carter and many of its pro-abortion, anti-family senators and representatives down to a crushing defeat. Then the 'good' Democrats will be able to stand up, throw out the amoral, radical, elitists who now dominate it, and return the party to its roots." Reinforcing Wilke's rhetoric, the National Right to Life Committee PAC launched a series of ads with the tagline, "A Vote for Carter is a Vote for Abortion."⁴⁸² Meanwhile, local and state chapter affiliates focused on congressional races and voter registration campaigns in order to pass a Human Life Amendment.

Leaders of the Christian Right had also consolidated evangelical and fundamentalist support for Ronald Reagan. On August 21 and 22, Reagan appeared at the Religious Roundtable's National Affairs briefing where leaders of the Christian Right embraced him with open arms. In the last two months of the campaign, Reagan drew ever closer to the Christian Right. His campaign staff began to coordinate with Christian Right leaders and ministers so that they could time their remarks to the greatest advantage of the Republican Party. Christian Right leaders joined Reagan's campaign in October as "family policy" advisors. The combined effect of these efforts was to create a feeling that a sea change was about to occur in November.⁴⁸³ "Many Protestant and Fundamental Christian groups are joining ranks in the anti-abortion fight to form one of the greatest voting crusades since Civil War times," wrote a National Right to Life Committee member in late October. This activist

⁴⁸² Jack Wilke, "Decline of the Party?" *NRL News* 7 (August 18, 1980); "A Vote for Carter is a Vote for Abortion." *NRL News* 7 (September 2, 1980).

⁴⁸³ Williams, *God's Own Party*, 161-163.

believed that God was finally answering the movement's prayers after seven long years. They would elect to office men and women with the "courage to correct the terrible injustice" of legal abortion.⁴⁸⁴

National Right to Life Committee President Jack Wilke referred to the November elections as a pro-life "Fantasy Island come true." An eighteen-seat Democratic majority in the Senate turned into a six-seat Republican majority. For the first time in twenty-five years Republicans controlled committee appointments and the legislative calendar. Passing a Human Life Amendment through the Senate Judiciary Committee now seemed possible. Under Democratic control, the Senate Judiciary committee had routinely tabled all anti-abortion constitutional amendments, and refused to hold hearings after Birch Bayh concluded the first set of hearings in 1975. Senator Orrin Hatch, one of the pro-life movement's staunchest allies, was now the Judiciary Committee's chair, and ten pro-life senators made up the majority of the eighteen-member committee.⁴⁸⁵ Throughout November major newspapers, political commentators, and pro-choice leaders predicted a Human Life Amendment would pass through the 97th Congress. NARAL immediately began to draft a plan to block state ratification. In an irony not lost on the feminist organization, they looked to copy the strategies of Phyllis Schlafly's Stop-ERA movement.⁴⁸⁶

The anti-abortion political victory came about in part because the movement had united to support Ronald Reagan. Through the National Right to Life Committee's three-year plan to pass a Human Life Amendment, they joined a wider Reagan coalition and changed

⁴⁸⁴ Lewis E. Heifner, "Modern Jericho: November 4," *NRL News* 7 (October 13, 1980).

⁴⁸⁵ "Senate Judiciary committee is Pro-life," *NRL News* 8 (January 12, 1981).

⁴⁸⁶ "History of NARAL: The 1980 Elections," F. NARAL Correspondence, Box 4, Mass Choice Papers, Schlesinger Library.

the make-up of Congress. By emphasizing electoral campaigns, the movement was able to hold together in spite of persistent divisions. Political strategist and executive director of Minnesota Citizens for Life David O'Steen wrote in April 1980, "Differences in general, organizational, and strategic philosophies do exist among pro-life individuals and groups . . . We cannot agree, we never will, but we can and must direct our skills and energies towards achieving our common goals and away from internal self-destruction." Now the activists wanted the political dividends of their hard work.

"Now is the Time for a Human Life Amendment"⁴⁸⁷

"We must not now bask in the glory of incomplete victory," wrote National Right to Life Executive Committee member Alexander Ladd in November 1980. After eight years of work, prayer, protest, and hope, the pro-life movement believed it had achieved a political revolution. Activists prepared to push a Human Life Amendment through Congress as fast as they could, before campaign promises were forgotten and before the pro-choice movement had a chance to regroup. Ladd even believed the right to life movement and its allies could pass the amendment through Congress and thirty-eight states within the year. His optimism was short-lived.⁴⁸⁸

Disagreements over the Human Life Amendment and fetal personhood that had plagued the National Right to Life Committee since its founding in 1973 emerged with a vengeance as victory seemed at hand. Ladd contributed to these divisions in December 1980. He wrote an editorial in the *National Right to Life News* advocating for a Human Life

⁴⁸⁷ Ladd Alexander, "Now is the Time for the Human Life Amendment," *NRL News* 7 (November 10, 1980).

⁴⁸⁸ Ibid.

Amendment without any maternal life exceptions. Along with March for Life leader Nellie Gray, Ladd vowed to oppose any compromised amendment that allowed exceptions, or “a little bit of abortion.”⁴⁸⁹ As Ladd phrased it, “To concede that killing innocent human life under any circumstances is acceptable destroys our prolife credibility.”⁴⁹⁰ By January 1981, former National Right to Life Committee President Carolyn Gerster wrote an editorial in defense of the maternal life exception. She could not list a single politician who would pass an anti-abortion amendment that did not allow abortions to save a woman’s life. Few Americans would support such an amendment: a 1980 Gallup poll found that only eighteen percent of Protestants and twenty-one percent of Catholics would support an amendment with no exceptions for maternal life, and numbers were even lower for the general population.⁴⁹¹ Further complicating the debate, Sen. Jesse Helms had introduced a “Paramount” Human Life Amendment in Congress in 1978. The “Paramount” language differed drastically from the National Right to Life Committee’s version, establishing fetal personhood at conception, and declaring that the right to life superseded all other constitutional rights. There were no exceptions in the paramount amendment.⁴⁹²

The pro-life movement again threatened to fracture within a month of the Republican victories. While many of the internal fights over the Human Life Amendment were old, few

⁴⁸⁹ Eugene Ahern, “The Winning Formula,” *NRL News* 7 (April 1980).

⁴⁹⁰ For the debates over the maternal life exception, the differences between the National Right to Life Committee and Paramount Human Life Amendment, and states’ rights versus a federal amendment, see: “National Right to Life Committee Version of Human Life Amendment,” *NRL News* 6 (January 1979); Eugene Ahern, “The Winning Formula;” Jack Wilke, “Human Life Amendment: States’ Rights or Federal?” *NRL News* 7 (October 13, 1980); David Gaetano, “Wording of HLA to be Reconsidered by National Right to Life Committee,” *NRL News* 7 (October 27, 1980); Alexander Ladd, “Now is the Time for Human Life Amendment (Part II)” *NRL News* 7 (December 22, 1980).

⁴⁹¹ Carolyn Gerster, “What is the Best HLA Wording” *NRL News* 8 (January 12, 1981).

⁴⁹² David Gaetano, “HLA Language,” *NRL News* 8 (January 12, 1981); “New Pro-life Lobbying Effort Begins,” *NRL News* 8 (January 27, 1981).

had been resolved with any definite conclusions in the seven years after *Roe v. Wade*. Should the pro-life movement compromise and add exceptions for fetal handicap, rape, incest as well as threats to maternal life? Was an amendment calling for states to legislate abortion an acceptable compromise? When would the amendment define the start of personhood, and how would that affect birth control access? Was it necessary to establish the right to life as the paramount right in the Constitution in order to overrule the constitutional right of privacy that *Roe* protected? Jack Wilke posed his own series of practical questions in 1981: Which amendment version can pass the Congress? Which version can be ratified by thirty-eight states? Which is least likely to be manipulated by the courts? Which is the most acceptable to sincere people of all faiths? Which can be better sold to the American people? Wilke then asked the ultimate question for pro-life activists: Which amendment will save the most babies' lives?⁴⁹³

Wilke sought to avoid the familiar internal divisions. A brilliant tactician, he appointed a Human Life Amendment Committee as his first act as the organization's president in June. It was the second time such a committee would convene; the first occurred amid the bitter infighting of the Committee's first year, 1973 -74. Once again, the movement's top lawyers made up the all-male committee. As activists worked electoral campaigns in the summer and fall of 1980, these men engaged in heated intellectual debates over the amendment's language and its ramifications for American law, science and medicine. By December, they had drafted a detailed report, and new wording. They added a provision to the National Right to Life Committee amendment declaring that the right to life

⁴⁹³ Jack Wilke, "HLA -- Progress Toward Unity!" *NRL News* 8 (February 9, 1981). For arguments on birth control see James Bopp, Jr., "Effect of National Right to Life Committee Human Life Amendment on Birth Control Drugs and Devices," *NRL News* 8 (June 1, 1981).

was paramount, but they failed to come to a consensus over the maternal life exception. Wilke, optimistic after the November elections, continued to pursue the amendment despite the committee's lack of consensus. He made the report and the debate over the Human Life Amendment the centerpiece of the January 23 -24 1981 National Right to Life Board meetings in Washington, D.C. He also scheduled a conference with twenty other major pro-life organizations to take place on January 23 to endorse a pro-life constitutional amendment. Soon-to-be-President Reagan aided in Wilke's efforts. His staff coordinated a short twenty-minute meeting with fifty leaders of the pro-life movement and Christian Right to discuss abortion on the anniversary of *Roe v. Wade*.⁴⁹⁴

While Wilke focused his energies on uniting the movement, Sen. Jesse Helms of North Carolina faced cold hard political facts. Though Republicans had taken over the Senate, those who sympathized with the pro-life movement were still in the minority. Helms and his staff counted forty-eight pro-life votes in the Senate, including moderates who might or might not vote for a Human Life Amendment. Helms quickly concluded that there was no chance for a Human Life Amendment in the 97th Congress; Passage would require sixty-seven votes, and no amount of presidential pressure on the twenty pro-choice Republicans in the Senate could add the additional seventeen votes needed, nor could a masterful lobbying campaign or a compromised amendment. But Helms believed that Congress could pass a pro-life legislative bill that required a simple majority vote; picking up two to four votes was possible, especially with a pro-life president to pressure Congressional representatives.

Helms proposed the Human Life Bill on Monday, January 19, 1981. The legislation

⁴⁹⁴ Jack Wilke, "Human Life Amendment Committee – Good News," *NRL News* 7 (December 22, 1980); "Prolife Groups to Seek Consensus on HLA," *NRL News* 8 (January 12, 1981). *NRL News* published the committee's reports and the dissent over maternal life exception by Charles Rice; see "Report of National Right to Life Committee Amendment Committee," *NRL News* 8 (January 27, 1981). For the White House meeting see J.C. Wilke, "Reagan Meets with Right to Life Leaders in White House," *NRL News* 8 (January 27, 1981).

defined the start of “actual human life” at conception, and granted all rights guaranteed by the fourteenth amendment to fetuses from that point on. Stephen Galebach, a recent Yale law school graduate, broached the idea after analyzing *Roe v. Wade*. Though the court’s declaration that it “need not resolve the difficult decision of when life begins” had alarmed most pro-lifers, Galebach viewed those words as an opportunity: the Court had left it for someone else to define when life and personhood began, and he argued that it was the right and obligation of Congress to make that definition. Moreover, if Congress defined personhood, Galebach believed the Court would have a legal basis to overturn the *Roe* decision, paving the way for the criminalization of abortion and the establishment of fetal rights. Joseph Witherspoon, one of the pro-life movement’s leading lawyers and a professor at the University of Texas Law School, joined in Galebach’s efforts. The two lawyers consulted with Sen. Helms throughout December and early January, and notified the National Right to Life Committee of their plan. On December 15, Galebach and Witherspoon joined a meeting of the Human Life Amendment Committee: Witherspoon also belonged to the subcommittee and National Right to Life Committee Board.⁴⁹⁵

Jesse Helms’ Human Life Bill was not without controversy. A majority of pro-life activists believed it was the time to pass a Human Life Amendment, not what they saw as a weaker legislative bill. Many activists doubted the political calculations Helms, Galebach and Witherspoon used to argue for the Human Life Bill. It seemed to them preposterous to suggest that the Senate would not vote an amendment through as pro-life leaders and over 50,000 activists gathered in Washington, D.C. to celebrate Reagan’s inauguration on January

⁴⁹⁵ S. 158, “A Bill to Provide that Human Life Shall be Deemed to Exist from Conception,” Serial No. J-97-16, 97th Congress; Stephen Galebach, “A Human Life Statute,” in *The Human Life Review* VII (Winter 1981): 4-8; Elizabeth Moore, “Human Life Statute May Offer Some Measure of Protection for Unborn,” *NRL News* 8 (February 9, 1981); Jack Wilke, “We have a bill,” *NRL News* 8 (February 23, 1981).

20 and to celebrate the March for Life on January 22. Adding to their optimism, Reagan had invited pro-lifers as the first special interest group to visit his White House on the anniversary of *Roe*. Wilke himself had a hard time believing a constitutional amendment was beyond the power of the pro-life movement. He declared, “What we want is a *real* amendment, not a political compromise with exceptions.”⁴⁹⁶ The National Right to Life Committee Board voted unanimously to endorse the idea of the Human Life Bill on January 23, but disapproved of the wording of the bill as currently introduced. Board members saw Helms’ bill as a version of the states’ rights compromise that the Committee had opposed since 1973. Defining personhood was not enough, they argued: the federal government had to have the power to legislate abortion.⁴⁹⁷

Later that day, the National Right to Life Committee held a meeting with other anti-abortion and multi-issue organizations, including the Moral Majority. While Wilke described the meeting as a success, it was also clear that disagreements were emerging within the pro-life movement. Many continued to debate the maternal life exception. Wilke admonished them, “Let us set aside any of the (incorrect) suspicions that one ‘side’ or the other side was more prolife. We all agree on ‘no-compromise.’”⁴⁹⁸ Other leaders picked up the arguments for the Human Life Bill and began an entirely new strategy debate. Convinced by Helms that the pro-life movement didn’t have the votes to pass a constitutional amendment, they began

⁴⁹⁶ Jack Wilke, “Watch Out!” *NRL News* 7 (October 1980); John Cavanaugh-O’Keefe, “Washington Thaws for Eighth March for Life,” *NRL News* Vol. 8 (January 27, 1981).

⁴⁹⁷ Jack Wilke, “HLA—Progress Toward Unity!” *NRL News* 8 (February 9, 1981); Jack Wilke, “Human Life Bill,” *NRL News* 8 (January 27, 1981); Jack Wilke, “HLA Difference Tactics Only,” *NRL News* 8 (February 23, 1981); Elizabeth Moore, “Human Life Statute May Offer Some Measure of Protection for Unborn;,” David Gaetano, “Rising Horizon,” *NRL News* 8 (February 9, 1981); David Gaetano, “When Does Human Life Begin?” *NRL News* 8 (May 4, 1981); James Bopp, Jr., “Restoration of Personhood: Is that Enough?” *NRL News* 8 (August 24, 1981).

⁴⁹⁸ Jack Wilke, “HLA—Progress Toward Unity!”

to question the value of pursuing movement unity for the sake of an amendment. Some even argued for abandoning the idea of a constitutional amendment altogether and urged leaders to use whatever political capital the movement had gained to support the Human Life Bill. John Mackey of the Ad Hoc Committee in Defense of Human Life was foremost among those leaders. His monthly newsletter, *The Lifeletter*, was one of the most popular publications in the movement. At the height of the pro-life movement's power and influence it began to fight itself once again.

The National Right to Life Committee's elected board and grassroots-based organizational structure encouraged the disagreements. Following the January 1981 board meeting, the fifty-five representatives on the board returned to their states and local chapters to ask for responses to the Human Life Amendment and Human Life Bill. Activists studied publications and reports from the various factions, debated the merits of the different strategies and amendment wordings, and held votes on what amendment or legislative bill they preferred. By April 1981, the National Right to Life Committee Board "took a somewhat unexpected turn," according to the *National Right to Life News*. Overwhelmed by infighting at all levels, the Board endorsed the original 1974 amendment wording, believing that any changes to wording were premature; Board members needed more time to study and debate the proposed versions of the Human Life Amendment before reaching a new consensus. The Committee also refused to endorse the Human Life Bill. Approximately half of its state affiliates supported the bill while the other half openly opposed it. Other pro-life organizations adamantly opposed the Human Life Bill as a weaker alternative. The National Right to Life Committee Board agreed with this position when it re-affirmed its commitment

to a constitutional amendment in April, 1981.⁴⁹⁹

Despite the movement's lack of consensus and what Jack Wilke characterized as deep divisions, the Human Life Bill continued to progress in the Senate. Freshmen Republican Senator John East of North Carolina scheduled a series of Separation of Powers Subcommittee hearings on April 23-24. Two days before the hearings began, a group of twelve prestigious legal scholars from the nation's top law schools and representing a diverse array of legal thought drafted a letter to Senators Max Baucus and John East. These scholars, despite their differences of opinion on the law and constitution, agreed that the Human Life Bill was unconstitutional. Philip Kurland of the University of Chicago joined more liberal scholars Laurence Tribe and John Hart Ely of Harvard to attack the bill as an alarming breach of the separation of powers between the different branches of government. They claimed that Congress could only challenge a Supreme Court decision through the constitutional amendment process, not Congressional fiat.⁵⁰⁰ Six former attorney generals opposed the Human Life Bill on the same grounds. Their arguments helped to sway Senator Orrin Hatch, the new Republican chairman of the Senate Judiciary Committee and a key ally of the pro-life movement. Hatch resigned from co-chairing the Human Life Bill hearings and withdrew his support of the bill. On April 23 he told his fellow senators, "I am second to no one in my opposition to abortion, but I am equally committed to sound constitutional principles."⁵⁰¹

⁴⁹⁹ "Board Supports Current HLA," *NRL News* 8 (April 13, 1981); Jack Wilke, "And Now HLA Hearings?" *NRL News* 8 (July 27, 1981).

⁵⁰⁰ See Letter from Laurence Tribe to Senators East and Baucus, April 21, 1981, and Prepared Statement of Laurence H. Tribe in *The Human Life Bill*, Vol. 1, 248-256; also see statement by Harvard Law School professors Laurence Tribe and John Ely in *New York Times*, March 17, 1981; Stuart Taylor, "Bill to Ban Abortion is assailed as Unconstitutional," *New York Times*, 22 April, 1981, A25.

⁵⁰¹ "Statement of Senator Orrin Hatch," found in *The Human Life Bill: Hearings before the Subcommittee on Separation of Powers of the Committee on the Judiciary United States Senate, 97th Congress*, First session on s 158, Vol. 1, 4; David Gaetano, "When Does Human Life Begin?"

The squabble between East, Helms, and Hatch showcased the pro-life movement's internal divisions. John McKay of the Ad Hoc Committee in Defense of Human Life and other pro-life leaders criticized Hatch and championed Helms in their newsletters. Others defended Hatch and criticized Helms for initiating a new legislative strategy that, they said, undermined their efforts to pass a constitutional amendment. Pro-life activists on all sides of the debate questioned each other's and the senators' motives and convictions. Jack Wilke was distraught. "Shame on us!" he wrote in June, "These men are our heroes." He then urged the increasingly divided movement to, "Please, disagree professional when necessary . . . but do it with due respect for that person as . . . a fellow worker in the prolife vineyard."⁵⁰²

However prolife activists felt about the Human Life Bill, the Senate hearings it generated in April, May and June thrilled them. Senator East organized the hearings to answer one question, "When does human life begin?" That was the central question of the pro-life movement, and the hearings generated over a thousand pages of testimony from the nation's top legal scholars, scientists, doctors, and medical researchers as they sought to answer it or invalidate it as a scientific question.⁵⁰³ Due to the wording of the bill, the expert witnesses at the hearings debated the difference between "actual life," which the bill sought to establish from conception, and what scientists and medical experts deemed "biological life." Anti-abortion activists once again confronted the fact that something they held to be a self-evident truth -- fetuses constitute an actual human life from the moment of conception -- was not granted by a majority of the American public. John Cavanaugh-O'Keefe, the father of the clinic sit-in movement, wrote, "Is it just our own lack of imagination that makes it so

⁵⁰² Jack Wilke, "Hyde-Hatch – Respect or Disrespect?" *NRL News* 8 (June 1, 1981).

⁵⁰³ "Opening Statement of Chairman John P. East," *The Human Life Bill*, Vol. 1, 2; Jack Wilke, "Congress is Told Central Issue Must be Faced on Abortion," *NRL News* 8 (June 29, 1981).

difficult for use to see how either phrases differs from simply 'life'? What does it mean when you say 'This is life, but not actual life'?"⁵⁰⁴ He and many pro-life activists could not comprehend the testimony from representatives of the American Medical Association and the National Academy of Sciences who stated that science could not answer the question of when life began; they claimed it was a was a religious, philosophical and moral question, and as such it was beyond the bounds of scientific inquiry. Their testimony rebutted the pro-life claim that science and biology were the only ways to determine personhood. Pro-life activists held that life began when the sperm fertilized the egg, creating a new set of DNA that could result in an individual human being approximately nine months later. In an appeal to secular authority, activists who were highly motivated by their religious beliefs turned aside theological and philosophical questions of "soul," "mind," and that special spark that differentiated humans from other mammals, when defining "life' in favor of a strictly biological concept. They ignored the difference between personhood, a concept informed by law, religion and philosophy, and simple biological life.⁵⁰⁵

On July 9, Senator East's Separation of Power Subcommittee voted three to two to place the Human Life Bill under consideration of the full Senate Committee on the Judiciary. Tensions within the pro-life movement ran high around the vote. It seemed that the Human Life Bill was gaining more traction in the Senate than a constitutional amendment, which a majority of pro-life activists continued to favor over the legislative bill. East worked out a compromise with Sen. Hatch, who was also the chairman of the Senate Committee on the Judiciary. The Senate would not act on the Human Life Bill until the Judiciary committee

⁵⁰⁴ John Cavanaugh-O'Keefe, "Biological Life," *NRL News* 8 (May 4, 1981).

⁵⁰⁵ John Cavanaugh-O'Keefe, "An Immense Victory," *NRL News* 8 (May 4, 1981).

had also held hearings on anti-abortion constitutional amendments.⁵⁰⁶

By July, Hatch had also become aware of the political facts that Jesse Helms had faced in January. A Human Life Amendment, favored by pro-life activists and the National Right to Life Committee, would not pass in the 97th Congress; pro-life lobbyists and sympathetic politicians did not have the necessary votes in the Senate or the House. Hatch was also fully aware of the movement's infighting and inability to reach a consensus on a Human Life Amendment wording. There was no guarantee that the movement could even unite behind a Human Life Amendment that allowed for the exception of maternal life, which was the position of every major pro-life senator and of President Reagan. The divisions would only multiply as congressmen attempted to include exceptions in the amendment for rape, incest and fetal deformity. Hatch also questioned drafting a constitutional amendment riddled with exceptions and clarifying clauses aimed at limiting judicial interpretation of the amendment. In the summer of 1981 he set out to draft a new anti-abortion amendment, with two goals in mind. He wanted a moderate amendment that could attract the additional ten to twelve votes he needed for it to pass in the Senate, and he wanted to an amendment that the entire pro-life movement could embrace by avoiding the debates over exceptions and fetal personhood that had stymied the movement since 1973.

To meet these goals, Sen. Hatch turned to a strategy that had been discussed in pro-life circles the previous April. It was known as a two-step approach, and it had been championed first by David O'Steen of Minnesota Citizens for Life. Like Senators Helms and Hatch, O'Steen also had come to accept that a Human Life Amendment was not a political reality for the 97th Congress, and he also believed that the Human Life Bill was the wrong

⁵⁰⁶ Douglas Johnson, "Human Life Bill Receives Initial Approval; Hatch announces HLA Hearings in Fall," *NRL News* 8 (July 13, 1981).

approach: not only was it constitutionally questionable, but it also empowered the states, not the federal government, to legislate abortion. Instead, O’Steen argued for two amendments. The first would state that there was no constitutional right to abortion, and it would empower the federal government and the states to regulate abortion. His hope was that once this amendment was ratified, the movement could advocate for federal criminal abortion statutes.⁵⁰⁷ After ratifying the first amendment, O’Steen argued, activists could turn their attention to the Human Life Amendment, and establish fetal personhood. He sought to follow the example of the thirteenth and fourteenth amendment by first outlawing slavery and then establishing male African American citizenship.⁵⁰⁸ O’Steen wanted to stop the killing of unborn babies first, and then work to establish their citizenship rights through a second amendment.

Sen. Hatch introduced what would become known as the Federalist Human Life Amendment, or Hatch amendment on September 21, 1981. Following O’Steen, the amendment read:

The right to abortion is not secured by this Constitution. The Congress and the several States shall have the concurrent power to restrict and prohibit abortions; Provided that a law of a State more restrictive than a law of Congress shall govern.⁵⁰⁹

This proposal created a firestorm within the pro-life movement. The outrage and division Helms’ Human Life Bill had caused in the previous nine months was minimal compared to the responses to the proposed Hatch amendment. It was one thing to propose a legislative

⁵⁰⁷ Jack Wilke, “HLA – A New Idea,” *NRL News* 8 (August 24, 1981); “AP Says Hatch to Push Compromise Amendment,” *NRL News* 8 (September 7, 1981); Jack Wilke, “Step One, Hatch or Federalist Amendment,” *NRL News* 8 (September 28, 1981).

⁵⁰⁸ Wilke, “HLA – A New Idea.”

⁵⁰⁹ “Hatch Introduces New Federal Amendment,” *NRL News* 8 (September 28, 1981).

bill, but rank heresy to abandon the goal of all pro-life organizations and most Christian Right organizations, a Human Life Amendment. Overnight, a schism erupted between those who favored the Helms Human Life Bill and proponents of the Hatch amendment. The schism drew an irreconcilable line between hard line activists, who wanted the establishment of fetal personhood, and incrementalists, who were willing to compromise on the principle of fetal personhood to restrict abortion access. This conflict, ten years in the making, now took center stage, much to the surprise of activists who had tried in vain all of 1981 to attain some workable form of consensus.

“At Each Other’s Throats”⁵¹⁰

Three days after Hatch introduced the Federalist Human Life Amendment, seventy-two pro-life and pro-family organizations announced that they had formed the Human Life Statute Coalition. As one of their first acts, they lobbied President Reagan to support only legislation that defined life as beginning at conception. One of the organizers, Paul Brown of the Life Amendment Political Action Committee, told the press that the coalition came together in reaction to the proposed Hatch legislation: they were not “willing to ‘compromise’ on HLA into meaninglessness so as to attract the unscrupulous votes of those who would normally vote pro-abortion.” Just six months before some of these activists had critiqued Helms’ Human Life Bill for embracing a states’ rights approach in its enforcement, but now they backed the legislation because it at least dealt with the question of fetal personhood. For organizations that joined the Human Life Statute Coalition, the Hatch amendment represented their worst fears: it was a pro-legislative and states’ rights approach

⁵¹⁰ Quote attributed to Ronald Reagan by Senator Tom Eagleton. See “News from Senator Tom Eagleton,” October 3, 1982, Morton Blackwell Papers, Box 13, Folder Pro-life Continued (#2)(1), Reagan Library.

that did nothing to criminalize abortion or acknowledge fetal personhood. Overnight, support had coalesced for the Helms bill.

Two weeks later, the National Right to Life Committee Board finally came to a consensus on the wording of the organization's own Human Life Amendment. Nellie Gray yielded her "no compromise, no maternal life exception" position at 2:00 AM on the morning of October 4, and the maternal life exception stood. When Wilke announced that unity had finally been achieved after eight years of movement infighting, the atmosphere was euphoric. He wrote "We had prayed, but none of us thought it would happen . . . We have unity," but the Board was too late. Arguments over the Human Life Bill and Hatch amendment had already torn the movement apart, and most members had come to the conclusion that Congress would not pass the constitutional amendment on which they finally had reached a consensus.⁵¹¹

Board members now had to choose which compromised piece of legislation they would pursue. In October, the fifty-five-member Board, made up of state representatives and five at-large members, was split roughly in half; the Board sought to resolve the division by playing to both sides in the conflict. Earlier in August, it had changed its position on the Human Life Bill and endorsed it as currently worded; however, it had also had passed a resolution urging Helms to re-introduce the bill with stronger language that allowed federal enforcement of criminal abortion statutes, and stopped government funding of abortion at all levels. At the October 4 meeting the Board also passed a resolution endorsing the Hatch amendment hearings "so long as such amendment will not lessen the obligation of Congress

⁵¹¹ "National Right to Life Committee Board Reaches Historic Consensus on HLA Wording," *NRL News* 8 (October 13, 1981).

and the states to protect human life and restore personhood to the unborn.”⁵¹² Jack Wilke urged Board representatives to return to their states, study both proposals, and vote on their preferences.

On October 5, one day after the National Right to Life Committee’s consensus on the Human Life Amendment wording, Sen. Hatch began the hearings on his proposed amendment. He declared that his goal, was to return abortion to the legislative branches of government, where a solution to the controversy that represented the public’s views could be reached. “I know that I would be able to tolerate a regime that permitted some abortions much better,” he said, “if it were the result of the clear will of the citizenry . . . rather than . . . the result of a small elite imposing their own personal views through the pretext of constitutional interpretation.”⁵¹³

Helms retaliated. On October 15, he introduced a new version of the Human Life Statute; this time, he incorporated new restrictions. In addition to defining the start of “actual life” at the moment of conception, the bill now stopped abortion funding at all levels of government, banned abortions in any hospitals that received federal funding, and stopped abortion coverage in most government health insurance programs. This move brought him the support of many pro-life activists. Through a series of parliamentary procedures, Helms also ensured that the bill could bypass the Senate Judiciary Committee, where his older version had remained captive to the Hatch amendment hearings. Whenever Senate Majority Leader Howard Baker wished to do so, the Human Life Bill could be placed on the Senate

⁵¹² “Board Supports Hatch Hearing,” *NRL News* 8 (October 13, 1981).

⁵¹³ “Landmark HLA Hearings Begin,” *NRL News* 8 (October 13, 1981).

floor for a full vote.⁵¹⁴

A month later, the National Conference of Catholic Bishops and the United States Catholic Conference rocked the pro-life movement by endorsing the Hatch amendment. At senate hearings over the proposed amendment, the president of the National Conference of Catholic Bishops stated “We cannot in good conscience tolerate the continued destruction of unborn human lives at the rate of 1.5 million a year on the hypothetical grounds that someday another, theoretically ideal constitutional solution might be found.” The Church hierarchy, which seven years earlier had lobbied for the strictest Human Life Amendment possible, had reversed its position; the ideal of protecting all fetal persons did not matter as much as passing some form of legislation that could stop what one archbishop called the “cumulative horror” of abortion. Bishop Joseph A. McNichols of Springfield, Illinois told the press, “We say we are for the unborn, and all the while we have been letting the unborn be slaughtered because we haven’t had the political insight to fight for what can be accomplished.”⁵¹⁵ At the same hearings on November 5 Adrian Rogers, the immediate past president of the Southern Baptist Convention, also endorsed the Hatch amendment. He argued that there was a growing consensus in evangelical circles that a fetus is an unborn human being, deserving of as much protection in the womb as a baby in a nursery.⁵¹⁶

Many Catholic pro-lifers felt betrayed by their hierarchy. That betrayal fueled a series of biting critiques of the Hatch amendment by Catholic lawyers and leaders of the Helms

⁵¹⁴ “HLB Vote Possible by Mid-December,” *NRL News* 8 (November 9, 1981); “Review of 1981 Legislation compiled by NRL Staff,” *NRL News* 9 (January 11, 1982).

⁵¹⁵ Marjorie Hyer, “Catholics Criticized for supporting Hatch Anti-abortion amendment,” *Washington Post*, November 17, 1981, A13.

⁵¹⁶ David Andrusko, “Hatch Amendment Endorsed by Catholic Conference and Bishops,” *NRL News* 8 (November 9, 1981).

Human Life Bill forces. Charles Rice, a professor of law at the University of Notre Dame, wrote that the Catholic Bishops' endorsement of the Hatch amendment was "a betrayal of their responsibility."⁵¹⁷ Cardinal Medeiros of Boston told the press, "I do not see how I could endorse the present bill (which would) destroy some innocent human lives by exclusion." The American Life Lobby, headed by Catholic Judy Brown, issued its own report against the Hatch amendment. Supporting any amendment that failed to address fetal personhood, the American Life Lobby charged, abandoned the sole contention of the pro-life movement. The report charged that ceding power to any legislative body to regulate abortion access implicitly denied the fundamental truth of a fetus' inalienable right to life. Congress and the states do not "have the power to prevent or permit the execution of innocent human life."⁵¹⁸

These strategy battles became increasingly bitter as National Right to Life Committee state affiliates prepared to vote in December 1981. In Massachusetts, Dr. Joseph Stanton supported the Human Life Bill, and challenged the seat of Phillip Moran on the National Right to Life Committee Board of Directors. Moran was a Hatch supporter and the current treasurer of the National Right to Life Committee. Massachusetts Citizens for Life president Marianne Rea-Luthin joined Dr. Stanton in opposing the Hatch Amendment.⁵¹⁹ In Kansas, the conflict was even more intense. A younger group of male pro-life activists who had joined the movement between 1978 and 1980 challenged Patricia Goodson, Kansas Right to

⁵¹⁷ Charles Rice. January 26, 1982. Found in Morton Blackwell Papers, Box 13, folder "Pro-Life (Continued -- #2) (2), Reagan Presidential Library.

⁵¹⁸ Robert L. Sassone, "Comment on September 29, 1981 National Committee for a Human Life Amendment Newsletter analyzing Hatch Amendment Submitted by American Life Lobby," October 15, 1981. Found in Morton Blackwell Papers, Box 13, folder "Pro-Life (Continued) (1)," Reagan Presidential Library; Bruce Burama, "Bishops divided over abortion curb," *Chicago Tribune*, November 17, 1981, 6.

⁵¹⁹ Joseph Stanton, "Campaign Speech for National Right to Life Committee Representative," June 11, 1982. Found in folder "Speeches and Articles 81-84," drawer Stanton Early Years, Joseph Stanton Papers, Stanton Human Life Issue Library and Education Center.

Life's representative on the National Right to Life Committee Board, and state president Helen De Witt. Goodson, De Witt and other hardliners in Kansas Right to Life favored the Helms Human Life Bill because it sought to establish fetal personhood, their core principle. In an interview one of the younger activists, Alan Weldon, described the difference between the two Kansas factions in 1981 and 1982. There was, according to Weldon, "the all or nothing approach" or the "incremental approach." Weldon believed it was best to "take what you can get one step at a time and try to work towards your ultimate goal."⁵²⁰ Meanwhile, Jack Wilke executed a series of power plays behind the scenes to ensure that the undecided state representatives on the National Right to Life Committee would endorse the two-step Hatch strategy.⁵²¹

At stake in these fights was the role of fetal personhood in the pro-life movement's future. The fact that all agreed that a Human Life Amendment establishing fetal personhood could not pass in the 97th Congress raised the question of whether such an amendment would ever pass. Pro-life activists asked what was more important, overturning *Roe* and criminalizing abortion, or continuing to try to establish fetal personhood? The two approaches had propelled the movement forward since 1973, but had now divided the movement, stopping it dead in its tracks. Activists who wanted to criminalize abortion realized that the concept of fetal personhood was an ideal, not an established scientific fact. A report arguing in favor of the Hatch Amendment stated, "Personhood is a legal concept . . .

⁵²⁰Interview with Alan Weldon by Jennifer Donnally, 9 December 2009.

⁵²¹ Jack Wilke, "The Hatch Amendment: A Time for Study," *NRL News* 8 (October 26, 1981). For a discussion of Jack Wilke's internal power plays see Interview with Philip Moran by Jennifer Donnally, Interview with Alan Weldon by Jennifer Donnally, and Interview with Mark Gietzen by Jennifer Donnally. Also consult Wilke's recounting of how Ohio Right to Life came to endorse the Hatch Amendment in early November in Jack Wilke, "Musing on Hatch," *NRL News* 8 (November 9, 1981); Jack Wilke, "The Hatch – What if?" *NRL News* 8 (November 23, 1981); "To Senator Helms," April 19, 1982, Morton Blackwell papers, Box 9 f. "American Life Lobby (2)" at Reagan Presidential Library.

We must not become so fixated upon this legal concept that we allow it to inhibit us from pursuing a politically possible strategy to protect the unborn from abortion.”⁵²² Those opposed to the Hatch amendment argued that by granting legislatures the power to regulate abortion, including whether to make it legal or illegal, implicitly affirmed that a fetus is a non-person under the law. The Hatch amendment, to their thinking, ignored the fundamental principle of the pro-life movement.⁵²³

Leaders who supported the Human Life Bill were even more outraged when the National Right to Life Committee voted to endorse the two-step amendment and came out in support of the Hatch amendment on December 11, 1981. Wilke’s behind-the-scenes power plays had paid off in a close vote of thirty board members for the Hatch amendment to twenty-four against. Most of the Board had been persuaded by the same arguments that had caused the Catholic hierarchy to change its position in regards to fetal personhood. In choosing to support Hatch, they chose “to save almost all the babies now, rather than waiting, hoping a culture that kills 1.5 million babies a year now will nevertheless somehow grow pro-life enough to stop all of the killing someday through a simple amendment.”⁵²⁴ Jack Wilke immediately testified about the organization’s support in the Senate subcommittee hearings on the Constitution on the morning of December 16. Later that afternoon, the subcommittee voted the Hatch amendment out to the full Senate Judiciary Committee. It was

⁵²² “The Hatch Amendment: Questions and Quotes,” *NRL News* 9 (January 25, 1982).

⁵²³ See Robert Byrn “In Opposition to the “Two Amendment” Strategy” in Morton Blackwell Papers, box 13, f. “Pro-Life (Continued #2)(3)”; Charles Rice, January 26, 1982 in Morton Blackwell Papers, box 13, f. “Pro-Life (Continued #2)(2)” Ronald Reagan Presidential Library, August 24, 2010.

⁵²⁴ Jack Wilke, “The Hatch – What If?”; David Andrusko, “Senate Subcommittee Approves Hatch Amendment,” *NRL News* 8 (December 21, 1981); David Andrusko, “National Right to Life Committee Board Votes Support for SJR 110: Hatch Could Pass this Session, Wilke Says,” *NRL News* 8 (December 21, 1981); Jack Wilke, “The National Right to Life Committee Board – A Hatch Endorsement!” *NRL News* 8 (December 21, 1981).

the first anti-abortion amendment to make it as far as that committee.⁵²⁵

The same week, a memo leaked from one of Senator Hatch's top aides. Drafted the previous August, the memo argued that a Human Life Amendment would not pass in the current Congress, and went on to detail how Hatch could recruit the National Conference of Catholic Bishops and the National Right to Life Committee to back a compromised federalist amendment, pointing out that without those two organization's support, the federalist amendment had no chance. Pro-life activists who opposed the Hatch amendment referred to the memo as a "smoking gun," claiming that it proved Sen. Hatch had sought to undermine the establishment of fetal personhood by going after two of the nation's largest pro-life organizations. Several major Catholic newspapers used the memo to discredit the Hatch amendment, including *The National Catholic Reporter* and *The Wanderer*, while conservative writer William F. Buckley cited the memo when he wrote an editorial against the Hatch amendment. John Mackey of the *Lifeletter*, the pro-life publication most entrenched in the Helms Human Life Bill camp, claimed that the Catholic bishops were political novices who had been "had."

⁵²⁵ Bill Paterson, "Panel Backs Anti-Abortion Amendment," *The Washington Post*, 19 December 1981, A6.

Diagram II: Pro-Life Divisions, October 1981 to September 1982⁵²⁶

The Human Life Bill Coalition	The Hatch Federalism Amendment Supporters
<ul style="list-style-type: none"> • Ad Hoc Committee in Defense of Human Life, led by John McFadden • March for Life, led by Nellie Gray • American Life League led by Judy Brown • Life Amendment PAC led by Paul Brown • Christian Action Council led by Rev. Curtis Young • Pro-Life Action League led by Joseph Scheidler • U.S. Coalition for Life, led by Randy Engel • Human Life International, led by Father Paul Marx • LIFE PAC, led by Joseph Barrett • Conservative Caucus Led by Howard Phillips • Richard Viguerie • Christian Family Renewal • Christian Voice, Evangelical organization led by Robert Grant. • Coalition for Decency, led by Alabama Senator Jeremiah Denton • Up with Families • Sanctity of Life Foundation • Value of Life Committee led by Joseph Stanton. 	<ul style="list-style-type: none"> • United States Catholic Conference • National Conference of Catholic Bishops • National Pro-Life PAC, led by Father Charles Fiore • National Right to Life Committee led by Jack Wilke • Americans United for Life • North Carolina Right to Life, Massachusetts Citizens Concerned for Life and Minnesota Citizens for Life which David O’Steen led • National Committee for a Human Life Amendment (lobbying arm of Catholic Church) • Committee for the Survival of a Free Congress led by Paul Weyrich. • National Association of Evangelicals • Moral Majority, led by Jerry Falwell • Lutherans for Life • Religious Roundtable, led by James Robison • Adrian Rogers, past president of the Southern Baptist Convention.

Ronald Reagan and his White House staff paid close attention to the movement infighting throughout the fall. In many ways, they had no choice; the pro-lifers had become a thorn in president’s side. Both factions in the movement lobbied Reagan to endorse their strategy, and only their strategy, throughout the fall, but he refused to pick sides

⁵²⁶ For a list of the coalition and its members see “Breakdown of Pro-Life Leaders” in Morton Blackwell papers, Box 13, f. “Pro-Life (Continued) (1),” Reagan Library; also see “Human Life Statute Coalition to the Honorable Ronald Reagan, 30 October, 1981, found in Morton Blackwell Papers, Box 13, f. “Pro-Life (Continued) (1),” Reagan Library; Russell Chaw, USCC Press Release, “Hatch Amendment Supporters See New Unity Among Pro-Life Groups,” April 30, 1982. Found in Morton Blackwell Papers, Box 13, f. “Pro-Life (Continued-#2) (1),” Reagan Library.

in the fight. In the meantime, Republican senators and representatives looked to Reagan to resolve which legislation to take to the Senate first. In the December issue of *Conservative Digest*, Senate Majority Leader Howard Baker said he would not place either the Human Life Bill or Hatch Amendment on the Senate floor until the president indicated which legislation he preferred. Reagan responded that he would not choose either the Hatch amendment or the Helms Human Life Bill until the pro-life movement reached a consensus.⁵²⁷ He reiterated his neutrality at a White House meeting with anti-abortion leaders on the ninth anniversary of *Roe v. Wade*. Tensions ran high going into the meeting. Sen. Tom Eagleton later reported that the president told members of the Pro-Life Congressional Caucus that the movement leaders gathered in the cabinet room were “half in favor of one thing and half in favor of another and they are tearing at each other’s throats.”⁵²⁸

The fight became a matter of numbers to pro-life activists in 1982. Sen. Helms and those who supported him claimed he had fifty-one attainable votes and his Human Life Bill could pass. Those who supported Hatch argued that Helms had only forty-one definite votes, fifty were firmly against the measure, and nine were leaning against it. They also pointed out that even though his bill would require a simple majority to pass, pro-choice Republican Sen. Bob Packwood had vowed to filibuster the bill. To break the filibuster, Helms would have to marshal sixty votes, just seven less than needed to pass a constitutional amendment.

Hatch supporters argued that the federalism amendment had a better chance of passing the Senate because it deferred the hard questions of personhood and exceptions that

⁵²⁷ “President Meets with Prolife leaders,” *NRL News* 9 (January 25, 1982); for James Baker quote see “Worth Quoting,” *NRL News* 8 (December 21, 1981)..

⁵²⁸ Sen. Tom Eagleton. “News from Senator Tom Eagleton,” October 3, 1982, found in Morton Blackwell papers, box 13, f. “Pro-life (Continued - #2) (1),” Reagan Library.

continued to divide the movement. Even Ronald Reagan admitted on January 19, 1982 that the Senate hearings on the Human Life Bill had shown that there was no consensus in America on how to define the beginning of life. The Hatch amendment also appealed to a broader selection of conservatives and Southern politicians, supporters claimed, because it took power away from what they had come to view as an imperial judiciary, and gave that power back to state legislatures and Congress.⁵²⁹ These activists were thrilled when the Hatch amendment became the first anti-abortion constitutional amendment to pass out of the full Senate Judiciary Committee on March 10. Prior to the vote, however, a group of pro-life organizations led by the American Life Lobby and the Christian Action Council lobbied against it. The Christian Action Council went so far as to release a statement on March 1 asking Hatch to withdraw the amendment because it was doomed to fail and was causing harmful divisions in the movement.⁵³⁰

“Right to Life Unity”

“Much is being said today about disunity in the movement,” Jack Wilke wrote in February 1982, but, he pointed out, the movement was more unified than its members thought. He argued that all anti-abortion activists agreed that the ultimate goal was a Human Life Amendment, but by 1982 they also agreed that they would not be able to pass such an amendment through Congress or the states anytime soon. The Human Life Amendment, which had been the main goal of the National Right to Life Committee since 1973, was no longer its top priority in action or word. Wilke acknowledged this when he said that the

⁵²⁹ Jack Wilke, “Which Will it Be – HLA or HLB?” *NRL News* 9 (January 11, 1982); “Reagan tells Reporters No Consensus When Life Begins,” *NRL News* 9 (January 25, 1982).

⁵³⁰ “Hatch urged to give up anti-abortion amendment,” *Los Angeles Times*, 1 March 1982, A1.

antiabortionists first had to “reverse the Court-decreed private right to kill granted to the mother.” Then, it could “return equal rights and equal protection by law to all Americans whether they live in or out of the womb.” What pro-life leaders disagreed over, Wilke believed, was whether to pursue “one or both of two steps on the way” to passing a Human Life Amendment. Wilke was one of the first leaders to grasp that the pro-life movement had shifted to an incremental consensus in the midst of the 1981 battles over the Hatch Federalism Amendment and the Human Life Bill. From that point on, the major questions that would animate the movement’s internal debates were no longer how to establish and protect the legal principle of fetal personhood, but which legislation saved the most unborn lives. Abortion restrictions had begun to trump fetal personhood just as pragmatism trumped principle.⁵³¹

As more and more pro-life leaders and activists came to understand that both pieces of legislation aimed at restricting abortion access, a new consensus emerged. On March 27 and 28, 1981 the National Right to Life Committee Board voted 32 to 16 to support the Hatch amendment as worded, the latest version of the Human Life Bill with the National Right to Life Committee “unity” amendment.⁵³² The sixteen holdouts continued their opposition to the Hatch amendment and favored the Human Life Bill. Following the vote, Wilke urged all pro-life leaders to unite behind whichever bill made it to the Senate floor first. He immediately wrote to Ronald Reagan claiming the National Right to Life Committee had done what he asked pro-life leaders to do in January: they had resolved their differences, and were ready to present a united front.

⁵³¹ Jack Wilke, “Right to Life Unity,” *NRL News* 9 (February 8, 1982).

⁵³² Jack Wilke, “Spirit of Unity Pervades National Right to Life Committee Board Meeting,” *NRL News* 9 (April 8, 1982).

President Reagan responded to the various pro-life factions by writing a letter on April 5. "I hope that these differences will be resolved in favor of the common goal," he wrote. He, too, wanted the 97th Congress to pass some form of legislation to "restore protection of the law to children before birth."⁵³³ Within ten days, activists from all the major Christian Right organizations came down on the side of pro-life unity, and most followed the National Right to Life Committee's example in endorsing both pieces of legislation. Moral Majority president Jerry Falwell approved both initiatives on April 14 in order "to help break the paralysis that has threatened the successes of the prolife movement." The National Association of Evangelicals, the Southern Baptist Convention, Prolife Ministries, Lutherans for Life, and James Robinson of the Religious Roundtable also supported both measures. By May, New Right leaders Paul Weyrich, Howard Phillips, Richard Viguerie and Connie Marshner joined the ranks of conservatives supporting both measures. On May 24, Jack Wilke announced to the press that while the anti-abortion movement had been divided over whether to back the Hatch Federalism Amendment or Helms' Human Life Bill for most of 1981 and the first half of 1982, now "the movement [was] rapidly coming together in favor of both."⁵³⁴

Even then, some national organizations held out and refused to back the Hatch amendment. Members from over forty organizations who had formed the original Human Life Bill coalition wrote to Jesse Helms on April 19 urging him to support the strongest possible version of the Human Life Bill and move it to the floor as soon as possible. They

⁵³³ Ronald Reagan letter to Jack Wilke, 5 April 1983, *NRL News* 9 (April 22, 1982).

⁵³⁴ Dave Andrusko, "Reagan's Plea Unifies Protestant Leaders," *NRL News* 9 no. 6 (March 1982); Jack Wilke, "Unity is Busting Out All Over," *NRL News* 9 no. 8, (April 1982) Dave Andrusko, "New Right Leaders Echo Pres. Reagan's Support of Hatch and Helms Proposals," *NRL News* 9 (May 1982); Robert Pears, "Hatfield Bill Would Bar Federal Abortion Funds," *New York Times* May 24, 1982, A11.

said that if Helms could place the Human Life Bill on the Senate calendar, the pro-life movement and the Christian Right would unite behind it. Among those organizations were some of the sixteen National Right to Life Committee state leaders who opposed the Hatch amendment.⁵³⁵

Soon the debate about strategy ceased to matter. In the summer of 1982, Sen. Helms came to the conclusion that the Human Life Bill as written would not be able to override a filibuster that Senator Packwood and other allies of NARAL and Planned Parenthood had already organized; too many senators believed a bill seeking to overturn a Supreme Court decision was unconstitutional. In August, Helms proposed a new Human Life Statute as an amendment to the debt ceiling bill. The new version was significantly more moderate. Rather than defining and protecting fetal personhood, the bill included a non-binding statement that fetuses were human beings and that the Supreme Court erred in its 1973 *Roe* decision. It then sought permanently to ban all government funding of abortion and abortion referral services, prohibit federal employee's health insurance for paying for abortions, and stop the use of federal funds for abortion-related research. When reflecting on the bill, Peter Gemma of the National Pro-Life PAC told the press, "We'll take anything we can get at this point."

As promised, Republican Sen. Robert Packwood filibustered the bill, and under heavy pressure from the Christian Right and pro-life movements, President Reagan became involved. In a telling August 17 legislative meeting, many of Reagan's staff urged him not to use his political capital on a fight they were sure he was going to lose. They argued that he

⁵³⁵ Individual National Right to Life Committee members who joined the Human Life Bill Coalition include: Nellie Gray of March for Life; Jane Muldoon of Michigan Right to Life; Ann O'Donnell of Missouri Citizens for Life; Charlotte Goodwin of New Mexico Right to Life; Marianne Rea-Luthin, President of Massachusetts Citizens for Life; Mrs. Anna Sullivan, Rhode Island Right to Life; Helen De Witt, Kansas Right to Life; Madeline Appleby, New Hampshire Voters for Life; Joseph MacPherson, Maryland Right to Life. See "To Senator Helms," April 19, 1982, Morton Blackwell Papers, Box 9 F. American Life Lobby (2), Reagan Library.

could stay out of it by maintaining, as he had throughout 1981 that he would not lobby for any anti-abortion legislation unless the pro-life movement was united behind it. Reagan apparently agreed, for his involvement was limited at best. In the first week of September Reagan wrote to nine moderate senators asking them to break Packwood's filibuster. He did not ask them to support the bill, but only to allow a vote to be taken on it. His efforts were fruitless. On September 17, fifty senators voted to sustain the filibuster and forty-nine voted against it. Helms' Human Life Bill, even in its weaker form, failed by eleven votes.⁵³⁶

Following the bill's failure, the entire pro-life movement united behind the Hatch Federalism Amendment; even hard line activists who had backed Helms' bill understood that establishing fetal personhood was a goal beyond their reach. On June 28, 1983 Hatch's amendment was also defeated on a vote of fifty to forty-nine.⁵³⁷ It fell short by eighteen votes.

Aftermath

Anti-abortion activists from the local to the national level recognized that the failure to pass any version of the amendment under President Reagan and a Republican Congress was decisive; they would not be able to pass an anti-abortion constitutional amendment in the near future, or perhaps in their lifetimes. The result was a terrible loss of direction in the movement and great pain and disillusionment from that loss. In response, activists shifted their focus back to state and local politics, only turning back to the national level during

⁵³⁶ Bill Peterson, "Parliamentary Jockeys Maneuver for Lead on Anti-Abortion Bill," *Washington Post*, August 18, 1982, A8; Lyle Denniston, "President supports anti-abortion bill," *The Sun*, 9 Sept. 1982, A1; Steven V. Roberts, "Reagan Backs Anti-Abortion Bill as Opponents Resume Filibuster." *New York Times*, 9 September 1982 A24.

⁵³⁷ "Anti-Abortion Bill killed in the Senate," *Los Angeles Times*, 29 June 1983 A29.

presidential elections and Supreme Court appointments. It was already apparent in 1983 to some anti-abortion activists and abortion-rights proponents that the shift back to the states was fraught with complications, as the former created new forms of protest and outlets to vent the frustration and pent-up energy that accompanied an incremental approach. Rather than resolving the abortion debate, the Human Life Amendment failure escalated the stakes and emotional tenor of the abortion war. Leaders of the anti-abortion movement sought to understand and live with a contradictory and creative tension: grassroots anti-abortion activists became more militant in their rhetoric and actions by a shift to clinic protests and violence even as the national leadership embraced an incremental and gradualist political approach.

In 1984, J.C. Wilke and Ronald Reagan released two key publications, now anti-abortion classics, which sought to encourage a new militancy while also embracing an incremental approach prior to Reagan's re-election campaign. Both publications drew on the problematic abortion - slavery analogy. Since the 1973 *Roe v. Wade* decision, black and white anti-abortion leaders had used that analogy to dispute charges of racism, point to larger systems of black oppression, recruit members of the black clergy, and launch a critique of some abortion-rights organizations' roots in and alliances with the eugenics movement. The analogy was politically potent, and it served many purposes. Reagan and Wilke, however, rearranged the analogy to meet the needs of the contemporary mainstream movement in 1984. In *Abortion and Slavery*, Wilke posited the anti-abortion movement as the heir to the abolitionist legacy, while in *Abortion and the Conscience of a Nation* Reagan tied Wilke's abolitionist and anti-abortion legacy to a Republican Party that had honored human life and dignity since its 1860 founding. Wilke and Reagan compared *Roe* to the 1857 *Dred Scott*

decision, arguing that both Supreme Court decisions turned on a question of personhood. Wilke wrote that fetuses, like the slaves in the *Dred Scott*, case were unjustly considered non-persons under the law.⁵³⁸ Reagan emphasized the long process of justice in order to encourage activists after the 1983 Human Life Amendment failure. He wrote that the *Dred Scott* decision “was not overturned in a day, or a year, or even a decade. At first, only a minority of Americans recognized and deplored the moral crisis brought about by denying the full humanity of our black brothers and sisters; but that minority persisted in their vision and finally prevailed.”⁵³⁹ Taken together, Wilke’s and Reagan’s statements helped pro-lifers move from a mindset that sought to overturn *Roe v. Wade* in one to ten years to an incremental movement that would span forty to sixty years, or whatever time period was necessary to defeat legal abortion. Reagan also made clear that the Republican Party would continue to support the cause during that long period.

Reagan wrote, “Abraham Lincoln recognized that we could not survive as a free land when some men could decide that others were not fit to be free and should therefore be slaves.” He concluded that, “Likewise, we cannot survive as a free nation when some men decide that others are not fit to life and should be abandoned to abortion or infanticide.”⁵⁴⁰ These were bold and divisive words from a president rallying supporters on the eve of his re-election campaign. If activists could not reconcile the conflict through civil discourse, as Reagan urged, his rhetoric pointed to and arguably justified the use of violence to achieve the moral good. As the Civil War freed the slaves, some anti-abortion activists argued, so too

⁵³⁸ Jack Wilke, *Abortion and Slavery: History Repeats*. (Cincinnati, Ohio: Hayes Publishing Company, Inc. 1984).

⁵³⁹ Ronald Reagan, *Abortion and the Conscience of a Nation*,(Nashville: T. Nelsom, 1984).

⁵⁴⁰ Ibid.

would they have to use violence to save the unborn.

Violence had already erupted prior to Reagan's release of *Abortion and the Conscience of a Nation* in 1984. Incidents of bombing and arson increased from four in 1982 to twenty-six in 1984.⁵⁴¹ For the first time, a small but highly organized group of pro-life activists planned a series of clinic bombings and arsons to stop abortion on the grounds that the political process was failing. Led by Michael Bray, who would eventually establish the Army of God, they would become the anti-abortion underground. In 1982, Don Benny Anderson and Matthew Moore set fire to two abortion clinics in Florida and bombed a clinic in Virginia. The same year, Matthew Moore and his brother Wayne kidnapped an Illinois abortion provider and his wife. Following the Human Life Amendment failure, the number of clinic arsons and bombings increased. In 1984, Kenneth Shields and Thomas Finks set fire to seven clinics in Virginia, Delaware, and Maryland and bombed another three clinics in Virginia and Maryland. Curtis Beseda also set fire to three abortion clinics in Washington that year while ten other unsolved clinic arsons occurred in Texas, Georgia, and California. The year came to a close when Matthew Goldsby and James Simmons bombed three clinics in Florida on Christmas morning.⁵⁴²

A more militant clinic sit-in movement that also participated in clinic property damage rose alongside the clinic violence. In 1985, Illinois Right to Life member and Pro Life Action League founder Joseph Scheidler published *Closed: 99 ways to stop Abortion*. In it, Scheidler urged grassroots activists to save as many fetuses as possible by targeting abortion providers through legal and illegal activities. For example, Scheidler recommended

⁵⁴¹ National Abortion Federation, "NAF Violence and Disruption Statistics: Incidents of Violence and Disruption Against Abortion Providers in the US and Canada," 1991 accessed at <http://www.prochoice.org/about_abortion/violence/violence_statistics.html>, 18 May 2013.

⁵⁴² Ibid.

placing glue in the locks of abortion clinic doors, an action that delayed a clinic's opening and gave more time to anti-abortion "sidewalk counselors" to approach a woman waiting for her abortion and potentially change her mind. "Pro-life activists cannot wait for the legislative and judicial process that will make abortion illegal," wrote Scheidler following the Human Life Amendment failure. "The activist has to save lives now."⁵⁴³ The same year that Scheidler released his book, eighty-five percent of abortion providers in the United States reported some form of anti-abortion protest and harassment.⁵⁴⁴ These activities varied from clinic pickets and illegal clinic sit-ins to hate mail and harassing phone calls.

Clinic protests also helped to mobilize the fundamentalist Christians who were relatively new to the pro-life movement and impatient with the incremental political strategies that the National Right to Life Committee had begun to champion. In 1986, Terry Randall founded Operation Rescue. To save as many fetuses as possible, he wanted to organize what he called clinic blockades. By gathering hundreds of activists willing to risk arrest, Randall hoped to shut down an abortion provider for a day, a week or however long Operation Rescue could maintain a pro-life siege. At that point in time, the largest clinic sit-in occurred in St. Louis when police arrested 106 people. On November 28, 1987 Operation Rescue launched its first blockade at Cherry Hill Women's Clinic in New Jersey. Three hundred right to life activists blocked the clinic's entrance. In 1988, it laid siege to clinics in Atlanta, Georgia during the Democratic National Convention in Atlanta Georgia.⁵⁴⁵ By that point in time, Operation Rescue had gained the endorsements of Christian Right leaders Jerry

⁵⁴³ Joseph Scheidler, *Closed: 99 Ways to Stop Abortion* (Lake Bluff, IL : Regenery Books ; Westchester, IL 1985), Introduction.

⁵⁴⁴ Alesha E. Doen, *Opposition and Intimidation: The Abortion Wars and Strategies of Political Harassment* (Ann Arbor: University of Michigan Press, 2007), 23.

⁵⁴⁵ Randall Terry, *Operation Rescue*, (Pittsburgh, PA: Whitaker House, 1988), 22-25.

Falwell and Pat Robertson. "I believe that non-violent civil disobedience is the wave of the future for the pro-life movement in this country," wrote Jerry Falwell In 1988. "After fifteen years of various efforts to judicially and legislatively reverse *Roe v. Wade*, Operation Rescue is a breath of fresh air."⁵⁴⁶ The organization achieved its greatest success in Wichita, Kansas during the "Summer of Mercy" in 1991, a sixty-day protest aimed at later term abortion provider Dr. George Tiller. Wichita police arrested 2,700 people during the protest, many of whom police arrested multiple times.

The momentum of the clinic violence and sit-ins that had been building throughout the 1980s culminated in a series of murders of abortion providers in 1993 and 1994. On March 10, 1993, Michael Griffin shot and killed David Gunn, a Pensacola, Florida abortion provider. In August 1993, Rachelle Ranae (Shelley) Shannon attempted to kill Dr. George Tiller in Wichita, Kansas. The two shootings prompted Congress to pass the Freedom of Access to Clinic Entrances Act in May 1994. The federal law prohibited any attempts to physically stop a person from entering a clinic and any activities that made it dangerous to enter a clinic. Trespassing on clinic grounds, a staple of sit-in activism since 1975, was now a federal crime. The law also made threats of violence, incidents of clinic arson and bombing, and stalking of clinic staff federal crimes.⁵⁴⁷

The violence continued anyway. On July 29, 1994, Paul Hill murdered Dr. John Bayard Britton and his escort, James Barrett, while severely wounding Barrett's wife, June. Britton had taken over Dr. David Gunn's position at the Pensacola Clinic. President Clinton called the murder an act of domestic terrorism. Still, the year closed with another series of clinic staff murders. On December 30, 1994, John C. Salvi III shot and killed a receptionist at

⁵⁴⁶ Jerry Falwell, *Operation Rescue* (Pittsburgh, PA: Whitaker House, 1988), Foreword.

⁵⁴⁷ Risen and Thomas, *Wrath of Angels*, 345-366.

Planned Parenthood's Brookline, Massachusetts' clinic. Salvi injured three other clinic staff before he fled the scene and drove two miles down the road to Brookline's Preterm Health Service, where he shot and killed another clinic receptionist and injured two more clinic staff. He then drove one hundred and eighty miles south to Norfolk, Virginia where he fired two-dozen rounds into a building that housed that city's Planned Parenthood clinic before police caught him. Since then, there have been five attempted murders of abortion providers and three more murders. On January 29, 1998, Robert Sanderson died of injuries sustained during a bombing of the New Woman All Health Care in Birmingham, Alabama. Nurse Emily Lyons was also wounded in the bombing. The same year, on October 23, anti-abortion activist James Kopp fired a rifle shot into the home of Dr. "Bart" Slepian, an abortion provider for Buffalo GYN Womenservices, Inc in New York. Dr. Slepian died two hours later.⁵⁴⁸ On May 31, 2009, Scott Roeder walked into Wichita's Reformation Lutheran Church and shot Dr. George Tiller, who was ushering, in the head. Dr. Tiller died instantly.⁵⁴⁹

The violence against clinics by a small but militant group of anti-abortion activists was closely related to the mainstream movement's inability to make abortion illegal and establish fetal personhood. For the small minority of Americans who believed that a fetus was a person from the moment of conception and that all abortion was murder, nothing less than a total ban on abortion would suffice. What was striking, however, was that the violence against clinics has continued despite the pro-life movement's numerous incremental policy victories since 1983. Social movements typically resort to violent tactics when shut out of the

⁵⁴⁸ Baird-Windle, Patricia and Eleanor J. Bader, *Targets of Hatred: Anti-Abortion Terrorism* (New York: Palgrave, 2001), 298-302 and 314-317.

⁵⁴⁹ Stephen Singular. *The Wichita Divide: The Murder of Dr. George Tiller and the Battle over Abortion* (New York: St. Martin's Press, 2011), 8-9.

political process or if activists face severe government repression for attempting to change the system. The mainstream pro-life movement has made more inroads into the Republican Party and was a more pivotal actor in American politics in the 2000s than it was in 1983. But clinic protests and violence are not aimed specifically at the government, but at the public actions of private citizens. Taken together, the clinic protests and violence were a strategy of political harassment designed to change the behavior of clinic staff and abortion providers. As such, they have complimented incremental political efforts aimed at stopping the practice of abortion through public regulation. Both “streams” of pro-life activism thus have attempted to stop abortion in the here and now regardless of its legality.⁵⁵⁰

⁵⁵⁰ Alesha Doan, *Opposition and Intimidation: The Abortion Wars and Strategies of Political Harassment* (Ann Arbor: University of Michigan Press, 2007), 23-25, 30.

CONCLUSION

“Personhood is the Pro-Life Battleground of the Twenty-First Century”⁵⁵¹

In 2011, Georgia Right to Life president Daniel Becker published *Personhood: A Pragmatic Guide to Pro-life Victory in the 21st Century and the Return to First Principles in Politics*. Becker’s goal was to introduce a younger generation of pro-life activists to what he believed was the movement’s first principle: fetal personhood.⁵⁵² The situation was desperate because the younger activists, who now made up the majority of the movement, had little or no knowledge of the history of the movement in the 1960s and 1970s. Few of these new activists questioned the pro-life movement’s alliance with the Republican Party and the social conservative coalition. They also took for granted that the pro-life movement’s major political efforts focused on making abortion illegal or difficult to obtain, not a constitutional amendment establishing fetal personhood. Becker pointed out that knowledge of the movement’s history and its founding principles were passing away as the pro-life movement’s founders died: Mildred Jefferson passed away in 2010, Ellen McCormack in 2011, and Nellie Gray in 2013. “I firmly believe that the predominant prolife movement failed to achieve its desired legal, political, and cultural objectives when it abandoned Personhood as a strategy in the late 1970s,” Becker wrote. “Personhood is the prolife

⁵⁵¹ Daniel Becker, *Personhood: A Pragmatic Guide to Pro-life Victory in the 21st Century and the Return to First Principles in Politics* (Alpharetta, Ga. : TKS Publications, 2011), 23-24, 73.

⁵⁵² *Ibid.*, 20.

battleground of the twenty-first century.”⁵⁵³

In order to bring the pro-life movement back to this fundamental issue, Becker resurrected the Human Life Amendment in 2005. This time, he and activists from Arkansas, Colorado, Georgia, Kansas, Michigan, Mississippi, and Montana would pursue the amendment at the state level. To pass state Human Life Amendments, Becker urged pro-life activists to tighten their anti-abortion demands on Republican politicians. If the politicians’ opposition to abortion was grounded in the belief that abortion took an innocent fetal life, as most pro-life politicians claimed, Becker reasoned that these politicians should not allow any rape or incest exceptions for abortion. Becker believed that a fetal life should not be forfeited due to the nature of its conception. His new challenge to candidates was meant to sort the true pro-life Republicans from those who were pro-life in name only.

Becker was not the only pro-lifer looking for ways to make the Republican Party more responsive to hard-line anti-abortion demands in the early 2000s; pro-family icon and organizer Phyllis Schlafly had also come to Becker’s conclusions. While Becker focused on implementing his strict campaign test in Georgia, Schlafly began to coordinate a national campaign: “We must strive for 100 percent pro-life candidates, no exceptions, no compromise,” she wrote in 2003.⁵⁵⁴ To accomplish this goal, she instructed the Republican National Coalition for Life, an organization she founded in 1990, to endorse only Republican candidates willing to support fetal personhood and a constitutional amendment that outlawed all abortions with no exceptions. If what Schlafly referred to as a nominal pro-life

⁵⁵³ Ibid., 23-24, 73.

⁵⁵⁴ Phyllis Schlafly and Colleen Parro, “The Party or the Movement?: Principle or Pragmatism?” in *Back to the Drawing Board*, 168.

Republican ran in the primaries, National Coalition for Life members were to defeat that candidate by electing a Republican who supported fetal personhood. Recent scientific advances, especially the possibility of human cloning, helped to fuel Schlafly's defense of fetal personhood in the early 2000s. "Our cause is greater than abortion alone," Schlafly asserted. "We must establish once and for all that our objective is to restore respect and protection to each and every human life from conception, or in the case of a human clone, from inception."⁵⁵⁵

Becker's and Schlafly's strategies shook the pro-life movement between 2001 and 2010, and shattered a consensus that had ruled the National Right to Life Committee since the failure of the Human Life Amendment. That consensus was built on two pro-life strategies that brought grassroots initiatives of the 1970s into the present: to outlaw later-term abortions, creating a foothold for legal efforts seeking to overturn *Roe v. Wade* by making some abortions illegal, and to target abortion providers through regulations and constant clinic picketing. The best way to stop legal abortion, National Right to Life Committee Executive Director Dr. David N O'Steen and legal counsel James Bopp, Jr. argued, was to regulate the procedure to death. If right to life activists could not make abortion illegal again, they were going to do everything possible to make it unavailable.

These incremental strategies have been, and continue to be, successful. Today abortion providers worry most about what they call TRAPS (Targeted Regulation of Abortion Providers).⁵⁵⁶ TRAPS vary in form and enforcement. As of May 2013, thirty-five states have passed informed consent laws that follow the example first set in the Akron, Ohio

⁵⁵⁵ Ibid., 170.

⁵⁵⁶ Carol Joffe. *Dispatches from the Abortion Wars: The Costs of Fanaticism to Doctors, Patients and the Rest of Us* (Boston: Beacon Press, 2009), 63.

city ordinances of 1979. Twenty-seven of these states require that providers give women specific details about abortion and fetal life. Of these states, six mandate that providers give women information that inaccurately portrays the risk of abortion to their future fertility, and five states inaccurately assert a link between abortion and an increased risk of breast cancer. Thirty-three states require that providers tell a woman the gestational age of the fetus before her abortion.⁵⁵⁷ Twelve states require providers to include information on accessing ultrasound services, two of which require a woman to view an ultrasound of the fetus.⁵⁵⁸ In addition to informed consent laws, twenty-six states mandate a waiting period between eighteen and seventy-two hours between the counseling and the actual procedure.⁵⁵⁹ Thirty-eight states also require parental involvement in a minor's abortion. Of these states, twenty-one require parental consent to the procedure, twelve require parental notification only, and five require both.⁵⁶⁰

Right to life activists continue to pursue these regulations today for the same reasons they did in the 1970s: by placing as many barriers between a woman and an abortion provider, the activists hope to make abortion so difficult to obtain that a woman facing an unintended pregnancy will choose to carry her pregnancy to term, thus saving a fetus. These regulations continue to affect poor, minority, rural and underage women's access to abortion disproportionately compared to American women living in major cities and with more

⁵⁵⁷Guttmacher Institute, "State Policies in Brief: Counseling and Waiting Periods for Abortion," <http://www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf>; May 1, 2013; accessed 20 May 2013.

⁵⁵⁸ Guttmacher Institute, "State Policies in Brief: Requirements for Ultrasound," May 1, 2013, <http://www.guttmacher.org/statecenter/spibs/spib_RFU.pdf>; accessed 20 May 2013.

⁵⁵⁹ Guttmacher Institute, "State Policies in Brief: Counseling and Waiting Periods for Abortion," <http://www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf>; May 1, 2013; accessed 20 May 2013.

⁵⁶⁰ Guttmacher Institute, "State Policies in Brief: Parental Involvement in Minor's Abortions," May 1, 2013, <http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf>, accessed May 21, 2013.

financial resources. As they have in the past, right to life activists today draw upon charges of minority genocide and population control to justify TRAPS. They continue to position their movement as champions of poor and minority communities because they champion the rights of poor and minority fetuses.

Since these incremental tactics have been so successful, movement leaders did not anticipate the mid-2000s hard line challenge and the re-emergence of the Human Life Amendment. Former National Right to Life Committee President Jack Wilke wrote with confidence in 2003 that “The vast majority of pro-life leadership today sees such a single step as an impossible task, that if pursued relentlessly, would bear no fruit except full defeat and therefore the continuation of abortion-on-demand.” According to Wilke, most pro-lifers understood that, “the battle can only be won by incremental victories, which will slowly change the mind of our nation.” Jack Wilke fully expected what he called a “committed, vocal, and sincere minority” that championed fetal personhood and a total ban on abortion to remain a minority with little to no power in the larger right to life movement.⁵⁶¹

Georgia Right to Life President Daniel Becker was one of those minority members at the outset of the 2000s. When he first shared the state Human Life Amendment strategy with National Right to Life Committee leaders in 2001, one leader quickly warned him off it. To incremental leaders, Becker’s arguments for state Human Life Amendments showed a dangerous political naiveté about the movement and American society reminiscent of the 1970s.⁵⁶² They had since learned better, and expected younger anti-abortion activists not to

⁵⁶¹ Wilke, “A History of Pro-Life Leadership,” in *Back to the Drawing Board*, 128.

⁵⁶² Schlafly’s involvement and decision to re-prioritize fetal personhood was harder to dismiss, especially since much of her work was through back channels in the Republican Party and at the grassroots precinct level. See Mark Geitzen interview by Jennifer Donnally, December 10, 2009.

repeat their mistakes. These leaders remembered the bitter internal fights over fetal personhood, and why the Human Life Amendment failed in 1983. Even if the movement had remained united, they claimed, it was as clear in 2001 as it was in 1981 that the general American public would not support an amendment establishing fetal personhood from the moment of conception. The leaders pointed out that public opinion polls in 1973 showed that twenty percent of Americans believed that abortion was wrong in all situations and would not allow it in cases of rape and incest. In 2008, polls continued to show the same percentage, a constant that was remarkable after more than thirty years of pro-life education and political mobilization.⁵⁶³ Any abortion ban that did not include exceptions for rape and incest, incrementalists were certain, would fail when opposed by eighty percent of the population. Why were Becker and Schlafly re-popularizing the hard line abortion position that insisted on fetal personhood? they asked. Shouldn't they be focusing on drafting restrictive legislation that could gain the support of the majority of Americans who were not polarized by the issue? Becker and Schlafly, in reply, pointed to the same Gallup poll numbers to prove that the incremental strategies were not working: abortion was still legal and in their minds largely available after thirty years of pro-life activism, twenty of which focused on incremental restrictions. It was time to shake things up and re-evaluate the political trajectory of the movement they argued.

Perhaps what was most upsetting to National Right to Life Committee leaders in 2001 was that Becker's arguments for more extreme goals had the potential to seduce a younger generation of pro-life activists away from the incremental strategy just when the movement was about to pass the "partial-birth abortion" ban. The ban on partial-birth abortion (a phrase

⁵⁶³ Carole Joffe, *Dispatches from the Abortion Wars*, 4.

coined by National Right to Life Committee leader Douglas Johnson in 1995), outlawed a form of second semester abortion that medical experts referred to as “intact dilation and extraction.” Abortion providers and the medical community argued that the procedure was the safest for women in certain situations. The pro-life campaign against this particular method was about something bigger than the actual procedure, according to Douglas Johnson. “As the public learns what a 'partial-birth abortion' is, they might also learn something about other abortion methods, and . . . this would foster a growing opposition to abortion.”⁵⁶⁴ Unlike previous pro-life legal challenges that used incremental legislation to restrict a woman’s access to abortion, the partial-birth abortion ban sought to outlaw a specific abortion procedure. If the ban passed and the Supreme Court approved it, right to life lawyers believed it would lay the foundations for a legal challenge to *Roe* precisely because it criminalized a type of abortion rather than restricting access to the procedure.

Beginning in 1995, pro-life leaders in various states passed partial-birth abortion bans, including Ohio and Nebraska. Then in 2000, the U.S. Supreme Court overturned a Nebraska partial-birth abortion ban statute for being too vague in the 5-4 *Stenberg v. Carhart* decision. That same year, Republican presidential candidate George W. Bush promised he would appoint pro-life Supreme Court Justices and would sign the federal ban on partial-birth abortion that President Clinton had vetoed in 1995 and 1997.⁵⁶⁵ When Bush won the presidency in 2000, incremental leaders fully expected the federal abortion ban to pass. Many Republican insiders and conservative leaders thought that Supreme Court Justice Sandra Day O’Conner might retire, and pro-life leaders hoped that Bush would replace her with a

⁵⁶⁴ Julie Rovner, “‘Partial Birth Abortion:’ Separating Fact from Spin,” National Public Radio, <<http://www.npr.org/2006/02/21/5168163/partial-birth-abortion-separating-fact-from-spin>>; accessed 24 May, 2013.

⁵⁶⁵ *Ibid.*

staunchly pro-life justice. Since O'Connor cast the crucial swing vote in the *Stenberg v. Carhart* decision, her replacement could change the court's make-up profoundly. With a favorable changes in Washington pending, incremental leaders felt it would be a tragedy of the highest proportion if history repeated itself and the movement erupted into divisions over fetal personhood again and failed to pass any anti-abortion legislation under George W. Bush. To discourage Daniel Becker from introducing a Human Life Amendment, National Right to Life Committee leaders told him that the press and their Republican allies would label him an "extremist," and that he would do more harm to the movement than good.

Becker ignored their advice and continued to lay the groundwork for a Human Life Amendment campaign in Georgia. While working for the partial-birth abortion ban campaign held the pro-life movement together between 2001 and 2007, tensions were again mounting between hard line and incremental activists as other states also began to ask for constitutional amendments. In November 2003, President George W. Bush signed into law the Partial-birth Abortion Ban after a Republican-controlled Senate and House passed the legislation. Pro-choice activists immediately challenged the ban. In 2005, right to life activists in Mississippi introduced the Ultimate Human Life Amendment as a ballot initiative and lost. One year later, Cal Zastrow of Michigan Citizens for Life, a National Right to Life Committee affiliate, introduced another state version of the Human Life Amendment. It too failed.⁵⁶⁶ In 2005, Sandra Day O'Connor announced her resignation from the Supreme Court, and three months later Chief Justice William Rehnquist passed away. Bush appointed John Roberts to replace Rehnquist as Chief Justice and Samuel Alito to replace O'Connor. In 2007, the new court upheld the federal partial-birth abortion ban in *Gonzalez v. Carhart*. Roberts and Alito

⁵⁶⁶ Daniel Becker, *Personhood*, 35; "State Personhood Amendments," found at <<http://amendments.personhood.info/state/#MS>>; accessed 24 May 2013.

joined the five-member majority in the opinion.

Following that victory, the pro-life movement divided over the issue of fetal personhood for the third time in its history. On March 20, a month before the Supreme Court released *Gonzalez v. Carhart*, Daniel Becker and Georgia Right to Life sponsored a resolution calling for the adoption of a Paramount Human Life Amendment in the state constitution, using the same wording that the National Right to Life Committee had adopted in October 1982. A few months later, activists in Colorado, Montana, and Oregon placed Human Life Amendment initiatives on their 2008 state ballots. Kristi Burton of Colorado for Equal Rights led her state's ballot initiative, which caused a schism in Colorado Right to Life. Burton held that state activists were either for fetal personhood and a total abortion ban or they were not truly pro-life. Burton and her allies then created a sensation in pro-life and conservative circles when they criticized Focus on the Family leader James Dobson for not endorsing her ballot initiative because the amendment did not provide exceptions for rape and incest. In response to Burton's attacks, James Bopp, Jr., a legal counsel for the National Right to Life Committee, Focus on the Family, and the Family Research Council, published a paper in the summer of 2007 attacking any and all state constitutional efforts.⁵⁶⁷ The National Right to Life Committee Board refused to endorse the state amendment strategy.⁵⁶⁸ By taking a position that only a minority of the population shared, and without full pro-life movement support, all of the 2008 ballot initiatives failed. In Colorado only twenty-seven percent of voters supported the state Human Life Amendment.

The animosity of the National Right to Life Committee's board towards state Human Life Amendments caused Keith Mason, a young South Dakota activist, and Cal Zastrow of

⁵⁶⁷ Becker, *Personhood*, 90.

⁵⁶⁸ Joffe, *Dispatches from the Abortion Wars*.

Michigan Citizens for Life to found Personhood USA in 2008. The new organization promised to introduce and pass personhood amendments using state ballot initiatives. In a campaign reminiscent of Ellen McCormack's 1977 constitutional convention call, Personhood USA is currently working to pass Human Life Amendments in two-thirds of the states through ballot initiatives or legislation. According to Becker, they are not adopting the "all or nothing" approach of earlier hardliners; he called state amendments the "all-or-something" approach, and considered them in line with incremental strategies. While awaiting a federal Human Life Amendment, Becker argued, states could pass their own amendments acknowledging fetal personhood and banning abortions. This line of reasoning eventually won over the National Right to Life Committee Board, which endorsed the state Human Life Amendment strategy in 2010, paving the way for another incremental consensus within the movement.⁵⁶⁹

Recent legislation in various states shows the results of this emerging period of pro-life consensus. In February 2013, the Arkansas legislature adopted a law restricting access to abortion past the twelfth week of pregnancy, when doctors could first detect a fetal heartbeat. In March 2013, the North Dakota legislature passed and the governor signed into law a series of anti-abortion bills. One outlawed most abortions past the sixth week of pregnancy. The second law banned all abortions past the twentieth week of pregnancy except those intended to save the life of a woman. A third bill severely restricted the use of tax money for family planning in government-mandated insurance plans. The fourth and final piece of legislation placed the Human Life Amendment on the 2014 state ballot initiative.⁵⁷⁰

⁵⁶⁹ Becker, *Personhood*, 82.

⁵⁷⁰ David Crary. "Rivals prepare for legal battle over abortion bans," Associated Press Online, March 31, 2013; Erik Eckholm, "Arkansas's Abortion ban and One Man's Strong Will," *The New York Times*, 12

However, tensions have continued between hard line and incremental activists. In April 2013, incremental state leader and National Right to Life Committee affiliate Kansans for Life successfully lobbied for and passed a sweeping anti-abortion bill. Rather than pursue an outright abortion ban, as activists in North Dakota and Arkansas had done, Kansans passed legislation similar to Jesse Helms' Human Life Bill. The legislation states as a principle that human life begins at fertilization and does not include exceptions for rape or incest, but it provides no means of enforcement. In an attempt to ensure the law's constitutionality, it includes a clause that any rights conferred by fetal personhood will be limited by the Supreme Court's rulings over questions of abortion access. Kansans for Life representatives told the national press that they didn't think the Arkansas and North Dakota laws were the best strategy for the pro-life movement. They believed it was better to pass legislation that the courts could potentially uphold rather than directly challenge *Roe v. Wade*. Kansans for Life leaders said that pro-life activists should keep chipping away at the decision, and keep piling on regulations for abortion providers. The North Dakota and Arkansas laws cannot be enforced due to court injunctions.⁵⁷¹

Today, forty years after the *Roe v. Wade* decision, the American public continues to

March 2013, A11.

⁵⁷¹ John Hanna, "Kansas Governor Signs Sweeping anti-abortion bill," *The Associated Press*, April 19, 2013; David Kelly, "Kansas Measure Tightens rules on abortion; lawmakers pass with more limits. It also says life starts at fertilization," *Los Angeles Times*, 7 April 2013, A12. David Crary. "Rivals prepare for legal battle over abortion bans," Associated Press Online, March 31, 2013; Erik Eckholm, "Arkansas's Abortion ban and One Man's Strong Will," *The New York Times*, 12 March 2013, A11. John Hanna, "Kansas rejects rape, incest exceptions for abortion," Associate Press, March 19, 2013. Cheryl Wetzstein, "'Heartbeat,' 'personhood' bills reveal pro-life split; Activists attack abortion at state level." *The Washington Times*, 2 April 2013, A1. Michael Muskai, "U.S. judge blocks Arkansas abortion law," *Los Angeles Times*, May 18, 2013, A14. Michael Muskai, "North Dakota abortion law is blocked," *Los Angeles Times*, 23 July 2013, A8. Erick Echolm, "Abortion Restrictions Go Too Far, Judge Rules," *The New York Times*, 23 July 2013, A10.

favor legal abortion. A January 2013 Pew Research Center report and public opinion poll found that despite forty years of pro-life mobilization, a majority of Americans and Republicans approve of the *Roe v. Wade* decision. Fifty-five percent of Americans polled said that abortion should be legal in most if not all cases, compared to forty percent who believed it should be illegal in all cases. The same poll found that forty-eight percent of Republicans wanted to uphold the *Roe* decision compared to forty-four percent of Republicans who wanted the decision overturned.⁵⁷²

To overcome the public's support for abortion, pro-life activists continue to ask and debate the series of questions many pro-life leaders first raised in the days after *Roe v. Wade*. What is the best way to overturn the decision? Should the movement seek to establish fetal personhood or pursue abortion restrictions? Should the movement stand on principle, or compromise to save more unborn children's lives? The questions remain as contentious now as they were in 1973. While most pro-life activists believe that a fetus is a person, endowed with the right to life from the moment of conception, there has been and continues to be little agreement within the pro-life movement over how to implement what they claim as a self-evident and scientific truth in public policy. Most people inside the pro-life movement take the division over fetal personhood and abortion restrictions for granted, but few outside the movement pay attention to it, including the press and pro-choice activists. This raises the question of what would happen if more Americans understood the pro-life movement's internal divisions and their impact on politics and women's lives in the past and present?

One thing is clear. The pro-life movement's divisions over fetal personhood and abortion restrictions are not going away anytime soon. "The prolife movement is torn

⁵⁷² "Forty Years after *Roe*," *Washington Post*, January 22, 2013, <http://articles.washingtonpost.com/2013-01-23/national/36501518_1_state-abortion-bans-legal-abortion-teresa-collett>.

between following two different ‘maps,’” wrote Daniel Becker in 2011. “Since the early 1970s the movement has been split over which map to follow – legal protections for human life as defined by government or Personhood as defined by God and recognized by government.”⁵⁷³ A few weeks before her death in 2010, Mildred Jefferson shared a similar sentiment, but she had little hope that the pro-life movement would ever reconcile the divide between fetal personhood and abortion restrictions. “There was intense, pitched opposition from the beginning. Those divisions have never disappeared. They have never been glossed over. There has never been any attempt to pretend they aren't there so they have just existed from the beginning. . . . Divisions that exist, exist.”⁵⁷⁴

⁵⁷³ Becker, *Personhood*, 32.

⁵⁷⁴ Mildred Jefferson Interview by Jennifer Donnally, September 13, 2010.

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