

ABORTION AND POLITICS

By PHILLIP W. WEISS

**Phillip W. Weiss
Box 82
149 East 23rd Street
New York, NY 10010
Tel. (212) 388-8690**

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On January 24, 1973, two days after the United States Supreme Court handed down its decision on the case Roe v. Wade (93 S. Ct. 705; 93 S. Ct. 762 [1973]), which invalidated all state laws banning abortion, The New York Times in an editorial declared:

The Court's seven-to -two ruling could bring to an end the emotional and divisive public argument over what always should have been an intensely private and personal matter.... The Court's verdict on abortions provides a sound foundation for final and reasonable resolution of a debate that has divided America too long.¹

However, instead of providing a sound foundation for final and reasonable resolution of a debate that had divided America too long, the Roe decision became the focal point of an all-out battle over abortion, an issue that far from going away, has become the most emotionally charged domestic question confronting the American people today.

From the moment the Roe decision was announced, reaction to it was formidable, unequivocal and vociferous. So strong and loud was the opposition that it could not be discounted, marginalized or ignored.

Sociologist Suzanne Staggenborg writes that

Roe v. Wade was indeed a powerful stimulus for the anti-abortion countermovement, which grew enormously after 1973.²

Further, the abortion issue was one on which people were unwilling to compromise. Shortly before the announcement of the Roe decision, Msgr. Eugene V. Clark, spokesman for the New York Archdiocese, said that abortion

is an issue on which we cannot compromise, a principle that cannot be bent to conform to the ideals of a pluralistic society.³

Msgr. Clark's emphatic position reflected the kind of unbending attitude that characterized the battle over abortion.

This paper will not address the moral or ethical questions associated with the issue of abortion. Rather, this paper will examine the issue from a political and historical perspective. It will shed light on how the American political system responded to a highly emotional, utterly divisive and politically explosive issue. It will also explore why, despite immense opposition, the Roe decision has not been overturned.

One reason for the continuation of the abortion controversy can be found in the language of the decision itself. Although the decision ordered the lifting of all state laws banning abortions, it did not bar the State from having an interest in preserving the life of the fetus and the health of the mother. The Supreme Court held

... that ... criminal abortion statutes prohibiting abortions at any stage of pregnancy except to save the life of the mother are unconstitutional⁴

yet also stated that

... the state may regulate abortion procedure in ways reasonably related to maternal health, and at the stage subsequent to viability the state may regulate and even proscribe abortion except where necessary in appropriate medical judgment for preservation of life or health of mother.⁵

The Court further stated that

the woman's right to terminate pregnancy is not absolute since the state may properly assert important interests in safeguarding health, in maintaining medical standards and in protecting potential life, and at some point in pregnancy these respective interests become sufficiently compelling to sustain regulation of factors that govern the abortion decision.⁶

The Court again reiterated State's interest in preserving the life of the fetus and the health of the mother by stating:

If the state is interested in protecting fetal life after viability it may go so far as to proscribe abortion during that period except when necessary to preserve the life or health of the mother⁷

and further that

... [the State] has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life⁸

Even Justice Harry Blackmun, who wrote "... that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment"⁹ and "... that the word 'person' as used in the Fourteenth Amendment, does not include the unborn,"¹⁰ nevertheless also wrote that

We, therefore, conclude that the right of personal privacy includes the abortion decision, but that this right is not unqualified and must be considered against important state interests in regulation.¹¹

Further, Blackmun acknowledged that not everyone would agree with the Court's decision. He wrote that

It should be sufficient to note briefly the

wide divergence of thinking on this most sensitive and difficult question.¹²

Thus, although the Supreme Court affirmed the woman's right to privacy regarding the matter of abortion, it also found that this right was neither unqualified nor absolute. The Court wrote that a "... woman's right to terminate [a] pregnancy [was] not absolute ..." and that "... at some point in pregnancy ..." the State's interests could "... become sufficiently compelling ..." to cause the State to intercede. The Court's decision also left open the question of the age at which a woman might obtain an abortion on her own consent. These ambiguities in the Court's decision fueled the fire of controversy, which soon spilled over into the political arena.

The political response to Roe was categorical, emotional and dramatic. Throughout the United States numerous measures designed to circumvent or express direct opposition to the legalization of abortion were proposed and enacted at the local, state, and federal levels. For instance, on February 14, 1978, in New York State, the Suffolk County legislature passed a measure barring the use of Medicaid funds for abortions, despite a warning from the County attorney, Howard E. Pachman, that the measure was illegal. The debate in Suffolk County was concerned with whether abortions should be financed at all. Rabbi Raphael Weisman, representing the Suffolk County Orthodox Rabbinate, said, "Abortion is a violation of human dignity." Although stating that the local government could not act contrary to state law, which allowed Medicaid reimbursement for abortions,

judged "medically necessary," Pachman also said that two other counties in the state, Seneca and Niagara, had adopted similar resolutions barring Medicaid financed abortions.¹³

Two weeks later, on February 28, 1978, in Ohio, the Akron city council, by a vote of 7 to 6, approved an ordinance regulating abortions "as abortion opponents clapped, shouted approval and hugged one another." However, William Spicer, the assistant city law director, said that the measure was unconstitutional because of its "informed consent" section which said that a physician had to tell the woman that the fetus is "an unborn human life from the moment of conception" and that the fetus may be capable of surviving outside of the womb if it is more than 24 weeks old.¹⁴

In Los Angeles County, California, a particularly bitter controversy erupted over the issue of how to dispose of aborted fetuses. On August 28, 1985, after three years of argument, the Los Angeles County Board of Supervisors decided to bury 16,500 aborted fetuses found in a container at the home of a man who ran a medical laboratory. Initially the district attorney wanted to turn over the fetuses to the Catholic League of Southern California for burial with services. The majority of County Supervisors agreed with this plan, and President Reagan wrote to support the move "to hold a memorial service for these children." But the Southern California chapter of the civil liberties union, on behalf of the Feminist Women's Health Center, challenged the plan in court and said that the fetuses should

be cremated, contending they were unwanted biological tissue and not humans. Finally, after the legal battle had reached the California Supreme Court, which agreed with the Feminist Center, Superior Court Judge Robert O'Brien ordered the county to dispose of the fetuses either by cremation or burial and without arranging or participating in religious services.¹⁵

On the state level, several highly restrictive measures were enacted to curb abortions. On July 24, 1974, the New Jersey State Assembly, "after a long and emotional debate," passed a bill that gave hospitals and individuals the right to refuse to perform or assist in abortions without fear of legal or disciplinary action. "The highly controversial" measure was passed by a 54 to 12 vote after a brief uproar in the chamber touched off by Assemblyman Human Gladstone, a Bergen County Democrat, who described himself "a non-Catholic in a den of Catholics." Opponents of the bill argued that the measure was unconstitutional in light of the Roe decision. Mrs. Betty Wilson, a Democrat of Union County and majority whip, termed the measure "blatantly unconstitutional" and said it "flagrantly" infringed on the individual rights of doctors to practice medicine. In a debate that disregarded party lines, supporters of the measure contended not only that the measure did not restrict abortions, but also that the Supreme Court ruling on abortion might one day be superceded or reversed. The New Jersey Senate also passed the bill.¹⁶

In the following year Governor Brendan Byrne of New Jersey signed into a law a bill that prohibited the use of Medicaid funds to pay for abortions except to save the life of the mother. The new law meant that

indigent women in New Jersey who wanted to abort a pregnancy, but had no compelling medical reason to do so, had to either pay their own fees, seek charity from the doctor, or forgo the abortion. Byrne's anti-abortion position was consistent with that of his two predecessors, William T. Cahill, a Republican, and Richard J. Hughes, a Democrat.¹⁷

On October 24, 1989, the Pennsylvania House of Representatives overwhelmingly approved stringent restrictions on abortions. The bill, the Abortion Control, Act of 1989, was approved by a vote of 143 to 58. The measure prohibited abortions after a fetus was 24 weeks old, the only exceptions being to save a woman's life or to prevent "substantial and irreversible impairment of her major bodily functions." The bill also prohibited abortions at public hospitals except in the case of rape or incest or to save the mother's life, and it banned abortions that were performed because a couple wanted a child of a particular sex. In addition, the bill required that a woman intending to have an abortion had to, in most cases, notify their husbands; had to be informed by physicians of the fetus's development and alternatives to abortion, and then had to wait 24 hours before the abortion. The chief sponsor of the Pennsylvania measure, Representative Stephen F. Freind of Delaware County, described the bill as a "moderate, common-sense approach" to "one of the most wrenching social issues of our time." "Abortion," he said, "should be regulated by government and hopefully someday outlawed." But Karen A. Ritter, a Democrat from Lehigh County who as the chief sponsor of the amendment

seeking to widen abortion rights, said, "This bill would not prevent abortion. All it would do is add time, money and hassle to women seeking abortion." Lobbyists on both sides of the abortion issue saw the passage of the restrictions in Pennsylvania as a national landmark. "It's a tremendous victory for the movement to protect the unborn children in the country," said Bernard F. Shire, a spokesman for the Pennsylvania Catholic Conference, a lobbying group for the Catholic Dioceses of Pennsylvania. Kate Michelman, executive director of the National Abortion Rights Action League in Washington, said the bill was "a vicious, destructive interference with a woman's medical options and an assault on the constitutional right to abortion."¹⁸

On May 14, 1991, two anti-abortion bills were passed by big margins in the Louisiana House of Representatives. One measure, which passed by a vote of 71 to 32, allowed abortions in the case of rape or incest. The other bill, which passed by a vote of 68 to 33, permitted abortion only to save the life of the mother was performed in the first 13 weeks of pregnancy or if the mother did not show that she was a victim of rape or incest, the penalty for doctors who performed abortion would be a fine of up to \$100,000 and a prison sentence of up to 10 years of hard labor. Under the stricter measure, sponsored by Representative Woody Jenkins, a Democrat, which allowed abortion only to save the life of a mother, doctors who violated the law would be imprisoned for up to 15 years. There was no provision for a fine.¹⁹

Restrictions on abortion were also enacted in Guam, a United States territory located at the southern end of the Marianas Archipelago, almost 9,000 miles from Washington, D.C. In 1990, the Guam territorial legislature unanimously passed the most restrictive abortion legislation in the United States. The Guam legislation outlawed most abortions, including cases involving rape, incest or fetal abnormality. It permitted abortion of a pregnancy would "endanger the life of the mother" or "gravely impair" her health, but only after approval from two independent physicians, whose decisions would be reviewed by a committee appointed by the Guam Medical Licensure Board. The measure also made abortion a crime, with felony charges for providers and misdemeanor charges for women. The author of the bill, Senator Elizabeth P. Arriola, said that banning abortion had been the main goal of her political career. "I look out my window and the trees are alive," she said. "How much more is a human being! We have to take care of the unborn." While the church had been vocal in supporting the bill, there had been no organized opposition among Guam's citizens or lawmakers. Senator Arriola said "just a handful" of people spoke out against the bill at the public hearing.²⁰

At the federal level, the United States Congress enacted legislation which included an amendment prohibiting federal funding to pay for most abortions. The legislative road traveled by this amendment was long and rocky. On June 24, 1976, an anti-abortion amendment was attached to a House version of a \$56.6 billion appropriations bill for the Department of

Labor and the Department of Health, Education and Welfare. The amendment, sponsored by Representative Henry J. Hyde, Republic of Illinois, and supported by the House leadership, prohibited the use of federal funds to pay for abortions. On June 24 two votes were taken on the amendment and each backed the provision by a large margin. The Senate had no such stipulation in its bill, which passed on June 30, and a joint conference of both houses could not settle the question. "We are supporting class legislation," Representative Parren J. Mitchell, Democrat of Maryland, said of the amendment. "This won't stop abortion; this will just stop safe abortion," said Representative Joel Pritchard, Republican of Washington."²¹

After a summerlong deadlock, a House - Senate conference committee, on September 16, 1976, agreed to language that would prohibit federally funded abortions except when the "life of the mother would be endangered if the fetus were carried to term." Although the official report accompanying the agreement softened that language slightly, its effect was to deny most poor women abortions under Medicaid. Those in favor of the measure, which, on September 16 was passed in House by a vote of 256 to 114, argued that abortions were immoral and that it was wrong for the government to pay for an immoral procedure. Opponents argued that the measure was discriminatory in that it denied abortions to poor women while women who could pay for them could readily obtain them.²² On September 17 the Senate, by a vote of 47 to 21, gave final Congressional

approval to the legislation that would prohibit most abortions paid for by Medicaid. Public health officials said that in the previous year Medicaid had paid for 45,000 elective abortions and said that loss of federal funds would shift the burden to overstrained municipal hospitals and increase the number of dangerous cut-rate abortions.²³

The so-called Hyde amendment existed in three forms in the years that followed, but each for put strict limits on the government's authority to pay for abortions. As of November 25, 1979, the government may have paid for only 2,000 abortions a year, compared with nearly 300,000 a year before Congress imposed limits.²⁴

Strong opposition to Roe was also expressed in the streets. Every year, generally on the anniversary of the Roe decision, thousands of anti-abortion protesters staged a march in Washington, D.C. demanding an end to legalized abortion. The Reagan and Bush Administrations fully supported these marches. On January 22, 1983, during the march marking the 10th anniversary of the Supreme Court's decision legalizing abortion, President Reagan, in a radio address, called the Court's decision a "tragedy" and said that he would continue to support legislation to "end the practice of abortion on demand."²⁵ Two years later, on January 22, 1985, Reagan was even more emphatic in his support for the anti-abortion demonstrators. Speaking by telephone and sound system from the Oval Office, Reagan told "one of the largest anti-abortion marches ever in the capitol" that "I feel a great sense of solidarity with all of you. The

momentum is with us.” During the march a loudspeaker conversation took place between Reagan and Nellie J. Gray, founder and president of March for Life. At the end of their conversation, Gray told Reagan: “We want the paramount human life amendment with no compromises,” and Reagan said, “Good for you, and I support you.” Before the demonstrators left, they streamed in groups down the corridors of the Capitol to lobby the offices of their Congressmen and massed at the bottom of the Supreme Court steps. A quiet, well-ordered wall of capped and mittened humanity, they sang, “Jesus Loves the Little Children” and bristled with signs protesting the Court’s decision in Roe 12 years ago.²⁶

During the Gulf War President Bush too took time to express his support for the anti-abortion protesters. On January 22, 1991, Bush spoke words of encouragement to an estimated 25,000 anti-abortion demonstrators, exhorting them “to keep this issue alive and predominate in the halls of Congress, the courts and the minds of the American people.” Bush’s encouragement was broadcast through a White House telephone hook-up. The demonstrators cheered loudly for Senator Jesse Helms, the staunchly anti-abortion Republican from North Carolina, when he said that the opposition to abortion was crucial “to America’s moral survival,” just as they cheered when the leader of the march, Nellie Gray, declared: “We are indeed going to impose our morality on America. Save the babies!” The rally, which was held on the Mall about a half a mile from the Capitol, lasted slightly more than an hour before marchers filed down Constitution

Avenue toward Capitol Hill and the Supreme Court. Along the way, they passed 25 abortion rights advocates, each supporting an eight-foot mural with the names of thousands of abortion rights advocates. The early wave of marchers walked impassively past the counter demonstrators, while later groups paused to shout, “Aren’t you glad you weren’t aborted?” and “Where’s your list of 26 million aborted babies?” or to sing “The Battle Hymn of the Republic.” A thin line of police officers separated the two groups. No incidents or arrests were reported.²⁷

A large and noisy confrontation between anti-abortion protesters and abortion-tights advocates occurred on September 29, 1991, in New York City. The verbal exchanges that took place between the two groups and the comments of some of the demonstrators underscored the sharp divergence of views over the abortion issue and the intense anger generated by the controversy. About 1,200 abortion opponents formed a vast, sparse human cross on Fifth Avenue and 34th Street in midtown Manhattan, but their quiet protest was overwhelmed by 4,000 militant abortion-rights demonstrators who marched down their ranks and engulfed them in a roar of chants, shouts and anger. “New York is pro-choice! New York is Pro-choice!” the marchers chanted again and again, waving a profusion of signs as they moved down Fifth Avenue in a throng five blocks long and rounded the corner of 34th Street to confront the main body of abortion opponents in the shadow of the Empire State Building. Amid shrieks of derision and occasional obscenities from the marchers,

who had left a rally at Columbus Circle to fill 34th Street between Fifth Avenue and the Avenue of the Americas, the abortion opponents stood in silent rows on the sidewalk behind protective lines of police officers and blue barricades and held aloft identical signs proclaiming: “Abortion Kills Children.” The confrontation – a blast of noise and fury on one side and a wall of stoical rectitude on the other – gave 450 police officers a harrowing hour at midafternoon. There were some bitter exchanges between foes and a few scuffles between abortion-rights demonstrators and officers trying to keep them in line. But no injuries were reported and the large-scale violence that authorities and Mayor David N. Dinkins had feared, did not materialize. The police said three people were taken into custody – dragged away witnesses said – and given summonses for disorderly conduct.

Earlier the abortion-rights demonstrators gathered at Columbus Circle and with chants, songs, banners, and speeches, ridiculed and denounced the anti-abortion movement. “We think this so-called chain of life is a chain of fools,” Dana Luciano, of Women’s Health Action and Mobilization, told the crowd. While the recording of Aretha Franklin’s “Chain of Fools” played, signs bobbed on poles: “I would die to defend my Mom’s right to an abortion,” and “Keep Your Beliefs Out of My Briefs,” Barbara Ehrenreich, an author and columnist, spoke as if to the anti-abortion demonstrators, who had not yet begun to gather 25 blocks to the south. “Wake up!” she cried. “You’re not in Kansas now. We don’t want

your cross in our city. This is also a city of the Star of David and Crescent of Islam and we like it that way.” Later, as the police blocked off traffic the abortion-rights protesters moved down Fifth Avenue, chanting slogans as they passed the lines of anti-abortion demonstrators. At one point, a shouting match developed.

“Dead babies! Dead babies!” screamed an anti-abortion protester.

“Dead women! Dead women!” chanted the marchers.

Another exchange took place outside the New York City Public Library on 42nd Street.

An anti-abortion protester sang “Jesus Loves the Little Children.”

Some of the marchers shouted angrily: “You kill women.”

At 3:15 P.M., the vanguard of the marchers turned into 34th Street under a banner proclaiming, “Abortion is a Choice.” The marchers, escorted by dozens of police officers on foot and on motorcycles, were herded behind barricades and separated from anti-abortion demonstrators lined up on the south sidewalk.

“You can’t make me have your baby,” a supporter of abortion rights yelled.

“Abortion is murder,” a man responded.

“Adopt all the unwanted children then,” the woman challenged.

“I adopted a girl from Chile,” the man said.²⁸

Anti-abortion demonstrations also included acts of civil disobedience and mass arrests. In 1988, protests staged at abortion clinics by Operation Rescue, led the jailing so hundreds of people, some for up to three weeks, prompting a call by the Rev. Jerry Falwell for a national campaign of “civil disobedience” to change the abortion law, and left national abortion rights groups trying to figure out how to counter the protest’s success. Kate Michelman, executive director of the National Abortion Rights Action League, based in Washington, said that the demonstrations appeared to have given the anti-abortion effort “revived intensity.”

The protests began in Atlanta, Georgia, on July 19, 1988, the day after the Democratic National Convention began, and the organizers said their protests would end when the convention ended. But when the demonstrators found that concealing their identities and going to jail in the names of Baby Jane Doe or Baby John Doe would result in their remaining in jail, they realized that they had stumbled onto a set of circumstances that would dramatize their cause even more, organizers said. Randall Terry, 29 years old, from Rochester, New York, an evangelical Christian who sold used cars and founded Operation Rescue in November 1987, said that the combination of demonstrations and remaining in jail was straining city resources and “providing the social stress and tension necessary” to outlaw abortion. The group, comparing its actions to those of the civil rights movement, carried out the periodic demonstrations at six abortions

clinics in the area. After the protests began there were other demonstrations by members of the group in Pittsburgh. Other protests against abortion occurred in Tallahassee, Florida, and Amherst, New York, a suburb of Buffalo.

On August 12, 1988, Operation Rescue staged the ninth in a series of demonstrations and 26 more protesters were arrested, bringing the total of arrests in Atlanta to 381. Most demonstrators stayed in jail from two to nine days, then gave the correct name and were released on \$500 bond pending trial. Most of the demonstrators were arrested on misdemeanor charges of trespass and obstruction of sidewalks. If they did not appear for trial, they forfeited the bond. The maximum penalty for the charges was 60 days in jail or a \$1,000 fine. One person was arrested twice, and her bond had been set at \$5,000, said Robert G. Fierer, the attorney representing the demonstrators.²⁹

On April 16, 1989, The New York Times reported that anti-abortion protesters were carried away by police officers in Milwaukee, Wisconsin, outside a women's clinic where abortions were performed. The police arrested 130 demonstrators who kept workers and patients from entering the building. They were cited for trespassing, which carried a \$79 fine, police said.³⁰

On April 29, 1979, about 1,000 demonstrators, including both abortion rights advocates and anti-abortion protesters, gathered in front of a clinic where abortions were performed in Brookline, Massachusetts.

More than 1,000 people were arrested at similar demonstrations outside clinics in eleven other states.³¹ One of those demonstrations occurred in Buffalo, New York, where at least 45 anti-abortion protesters were arrested as they climbed on top of police cars to try to block entrances to an abortion clinic in downtown Buffalo, authorities said. Among those arrested was the Rev. James Evans, who was imprisoned for ten days in February for refusing to post \$100 bail, said Patricia Bainbridge, a spokesperson for the protesters. “They put him feet first in the car and left his head dangling out over the seat,” Ms. Bainbridge said. “One officer started punching him four or five times in the head and neck area.” The Buffalo police denied that any of the protesters were mistreated.³²

In July and August of 1991 there was a six-week siege of abortion clinics in Wichita, Kansas, which saw 2,600 arrests.³³

Many Abortion clinics were targets of acts of violence, such as fire bombings, torchings, explosions, and vandalism. On February 15, 1979, a man with a can of gasoline and a torch set fire to a crowded abortion clinic in Hempstead, Long Island, sending 40 to 50 staff members and patients fleeing into the cold as flames heavily damaged the two-story, 12-room clinic and burned the arson suspect. Identified by the police as Peter I. Burkina, about 25 years old, of Manhattan, the suspect was the only casualty, suffering second-degree burns of both hands as the flames leaped around him in the Bill Baird clinic at 107 Main Street, in Hempstead’s business district. Several staff members of the clinic said

they had seen the man at some of the eight to ten anti-abortion demonstrations outside the clinic the previous year. The police said Mr. Burkin had possibly used other names. They described him as unemployed and said that when he was taken into custody he had expressed strong feelings against abortion. "It was amazing that no one else was hurt," said Dr. Gerald Rudnick, 38, who was performing an abortion when a man walked into the reception room of the clinic at 4:52 P.M. carrying a plastic anti-freeze can full of gasoline and a flaming stick. The police later said that he had purchased the gasoline at a service station next door to the clinic. "This place is going up – don't anybody move, I have gasoline and I'm going to burn this place down," the man was said to have shouted as he splashed gasoline over the rug of the reception room. A receptionist, a score of medical and administrative staff members and at least as many patients and others fled. Gary Nielsen, the husband of one of the nurses, reportedly attempted to hold the door between the reception room in the front and treatment rooms in the back closed against the arsonist, who was trying to push his way through and was splashing gasoline into the hallway.³⁴

During 1984 a string of violent incidents at abortion clinics and women's health centers occurred across the country. According to officials of Planned Parenthood in Washington, fires or explosions damaged at least 24 such facilities that year, up from four incidents in 1983, and harassment of clinic employees and patients also surged.³⁵ Two of

these incidents occurred on November 19, 1984, in Wheaton, Maryland, where two bombs exploded early in the morning destroying an abortion clinic and causing substantial damage to a family planning center in the suburb of Washington. No one was injured in the blasts, which occurred about a mile apart. The first explosion came at 6:15 A.M. at the Metropolitan Medical and Women's Center in Wheaton. It began a fire that gutted the modern town house where the clinic was located, causing an estimated \$350,000 in damage. The second blast, which came about 15 minutes later, caused an estimated \$50,000 in damage at the Randolph Medical Building. No abortions were performed at the office. That explosion also shattered windows in neighboring buildings.

The clinic in Wheaton, Maryland, had been providing abortion services for 11 years. Members of the Covenant Life Christian Community of Greater Washington, D.C., had been picketing the clinic every Saturday in 1984 without incident. At the most recent protest, members of another group, the Pro-Life Nonviolent Action Project, staged a sit-in that led to 46 arrests. Organizers of the protest denied any connection to the bombings. The co-founder of the Pro-Life Nonviolent Action Project, John Cavanaugh-O'Keefe, said that there was "absolutely categorically no link at all" between the demonstration on Saturday and the bombings. However, Cavanaugh-O'Keefe did not repudiate violence as a legitimate form of protest. He said:

**Any pro-lifer that does not feel the urge
to respond to the violence of abortion with**

violence has lost all feeling for anything.

Nonetheless, he emphasized that his group opposed violence. And he suggested that the fire could have been set by those who oppose anti-abortionists in an attempt to have them blamed. “Once again violence is being used to discredit successful nonviolent efforts to protect children,” he said. The pastor of the Wheaton branch of the Covenant Life Christian Community, the Rev. Chip Ward, came to the clinic after hearing reports of the explosions on the radio. He also denied responsibility for the violence. “I’m here to make it clear we [had] nothing to do with this,” he said as firefighters worked at the scene. But he also suggested that abortion was a form of violence, which could provoke a violent reaction. He said:

We believe abortion is the worst civil rights demonstration in the nation, but we repudiate the bombing. That is violence begetting violence.³⁶

On January 1, 1985, at 12:10 A.M., a bomb exploded outside the Hillcrest Women’s Surgi-Center, a private abortion clinic on Pennsylvania Avenue in the Southeast quadrant of Washington, D.C. The police said the one-story brick building sustained extensive damage and that windows were shattered across the street. A man telephoned the Washington Times to claim responsibility for the bombing on behalf of the “Army of God, East Coast division.” He warned that the attacks would continue and said the next target would be an unidentified clinic in Ohio.³⁷

On December 30, 1985, arsonists attacked two city abortion clinics in Cincinnati, Ohio, causing \$75,000 damage to each and forcing both to

close. Mayor Charles Lukin called the fires “terrorism in our community” and said the city would work with the Federal Bureau of Alcohol, Tobacco and Firearms to find those responsible. Cincinnati fire officials said the fires had been started either by firebombs or by somebody pouring gasoline through basement windows. They said they had no suspects. On Saturday, December 28, one of the two clinics, Planned Parenthood’s Margaret Sanger Center of Ohio, was picketed by a national group called Americans Against Abortion. “We had nothing to do with it nor do we encourage that kind of action,” said Melody Green, a group spokesperson, from Columbus, Ohio. Dr. Martin Haskell, who owns the Women’s Center, the second clinic, blamed the anti-abortion groups for instigating violence. He said:

Whoever did this is crazy. The rhetoric of these groups can motivate a crazy person to violence. Maybe someone who heard one of the speeches that abortions have to be stopped decided to become the savior of the group.³⁸

On December 31, 1985, a day after the incidents in Cincinnati, Toledo Medical Services, an abortion clinic in Toledo, Ohio, was damaged by arson fire. The fire caused \$20,000 damages. The same clinic was the site of an arson fire on August 10, 1985, that was unsolved. Robert Stellingworth, the director of the Toledo office of the Bureau of Alcohol, Tobacco and Firearms, said his agency was helping local officials. “The fire is of suspicious origin,” he said. Joyce Arend, the president of the Toledo chapter of the National Organization for Women, said a bomb threat

was made at 2 P.M. Monday (December 30, 1985) at the Center for Choice, another clinic, forcing the police to evacuate the building.³⁹

On March 26, 1986, six protesters were arrested in Pensacola, Florida, after storming into an abortion clinic that was bombed twice in 1984. Equipment was damaged and two women were injured. "It looked like a hurricane had gone through that building," said Lieut. A. O. Godwin of the police. According to the police, a local anti-abortion activist, John Burt, knocked down the manager of the Ladies Center clinic and a clinic volunteer when they tried to block his path into the building. "They threw some equipment around and upended drawers," said Pat Jones, president of the Escambia County chapter of the National Organization for Women. Linda Taggert, the manager, and Georgia Wilde, a member of the local NOW chapter, were in stable condition with minor injuries at the West Florida Regional Medical Center, said a hospital spokesperson, Laurie O'Brien. Mr. Burt, 48 years old, who was convicted of trespassing last year, was charged with resisting arrest without violence, burglary and two counts of battery. His bail was set at \$15,750.⁴⁰

Polls showed that public opinion on legalization of abortion was sharply divided. In February 1973, one month after the Roe decision, the Gallup Opinion Index (i.e., the Gallup Poll) reported that the public was evenly divided on the issue of the legalization of abortion, with 46 percent in favor of a law that would permit a woman to go to a doctor to end pregnancy at any time during the first three months, 45 percent opposed,

and 9 percent reporting no opinion.⁴¹ The Gallup Poll also found that persons with a college background were most likely to favor liberalizing abortion laws, and had voted 2 to 1 in favor of making abortion legal for the first three months of pregnancy.⁴² In 1970, 47.7 percent of the population had less than twelve years of schooling while 10.7 percent had four years of college or more. In 1989, out of 154,155,000 persons, 61.6 percent had four years of high school or less while 38.4 percent had at least one year of college.⁴³ Thus, those who would be less likely to be in favor of legalizing abortion heavily outnumbered the group most likely to favor the liberalization of abortion laws.

The public's split over abortion persisted. In March 1976, the Gallup Poll reported that 45 percent favored a constitutional amendment which would prohibit abortions except when the pregnant woman's life was in danger while 49 percent opposed it, with 6 percent reporting no opinion. A plurality of the women polled favored the amendment by 48 percent to 47 percent with 5 percent reporting no opinion. Among men, 42 percent favored the amendment while 50 percent opposed it and 8 percent reporting no opinion.⁴⁴

Only a minority of the public favored legal abortion under any circumstances. In December 1977 the Gallup Poll found that only 22 percent of the respondents felt that abortion should be legal under any circumstances, 19 percent felt that it should be illegal under all circumstances, and 4 percent reported no opinion.⁴⁵ Although a majority

felt that abortion should be legal under certain circumstances, among those respondents who took that position, only those circumstances relating to the woman's health were considered to be acceptable reasons for having an abortion. For instance, 77 percent felt that abortion should be legal when the woman's life was in danger while only 16 percent felt that abortion should be legal because the woman could not afford the child.⁴⁶

In 1983 the public was still closely divided on the Roe decision. In June 1983 the Gallup Poll found that 50 percent favored the ruling that a woman may go to a doctor to end pregnancy at any time during the first three months of pregnancy while 43 percent opposed the ruling and 7 percent reported no opinion.⁴⁷ In addition, the percentages of respondents favoring the legalization of abortion under any circumstances, legalization of abortion under only circumstances, and a total ban on abortions remained virtually unchanged from December 1977, with the results being 23 percent, 55 percent, and 16 percent respectively, with 3 percent reporting no opinion.⁴⁸

The Gallup Poll findings were corroborated by the National Data Program for the Social Sciences (NDPSS) which over a ten-year period, 1972 to 1982, conducted surveys on the public's attitude on various issues. Over the ten-year period, the NDPSS found that respondents felt, by an almost 10 to 1 margin (12,018 to 1,237), that abortions should be possible if the woman's health was seriously endangered by pregnancy.⁴⁹ This

finding was generally consistent with the results of the December 1977 Gallup Poll survey which found that 77 percent of respondents polled felt that abortion should be legal when the woman's life was in danger. However, when asked whether abortion should be legal if the family had very low income and could not afford anymore children, the NDPSS found that respondents were almost evenly divided, with 6,764 favoring abortion being legal under that circumstance and 6,262 opposing legal abortion for that reason;⁵⁰ the Gallup Poll in 1977 found that only 16 percent of the respondents felt that abortion should be legal because the woman could not afford the child. Despite the discrepancy between the NDPSS findings and the Gallup Poll finding on this question, both surveys found that a substantial number of their respondents were opposed to abortion for exclusively economic reasons.

The NDPSS survey also produced results similar to the Gallup Poll findings on the question of public support for abortion being legal under all circumstances. For the period 1977 to 1982, the NDPSS found that respondents opposed legal abortion for any reason by approximately a 3 to 2 margin (3,584 to 2,221).⁵¹ Although not identical to the Gallup Poll finding of 23 percent in its June 1983 poll, both surveys reported results that found substantial opposition to abortion for any reason.

An apparent inconsistency in the public's attitude on abortion was found by a third survey organization. In October 1982 the CBS News/New York Times National Survey found that there was overwhelming support for

a constitutional amendment, with 972 in favor and 230 opposed, which would give individual states the right to outlaw abortion statewide while the results were almost reversed, with 381 in favor and 866 opposed, for a constitutional amendment that would make illegal nationwide.⁵² According to the findings of this poll, the public seemed in favor of having the opportunity to ban abortion at the state level without such a ban being imposed by the federal government.

By 1989 most Americans favored some new restrictions on abortion. In July 1989 the Gallup Poll found, by 54 percent to 43 percent, with 3 percent reporting no opinion, that the respondents favored not allowing abortions to be performed in public hospitals unless the abortion was required to save the woman's life. The Gallup Poll also found, by a 52 percent to 41 percent margin, with 7 percent reporting no opinion, that the respondents favored, in cases where the mother was five months pregnant, requiring a test to see if the fetus might survive outside the womb before allowing an abortion.⁵³ In addition, respondents favored, by 67 percent to 29 percent, with 4 percent reporting no opinion, that women under 18 years of age get parental consent before being allowed to have an abortion.⁵⁴

Opposition to abortion was particularly prevalent among blacks. In February 1979 the Gallop Poll found that 32 percent of blacks felt that abortion should be illegal under all circumstances while q8 percent of white respondents held that view.⁵⁵ In 1989 The New York Times described black support for abortion as "tepid." Lack of black support for abortion

was attributed to the attitude of black ministers. “There’s a lot of anti-abortion fervor in the black community because of the ministers,” said Donna Brazile, a black political consultant and a board member of Voters for Choice. “If the ministers says ‘This is genocide, this is sterilization,’ you’re not going to get their choir girls out of the loft.”

The influence of religion was seen as an important factor that held down black participation in the abortion rights cause. This was the case, according to Ms. Brazile and other black feminist leaders, because black women as a group were more likely than white women to see religion as playing a central role in their lives, an assertion supported by poll findings over the years.

Blacks also saw abortion as a form of genocide. Representative Floyd H. Flake, a Queens Democrat who was strongly opposed to abortion, said blacks have “very serious problems” with suggestions that “abortion is the solution to the problem of poor people having too many children.” Mr. Flake, who is a minister, said such talk reinforced the idea widespread Among blacks in the 1960s: “The whole notion among blacks [is] that abortion is considered genocide.”

Organizations committed to legal abortions, including the National Abortion Rights Action League, tried to persuade civil rights organizations to join their cause. The National Urban League filed a brief in support of the right to abortion in an abortion case scheduled for argument before the Supreme Court. But other civil rights organizations, like the National

Association for the Advancement of Colored People, were reluctant to get involved in such a divisive issue.⁵⁶

Why did the legalization of abortion produce such massive and furious opposition? There were several reasons. First, the abortion issue involved, at least in part, a debate about “proper” sexual behavior. Historically, some have always regarded abortion as a means by which women could avoid the consequences of sex outside of marriage. In this context, the legalization of abortion would have been offensive to the religious sensibilities of the American people, which were an important part of societal proscriptions of such extramarital practices as adultery or sexual activities among teenagers.

Second, the legalization of abortion could have been viewed as an affront to the traditional values held by many Americans relating to the appropriate roles of women in society, and the centrality of childrearing in family life. Under those circumstances, the legalization of abortion would have been upsetting to those individuals who had a traditional view of what they considered to be the “proper” place of women in society.⁵⁷

Third, the Roe decision provoked further debate over the status of the fetus as a person. In the Supreme Court ruling, Blackmun, in his opinion for the majority, wrote that

... the unborn have never been recognized
in law as persons in the whole sense⁵⁸

and placed the “viability” of the fetus, i.e., the point when the fetus became capable of independent life, at the 28th or 24th week of pregnancy,⁵⁹ at

which point the State could protect fetal life. This view was heatedly contested by others. The Roman Catholic Church insisted that the fetus at all stages of its development was a human being. Thus, unlike, the more “private” behaviors of adultery or contraception, abortion could have been regarded by some as a fit subject for government regulation because of the claim that the fetus was a person, baring a “right to life.” Asserting the “human” status pf the embryo was a basis for abortion becoming a political issue in that abortion could b seen as doing harm to another “person” who had not yet been born.⁶⁰

Fourth, the Roe decision could have been seen as being inherently undemocratic. In a democracy, public opinion is regarded as the ultimate authority, and a system cannot be regarded as democratic if the wishes of the ordinary people are not taken into account.⁶¹ It can be argued that when the Supreme Court legalized abortion, “the wishes of the ordinary people were not taken into account.” Immediately prior to the Roe decision, abortion was illegal in 46 states and the District of Columbia. It was legal in only four states, and three of those states – Hawaii, Alaska and Washington – had residency requirements which had been struck down by the Court. Only New York State’s abortion law fully conformed to the Court’s ruling in the Roe case.⁶² The Roe decision invalidated all of these state laws with the sole exception of New York’s law, thus disqualifying as unsound the views of the people in 49 states and the District of Columbia as expressed through their legislatures.

Last, the Roe decision was unexpected. Lawrence Lader, associated with abortion reform since 1966, wrote that

It came like a thunderbolt – a decision from the United States Supreme Court so sweeping that it seemed to assure the triumph of the abortion movement⁶³

Under these circumstances, it is not surprising that the Roe decision unleashed such a storm of controversy. Many Americans were unprepared to deal with the consequences of the Supreme Court's ruling.

Since some considered abortion as being immoral, conducive to promiscuous behavior and undermining family values, it is not surprising that various religious organizations participated in the struggle to overturn the Roe decision. Opposition to abortion by some of these organizations was vehement.

The religious organization that took the lead in the struggle to overturn Roe was the Roman Catholic Church. The Church's response to the Roe decision was immediate and emphatic in its opposition to the Court's decision. On January 22, 1973, the same day the Supreme Court handed down its decision on the Roe case, leaders of the Roman Catholic Church assailed the ruling. In the forefront of the Catholic reaction were Terrence Cardinal Cooke of New York and John Cardinal Krol of Philadelphia, who was also the president of the National Conference of Catholic Bishops. Cardinal Cooke issued a statement calling the Court's action "horrifying" and asked:

How many millions of children prior to

their birth will never live to see the light of day because of the shocking action of the majority of the United States Supreme Court today?

Cardinal Krol called the decision “an unspeakable tragedy for this nation”

And asserted that

No court and no legislature in the land can make something evil become something good. Abortion at any stage of pregnancy is evil. This is not a question of sectarian morality but instead concerns the law of God and the basis of civilized society. One trusts in the decency and good sense of the American people not to let an illogical court decision dictate to them on the subject of morality and human life.⁶⁴

These statements were a clarion call to action to oppose the Supreme Court’s decision to legalize abortion.

The antipathy to abortion expressed expressed by Cardinals Cooke and Krol was fully endorsed by the Pope. On February 28, 1974, The New York Times reported that Pope Paul VI had restated the church’s rejection of abortion when he addressed a group of scientists, inkling seven Nobel Prize-winners from the United States and European countries. The church, he said, upheld man’s “inalienable right to live from the first beginning of his existence – a right that no human being can ever dispose of.”⁶⁵ This rejection of abortion was reiterated by Pope John Paul II who, on December 15, 1981, called for strict enforcement of the traditional doctrine of the Roman Catholic Church on abortion, artificial birth control, divorce and related issues. In a 175-page “apostolic exhortation,” the Pope said the

church condemned “as gravely unjust” any policy under which one nation made its economic assistance to another conditional on “programs of contraception, sterilization and procured abortion.” Under a subheading “the church stands for life,” he said there was an “anti-life mentality” in some quarters, and took issue with “the studies of ecologists and futurologists on population growth, which sometimes exaggerate[d] the danger of demographic increase to the quality of life.”⁶⁶

The Roman Catholic Church’s opposition to abortion was not mere hyperbole. Within the church’s hierarchy, strict conformity to the church’s official position on abortion was demanded. Those who differed with the church could be expelled from their religious orders. On February 23, 1983, the Roman Catholic Archbishop of Detroit demanded the resignation of a nun who directed Michigan’s welfare programs and refused to oppose state payments for abortions. The nun, Sister Agnes Mary Mansour, was appointed director of the State Department of Social Services on December 29, 1982. The position of a nun in an organization that administers payments for abortion “negates her effectiveness,” said Archbishop Edmund Szoka. Archbishop Szoka called on Sister Mansour’s religious order, the Detroit Province of the Sisters of Mercy, to decide whether she was in violation of the teachings of the church. A secretary said Sister Mansour was in a conference and not available for comment.⁶⁷

On December 15, 1984, The New York Times reported that the Vatican had reportedly threatened to expel from their orders nuns who had

signed a statement asserting that Roman Catholics held diverse views on abortion. According to some of the nuns, who spoke on condition that their names not be used, the Sacred Congregation of the Religious and Secular Institutes issued a demand that they renounce the statement or be expelled in letters to the superiors of the nuns' orders. The nuns said they had not seen the document but that their superiors had discussed its contents with them. Twenty-four nuns were among the 97 signers of the statement, sponsored by Catholics for a Free Choice, arguing that a variety of moral positions on abortion existed in the Roman Catholic Church. The church's official stand was one of total condemnation. The statement appeared as a paid advertisement in The New York Times on October 7, 1984 at the height of political debate over abortion. Some bishops had spoken out against the statements and in November 1984, at the national meeting of the bishops, a response from the committee on doctrine emphatically denied the legitimacy of divergent views on abortion within church teaching.⁶⁸

On October 2, 1985 the American hierarchy of the Roman Catholic Church issued a stern warning aimed at Catholics who supported the October 7, 1984 statement. Joseph Cardinal Bernadin of Chicago, the chairman of the Committee for Pro-Life Activities of the National Conference of Catholic Bishops, said in a statement from Washington on behalf of the Bishops,

The church's teaching in this matter is binding not only because the church says so,

but because this teaching expresses the objectives demands placed on all of us by the inherent dignity of the human life.

The statement continued:

A Catholic who chooses to dissent from this teaching, or to support dissent from it, is dissenting not only from church law but from a higher law which the church seeks to observe and teach. Such dissent can in no way be seen as a legitimate alternative teaching.

The day before, on October 1, 1985, Cardinal Bernardin and John Cardinal O'Connor of New York gave a joint discourse at the University of Norte Dame to dispel what both men said was a public misperception that they differed in the fervor of their antagonism to abortion. Cardinal Bernardin said his espousal of "a consistent ethic of life" that linked opposition to abortion with rejection of the nuclear arms race and capital punishment was in no way intended to dilute the church's campaign against abortion. Cardinal O'Connor said his preoccupation with the abortion issue in no way signaled his antipathy to the church's outspokenness to other social issues.⁶⁹

The Roman Catholic Church also warned Catholics that they could excommunicated if they favored abortion. Excommunication is the most powerful punishment that the church can impose. It is a sanction that cuts the Catholic off from the sacraments of baptism, communion, confirmation, matrimony, last rites and ordination to the priesthood but not from the sacrament of penance. The sanction is rarely imposed.

Among the actions that can result in excommunication is heresy, apostasy – or the abandoning of faith – and direct involvement in abortion.⁷⁰ On February 10, 1973, The New York Times reported that the five Roman Catholic Bishops of Connecticut had issued a reminder that any Catholic directly involved in an abortion faced excommunication from the church. The nine-point statement was issued in the expectation that abortions would soon be legal in the state.⁷¹

On April 13, 1975, at least 80 members of the National Organization for Women were turned away from the communion rail in Roman Catholic churches in San Diego, California, when they refused to renounce their support of abortion. In most of the 178 parishes of the San Diego diocese, priests refused the sacraments to persons wearing NOW symbols. They acted in response to a letter of instruction from the Bishop, the Most Rev. Leo T. Maher, who singled out NOW for what he called its “shameless agitation” in favor of abortion. The instructions of Bishop Maher, who was in Europe, had been described by the National Conference of Catholic Bishops in Washington as being, in effect, excommunication, and the strongest punitive measure yet taken on the abortion issue by any Catholic priests in the United States. Several churches failed to make mention of a subsequent “clarifying” letter from the diocesan auxiliary bishop, the Most Rev. Gilbert Chavez, saying that Bishop Maher had not intended to condemn NOW or any other women’s rights organization “but rather the pro-abortion stand that is among NOW’s stated goals.”⁷²

On June 7, 1978, Pope Paul VI confirmed that Roman Catholic doctors who carried out operations under Italy's new abortion law would face excommunication. Speaking at a general audience, the Pontiff added weight to an appeal by the Vicar of Rome, Ugo Cardinal Poletti, urging doctors to refuse to perform abortions. Cardinal Poletti, in a statement, warned Roman Catholic members of hospital staffs that they faced excommunication if they applied the law and carried out abortions. "We ask that the authoritative voice of the Vicar of Rome be listened to by all, and especially by those who profess themselves Catholic," the Pope said.⁷³

On June 14, 1990, the Archbishop of New York, John Cardinal O'Connor, warned Roman Catholic politicians that they risked excommunication from the Catholic Church if they were persistent in supporting a woman's right to abortion. "For the common good," the Cardinal said, "such Catholics must be warned that they are at risk of excommunication." Those at risk, he said, were Catholics who "[were] perceived not only at treating church teaching on abortion with contempt, but helping to multiply abortions by advocating legislation supporting abortion or by making public funds available for abortion." "If such action persist[ed]," he said, "bishops [could] consider excommunication the only option." Conceivably, the threat could have been applied to any number of public officials. Among Catholics who supported abortion rights were Senator Edward M. Kennedy of Massachusetts, Gov. Jim Florio of New Jersey, Senator Daniel Patrick Moynihan of New York, Representatives

Jose E. Serrano and Charles E. Rangel of New York, and Gov. Mario M. Cuomo of New York. Cuomo appeared to take the threat personally. “It is difficult to discuss it,” he said when asked about the threat at an impromptu news conference in the rotunda of New York’s City Hall. “It is upsetting,” he added. “I don’t like to hear it. How could you? This is something very fundamental to our family.”⁷⁴

This was not the first time that Cuomo had clashed with O’Connor over the Roman Catholic Church’s attempt to impose its views on public officials. On August 3, 1984, Cuomo, in an unusual challenge to the Catholic Church by a Catholic politician, intended to regularly raise the issue of the role of religion in politics. Three days earlier he had expressed his views on the Catholic Church’s involvement in politics during an extensive interview at his home in Queens. During the interview, Cuomo expressed the view that religious beliefs should not be a matter for [public discussion. He said: “It’s always safer not to talk about religious beliefs because religious beliefs are so personal that they tend to antagonize.” He then pointed out that formal religion was more aggressively injecting itself into the political process and blamed the Catholic Church for having defeated the state equal rights amendment. He said: “But formal religion, more aggressively than ever before, [was] seeking to use the political process in the traditional way. Also, you have politicians themselves talking about religion. Look at what happened in my last legislative session – the Catholic Church killed the E.R.A” which Republican state

senators had said was doomed by the opposition of the Conservative Party and antiabortion groups. "The Church ha[d] never been this aggressively involved," Cuomo said. He also said that the Archbishop of New York was telling Catholics not to vote for politicians who disagreed with the Archbishop on abortion.

Now [Cuomo said] you have the Archbishop of New York saying that no Catholic can vote for Ed Koch [Mayor of New York], no Catholic can vote for Jay Goldin [City Comptroller], for Carol Bellamy [City Council President], nor for Pat Moynihan [United States Senator] or Mario Cuomo – anybody who disagrees with him on abortion. He amends that by saying "I'm not telling anyone how to vote – that's my personal judgment." But you're the Archbishop.

Cuomo was not alone in expressing concern that the manner in which some candidates and clergymen had injected religion into political campaigns and depicted themselves as arbiters of morality represented a threat to the country's pluralistic foundation and the First Amendment principle of separation of church and state. But Cuomo's comments were considered particularly significant because several of his own political positions had placed him directly at odds with Archbishop O'Connor. Echoing an earlier declaration by the Catholic Bishops of New York State, O'Connor said during a televised news conference on June 24, 1984, "I don't see how a Catholic in good conscience can vote for a candidate who explicitly supports abortion." Cuomo had said repeatedly that while he personally opposed abortion, the United States Supreme Court had ruled in 1973 that the right to an abortion was guaranteed by the Constitution,

which he was sworn to uphold.⁷⁵

On August 24, 1984, Archbishop O'Connor clarified what he considered to be his role as Archbishop. O'Connor said that he considered it his duty to correct politicians if they offered incorrect views on Catholic teachings. "It is my responsibility to spell out for Catholics what the church teaches," the Archbishop said. He also said:

If anyone in public office wished to differ, wishes to say that is not Catholic teaching, than that individual ought to prove it is wrong. And if an individual does attempt to articulate Catholic teaching and it is not truly Catholic teaching, it is my responsibility to say something.

O'Connor further said that he had never suggested he was telling Catholics how to vote.

My responsibility is to articulate church teaching as clearly as I can.... All I will do in the pages of Catholic New York and in public addresses is to continue to spell out the very explicit teachings of the Catholic Church. And then, as I have always done, leave it to the individuals, individual citizens, in this country to determine whom they wish to elect to public office, [and] whom they wish[ed] to keep in public office.⁷⁶

Cardinal O'Connor's articulation of church teaching was apparently responsible for at least one politician changing his stance on abortion. Assemblyman John C. Dearie, the Bronx Democrat who in the summer of 1986 was barred from speaking in Roman Catholic churches in the Archdiocese of New York because he voted to provide public money for poor people seeking abortions, said in April 10, 1989, that he had changed

his position and would now vote against such use of public funds. Dearie said that he had "come to the conclusion that a fetus is fully human and must be protected." Dearie, who was again eligible to speak at the churches, added,

I still have a genuine, deep concern and feeling for the poor, Medicaid-eligible woman facing this kind of decision. But I have made a judgment and I've concluded that lie in the womb is human and we should not spend public dollars to abort it.

Cardinal O'Connor, who had had several private conversations with Dearie and his wife, Kitty, about abortion, praised the legislator in a column in the Catholic New York.

Dearie, a Catholic who had often ran for re-election with Liberal Party support, said he had been "grappling" with the abortion issue since he was first elected 15 years before. The decision to change his position, he said, resulted in a large part from the "cumulative" experience of helping to raise two sons and realizing the miracle of their growth from the womb to the present. Dearie said he was also influenced by his conversations with the Cardinal, who he said served as a "spiritual guide." But he insisted that he had not been intimidated into action by the archdiocese policy, spelled out in the summer of 1986, that said those who disagreed with church teaching should not be invited to speak in local churches.⁷⁷

Other Catholic politicians wholeheartedly supported "the Church's growing pressure against legalized abortion." Representative Henry J. Hyde, Republican of Illinois and an opponent of abortion, said:

While I understand the explosiveness of the issue, I agree with the Cardinal [O'Connor] that if you want to hold yourself out as a Catholic you ought to adhere to some of the fundamental moral tenets.

Representative Robert K. Dornan, Republican of California and another abortion foe, said, "The problem is this [O'Connor's threat to excommunicate Catholics who advocate legislation supporting abortion] Has come 20 years late, but better late than never."

Even those Catholic politicians who continued to advocate abortion nonetheless were forced to confront their own personal beliefs in light of the Roman Catholic Church's adamant position on the issue.

Representative Barbara B. Kennelly, Democrat of Connecticut, who supported abortion rights, said, "We've all given this great thought, an incredible amount of thought, and prayer, to be frank with you." Governor George A. Sinner, of North Dakota said he personally opposed abortion but "[found] difficult the suggestion that we impose punishments on people who are profoundly religious as we are" but disagree with church doctrine. Sinner also said:

I would be terribly saddened if my church excommunicated me, because I love the Church and I believe ardently in it, in its teachings of service to humanity. But I know in my heart that I have to do what I think is correct.

For him, that meant a recognition that

however strongly I feel, there are other thinking, good people who have a history well beyond my own and even beyond my Church who do not agree.⁷⁸

Any Catholic politician who believed in the teachings of the Roman Catholic Church had to find their advocacy of abortion to be a painful experience.

While Catholic politicians argued with the Catholic Church and anguished over their views on abortion, President Ronald Reagan apparently had no such problems. Instead, his position was crystal clear. As previously noted, Reagan fully supported the anti-abortion marches in Washington, D.C. and expressed views during those marches which "could [have] enhance[d] his appeal to Catholics."⁷⁹ Moreover, he "publicly allied himself with the ... evangelical movement."⁸⁰ On March 8, 1983, Reagan appeared at a meeting of the National Association of Evangelicals and delivered one of the most forceful speeches of his Administration on the subjects of theology and war, morality and government. During the speech Reagan asked: "Is all of Judeo-Christian tradition wrong?" and drew strong applause as he added:

**We are going to fight in the courts.
The rights of parents and the rights of
family take precedence over those of
Washington-based bureaucrats and social
engineers.**

In quick order, with his comments punctuated by frequent applause,

Reagan urged these steps:

**A renewed fight for a constitutional
amendment for organized public school
prayer. "Let our children pray," he said.**

**A renewed fight to end "abortion on
demand." He said, "You and I must never**

rest until abortion is outlawed.

Congressional hearings on "infanticide" legislation to protect the handicapped against "mercy killing." [Reagan] said this was a growing problem directly related to "a decline in respect for human life," caused by the growing prevalence of abortion.⁸¹

Those attending this conference fully agreed with and enthusiastically endorsed Reagan's views.

Yet Reagan's fervent call to outlaw abortion was a departure from the position he had taken on the issue while Governor of California. On June 15, 1967, during his tenure as Governor, Reagan signed into a law a statute that permitted abortion when the child's birth would endanger the physical or mental health of the mother, in cases of statutory rape involving a girl under 15 years of age, and when pregnancy resulted from forcible rape or incest. The law replaced one that permitted abortions only to save the mother's life. Although Reagan had said the bill was "by no means perfect,"⁸² he signed it despite the opposition of the eight Roman Catholic bishops of California to the measure.⁸³

Also professing his opposition to abortion, Vice President George Bush's position on the issue was also less than categorical. On September 12, 1984, Bush said that he could not recall that, in his unsuccessful bid for the Republican Presidential nomination, he had favored federal financing for abortions under certain circumstances. Bush maintained that posture as he concluded a three-day campaign swing in the South that was dominated by questions about his position on abortion

in his 1980 contest with Ronald Reagan. Asked at a news conference in Savannah, Georgia, if the failure to remember posed a credibility problem, Bush responded: "I don't think so. There are an awful lot of things I don't remember." In Atlanta, Georgia, Bush insisted that he was opposed to federal financing of abortion after telling reporters, "I always have." He was confronted with newspaper clippings both in Atlanta and Savannah stating that he had supported public financing in the case of rape, incest or saving a pregnant woman's life. "I'll accept this," Bush said in Savannah. "But I oppose federal funding, and I thought that it was right across the board." Bush said that he supported abortion in the case of rape and later confirmed that he had also approved of it in 1980 in instances of incest and to save a mother's life. Bush reiterated that he now supported the position of President Reagan, who wanted abortion banned except when the woman's life was threatened.⁸⁴

In view of the large Roman Catholic population in the United States (50,450,000) in 1980⁸⁵ and the size of the evangelical Christian movement (in 1983 the National Association of Evangelicals comprised 38,000 individuals and church groups from 40 denominations with a total membership of 3.5 million),⁸⁶ it is understandable, if not laudable, why Reagan and Bush could have been tempted to change their views on abortion to more closely conform with the position of the Catholic Church and the evangelical Christians.

According to Mario Cuomo, Reagan's switch on the abortion issue

was exclusively motivated by political opportunism and was devoid of any sincerity. On July 27, 1984, Cuomo accused Reagan of being guilty of “the most outrageous kind of pandering” in efforts to get Catholic and Italian-American votes. “To go yesterday and say ‘I’m going to reach out for the Catholic vote by saying I’m against abortion’ – I mean that was just the most outrageous kind of pandering,” said Cuomo, referring to the President’s appearance in a Catholic church in Hoboken, New Jersey accompanied by Frank Sinatra. Continuing to quote what he supposed were Reagan’s thoughts, Cuomo said Reagan probably thought: “‘I’ll get the Catholics, I’ll put Frank Sinatra next to me, he’s Italian,’ that means all the Italians will vote for him.”⁸⁷

Reagan, however, was not the only U. S. President who may have been willing to change his views on abortion to gain political support from religious groups. On January 24, 1980, The New York Times reported that after having lost favor among many evangelical leaders in the past three years, President Jimmy Carter that week made a two-day blitz of witnessing, embracing and grits for breakfast in an attempt to soothe representatives of what they asserted were a total of 80 million Christian evangelicals. Aware of their growing political power, Carter had been in touch with some of the most popular television preachers such as Jerry Falwell, Pat Robertson, James Robison and Jim Bakker. Falwell claimed that Carter had reversed his position on abortion. Falwell recalled:

The President has always said he was
against abortion, that it was wrong. But I

asked him if a human-life amendment that would nullify the Supreme Court support for abortion-on-demand, passed in Congress, would he support it. He said he would. To me, that was a reversal of his position.

However, Carter denied that he had changed his position on abortion.

Anne Wexler, an assistant to the President, said: “The President’s stand is unchanged. If an amendment passed, the President would be committed to supporting it. That’s all he said, nothing more.”⁸⁸

Other religious groups besides the Roman Catholic Church and the evangelical Christians also opposed abortion. Orthodox Jews were clear in their opposition to abortion. On June 28, 1973, Rabbi Ephraim S. Kolatch, chairman of the 37th convention of the Rabbinical Council of America, a 1,000-member Orthodox group, charged that “TV drama and radio talk shows” were encouraging “infidelity, illegitimacy and abortion.”⁸⁹ On September 12, 1986, three Orthodox rabbis, praising Bishop Joseph T. O. O’Keefe for his criticism of Governor Cuomo’s stand on abortion, invited the bishop to speak before an Orthodox congregation on the subject of “family values,” including abortion. The unusual invitation – and the Bishop’s acceptance – came at a news conference at the Catholic Center, at 1011 First Avenue at 55th Street, after the rabbis met privately with John Cardinal O’Connor. The delegation was led by Rabbi Yehuda Levin, who ran for mayor in 1985 on the Right to Life ticket. An official of the Union of Orthodox Jewish Congregations, which represented 1,200 synagogues across the country, said the three rabbis “[did] not speak for the Orthodox

Jewish community” but for a small Brooklyn congregation “that is quite activist on this question.” The official, Rabbi Pinchas Stolper, said he did not oppose inviting a Roman Catholic leader to speak in a synagogue, although such an invitation was unusual. As a rule, the Orthodox did not engage in theological dialogue with Christians, although they did meet on political and social issues. Moreover, it was rare for any Christian clergyman to be invited to address an Orthodox congregation. The three rabbis at the news conference used the opportunity to attack Cuomo for his support for Medicaid funding for abortions. The rabbis who joined Rabbi Levin were Rabbi William Handler, who said he was from a Brooklyn-based organization called Jews for Morality, and Rabbi Yoseph Friedman, who said he represented Congregation B'nei Yisroel in the Flatbush section of Brooklyn. All three responded “no” when asked if Governor Cuomo would be welcome to address their congregation.⁹⁰

On June 17, 1976, the Southern Baptist convention reaffirmed the principle of freedom of conscience on abortion but urged its members to work toward a moral climate that would discourage abortion as an indiscriminate means of birth control. The church, which had 12.7 million members, took similar stands in 1971 and 1974. But where the earlier statements were primarily concerned with securing the right to abortion, the latest resolution reflected concern that the 1973 Supreme Court decision overturning antiabortion laws might have led to “a cheapening of all human life.”⁹¹

A faction within the Presbyterian Church (U.S.A.) was also opposed to abortion. On June 11, 1985, the Presbyterian Church (U.S.A.), whose member churches voted to support abortion rights before the Supreme Court did in 1973, was to consider a serious challenge to that stand at its annual convention at Indianapolis, Indiana. Twenty-one resolutions calling for a modification of the church's position were to be debated by the 676 delegates gathered at the Indiana Convention Center for the church's 197th General Assembly. Presbyterians opposed to abortion had gained strength since the merger in 1983 of the Southern and Northern wings of the church. The merger had healed a split over slavery that dated from the Civil War. "I find myself apologizing for my church," Deborah Anderson of Maple Plain, Minnesota, said while standing at the booth of a group called Presbyterian Pro-Life. "I say I believe in Jesus Christ, who gives life, but my church is saying it is O. K. to kill." The 21 resolutions favoring change called for a stand against abortion, a restudy of the abortion issue or the withdrawal of funds that supported abortion counseling programs.⁹²

The Mormon Church's opposition to abortion for nonmedical reasons was unequivocal. On April 1, 1990, The New York Times reported that according to Don LeFevre, a spokesman in Salt Lake City, Utah, the church was opposed to abortion "for personal or social convenience." He also said the church would not absolutely prohibit abortion in cases of incest or rape, when the life or health of the woman was in jeopardy or when the fetus had serious defects. One Mormon legislator in Idaho,

Senator Mark Ricks, said in a letter to a constituent, that he supported the abortion bill (that would have given Idaho the nation's most restrictive abortion law) because of his

belief in a higher law given to mankind long ago which if not obeyed will bring about the judgments of God.

“You know the penalty for murder,” he wrote. “Killing the unborn is like unto that.” There were other theological underpinnings to the Mormons’ position. Church belief held that there is a reservoir of unborn souls waiting to enter heaven and they can only do so through birth into a Mormon family. All 17 Mormons in the Idaho Senate voted for the abortion restrictions, as did 24 of the 29 Mormons in the House.⁹³

Religious organizations opposed to abortion used other tactics besides political pressure to advocate their position. One religious organization and its allies attempted to pressure the mass media into deleting programs that were considered to be pro-abortion. On August 9, 1973, Norman Lear, executive producer of the Columbia Broadcasting System television show “Maude” charged that “apparently pressure from anti-abortion forces” had driven away most of the potential commercial sponsorship for reruns of two episodes that dealt with abortion. Nonetheless C.B.S. had announced that the episodes concerning abortion, which encountered widespread protests from anti-abortion groups and some officials of the Roman Catholic Church when first shown the previous winter, would definitely be seen the next two weeks. Bishop

James S. Rausch, general secretary of the United States Catholic Conference, called C.B.S.'s intention to repeat the two segments "a breach of good faith on the part of the network." He said that the two programs "advocate[d] abortion," and that although "advocacy may not have been the intention of the producers, it is certainly the result." He added that "advocacy of abortion is unacceptable in a situation – comedy format aired at prime viewing hours when children [were] a large part of the audience." Bishop Rausch said that last November [1972], Robert D. Wood, president of the C.B.S.-TV network, met privately with Catholic Conference officials and gave them "reason to believe that the error would not be repeated."⁹⁴

Another religious organization, Moral Majority, which was headed by Rev. Jerry Falwell and which attracted evangelicals called fundamentalists who believed that the Bible was literally true,⁹⁵ sought to use the mass media to dramatize the anti-abortion message. On February 16, 1985, The New York Times reported that a controversial film showing the abortion of a fetus would be seen the next night on Falwell's new cable-television program, "Jerry Falwell Live." The 28-minute film, "The Silent Scream," had been praised by President Reagan, and that week had been distributed to members of Congress by the National Right to Life Committee. Previously, television viewers had seen only small glimpses of the film on news programs. Falwell's program, which began in January 1985, appeared from 11:05 P.M. to midnight each Sunday evening on WTBS-TV, the Atlanta television station owned by Ted Turner and

distributed to 34 million cable subscribers by satellite. “This will be the first time the film will be shown on network television in its entirety,” said Cal Thomas, vice president for communications of Moral Majority. “The liberals have had a lock on the medium for 12 years and now the empire is striking back.” The film, as described by Dr. Bernard Nathanson, an obstetrician who said he switched from performing abortions to crusading against them, showed pictures created by ultrasonic waves directed at a 12-week-old fetus being aborted. In the film, the image of the fetus appeared to recoil during the abortion procedure, and at one point Dr. Nathanson indicates that the mouth of the fetus opened in what he characterized as a “silent scream” of pain.⁹⁶

Members of the clergy, such as Rev. James Evans previously cited in this paper, also participated in street demonstrations against abortion. On May 24, 1973, at least 500 pickets, including 35 Roman Catholic priests, 30 nuns and some Protestant clergymen, protested outside the Atlantic City Hospital after the hospital’s Board of Governors announced that the hospital would begin to allow abortions during the first three months of pregnancy. If approved by the woman’s physician. The decision made Atlantic City Hospital the first in south New Jersey to liberalize its abortion policy in the face of massive protests mounted by the New Jersey Citizens United for Life. Underwood Memorial Hospital in Woodbury, New Jersey, had liberalized its policy earlier in the month, but did not put it into effect after similar protests.⁹⁷

On December 28, 1985, Bishop John McGann of the Rockville Center Roman Catholic Diocese led more than 4,000 protesters in a demonstration outside an abortion clinic in Hempstead, Long Island.⁹⁸

On December 14, 1988, a Roman Catholic Bishop and another man were convicted of disorderly conduct for their refusal to comply with police orders at an anti-abortion protest on June 11 [1988]. Village Justice Hannibal Milano found Bishop Austin Vaughn, 59 years old, of Newburgh and Thomas Herlihy, 41, of the Bronx guilty more than a month after they were on trial before him. They were among the 175 people arrested at a blockade of the Women's Medical Pavilion, where abortions were performed. The charges against the others were dropped, but Bishop Vaughn and Mr. Herlihy chose to go to trial. Bishop Vaughn – Episcopal vicar of Orange County, pastor of St. Patrick's Church in Newburgh, New York, and an auxiliary bishop in the New York Archdiocese – had recently spent a night in jail in Pocospon, Pennsylvania, on a similar charge after refusing to pay a fine. The two men faced maximum penalties of 15 days in jail and \$250 fine.⁹⁹

On January 31, 1990, Cardinal O'Connor strongly defended Bishop Vaughn for saying during the previous week that Mario Cuomo was "in serious risk of going to hell" for his support of abortion rights. Vaughn's views, O'Connor said, were consistent with church teaching. O'Connor said that Vaughn had acted in the tradition of St. John the Baptist, St. Thomas More and other figures throughout history who had "raised

various warnings from prison” to public officials. O’Connor, in his column, spoke warmly of Vaughn, calling him “one of the finest theologians going.” Vaughn had been released eight days before after serving 10 days in the Albany County Jail, in March 1989, for blocking the entrance to an Albany abortion clinic. It was while he was in jail that he made his comments on Cuomo, maintaining in interviews that the Governor was in “serious risk of going to Hell” because of his active support for abortion rights and government financing of abortions.¹⁰⁰

In 1989 another anti-abortion protest involving the Catholic clergy occurred in the Bronx, New York. On September 23, 1989, scores of anti-abortion demonstrators were arrested while trying to block the entrance to an abortion clinic in the Pelham section of the Bronx. The arrests came just days after a federal appeals court panel upheld an injunction barring protesters from hindering such access. The protest drew about 300 anti-abortion advocates and 100 supporters of abortion rights. For most of the day, they chanted and shouted at each other over the heads of some 200 police officers – many wearing riot helmets – on Eastchester Road that was kept closed to traffic. But the scene was more chaotic in the morning when 118 anti-abortion demonstrators were arrested on charges of disorderly conduct and resisting arrest. Six advocates of abortion rights were also arrested for disorderly conduct. The arrests occurred between 9:15 and 10:15 A.M. after anti-abortion demonstrators sprawled in front of police cars and jostled with police officers in an attempt to block the doors to the

clinic, Gynecological Surgical Services, at Eastchester Road and McDonald Street. Five police vans and a city bus carried the protesters to the 48th Precinct station house for booking. Organizers of the protest viewed their efforts to intercept women at the clinic as a major part of their struggle to outlaw abortion. “Four or five women who came for abortions this morning turned around to get help from us and are going to keep their children,” said Msgr. Philip Reilly, the principal rector of the Cathedral Preparatory Seminary for the Catholic Diocese of Brooklyn. “We saved at least four lives and that’s worth a night’s sleep.” The advocates of abortion rights denied that any women were dissuaded from having abortions.¹⁰¹

On at least one occasion a religious organization tried to use the courts to prevent abortion clinics from operating. On January 13, 1985, The New York Times reported that the Roman Catholic Church had obtained a temporary court order blocking efforts by two Planned Parenthood clinics to begin providing abortions. Attorneys for the Bishop, Howard J. Hubbard, got the order just hours after Planned Parenthood had received approval from the State Health Department to offer abortions at clinics in Albany and Hudson. The order, by State Supreme Court Justice John Pennock, barred the department from issuing a final operating license to Upper Hudson Planned Parenthood pending a hearing January 25. In a statement, Bishop Hubbard accused the Health department of failing to follow correct procedures in approving Planned Parenthood's application. But he also noted his church’s theological rejection of abortion. Bishop

Hubbard said:

The Catholic Church in the Diocese of Albany remains unswerving in our commitment to protect the life of the defenseless unborn. We will continue our strong opposition to the abortion-on-demand philosophy which the proposed Planned Parenthood abortion clinic represents, and we will expand our already substantial services which provide alternatives to abortion.

Russell Shaw, secretary for public affairs of the National Conference of Catholic Bishops in Washington, said that he did not know of any other diocese that had tried to block the opening of an abortion clinic by going to court.¹⁰²

Children also were urged to oppose abortion. On January 14, 1983, Archbishop Joseph Bernardin made a televised appeal to 133,000 Roman Catholic children in their classrooms, asking them to light candles to protest a decade of legal abortion. While warning the children not to play with matches, the Archbishop asked them to join a “Light for Life” demonstration January 21, the eve of the 10th anniversary of the Supreme Court decision legalizing abortion,¹⁰³

The tremendous outburst of opposition that followed the Roe decision posed a major challenge to lawmakers. Instead of bringing harmony and closure, Roe v. Wade divided the public into two warring camps, one pro-life, the other pro-abortion, each pitted against the other in a struggle that the political process could not resolve. The Supreme Court itself was divided on the issue. Two of the justices on the Court, William

Rehnquist and Byron White, wrote dissenting opinions highly critical of what they believed was the Court's lack of judicial restraint and its usurping of legislative power. Rehnquist asserted that that the Court was the wrong place to address the abortion issue and that it was more appropriate that the issue be resolved through legislation. Rehnquist wrote:

But the Court's sweeping invalidation of any restrictions on abortion during the first trimester is impossible to justify ..., and the conscious weighing of competing factors ... is far more appropriate to a legislative judgment than a judicial one.¹⁰⁴

Rehnquist further asserted that the Court's decision did not reflect the will of the majority of the states. Rehnquist wrote:

The fact that the majority of the States reflecting, after all, the majority sentiment in those States, have had restrictions on abortion for at least a century is a strong indication, it seems to me, that the asserted right to an abortion is not "so rooted in the traditions and conscience of the people as to be ranked as fundamental."¹⁰⁵

In addition, Rehnquist suggested that the public's acceptance of the Court's decision was not universal. Again Rehnquist:

Even today, when society's views on abortion are changing, the very existence of the debate is evidence that the "right" to an abortion is not so universally accepted as the appellant would have us believe.¹⁰⁶

White's opposition to the Court's decision was even sharper. In his opinion White labeled the Court's decision "an exercise in raw judicial

power” and an “improvident and extravagant exercise of judicial review” that debarred the 50 States from weighing

the relative importance of the continued existence and development of the fetus, on the one hand, against the spectrum of possible impacts on the mother, on the other hand.¹⁰⁷

White also found no constitutional basis for supporting the Court’s decision. He wrote:

Whether or not I might agree with that marshaling of values, I can in no event join the Court’s judgment because I find no constitutional warrant for imposing such an order of priorities on the people and legislatures of the States.¹⁰⁸

Thus, for Justices Rehnquist and White, the Supreme Court, acting in what they apparently believed to be an unfair, dictatorial and arbitrary manner, rendered the role of the fifty States in the matter of abortion completely superfluous. As a result, debate on abortion was suddenly cut off, leaving the public with few if any venues for continuing discussion on the issue that was now, at least for the Court, officially settled. Those who wanted the Roe decision reversed were at this point effectively blocked from having their views translated into legislative action at the state level.

There were only two means by which Roe could be overturned. Both options involved action at the Federal level. The first option was to amend the U. S. Constitution to prohibit abortion; the second option was that the Supreme Court itself could reverse the Roe decision.

Amending the U. S. Constitution is a complicated process. It

requires that an amendment be approved by at least two-thirds of both houses of Congress and then be ratified by three-quarters of the states. Efforts to amend the Constitution were initiated in 1976 and 1983. On April 28, 1976, the Senate, by a vote of 47 to 40, rejected an effort to amend the Constitution to bar abortions. The proposed amendment would have endowed every human being with a right to life “from the moment of fertilization.” Jesse A. Helms, Republican of North Carolina, told the senators that in voting against bringing up his proposal for formal consideration, they were actually voting to kill it. The vote “will be viewed by millions of Americans as a vote against the protection of the life of the unborn,” he added. The Helms proposal would have amounted to a flat ban against all abortions.¹⁰⁹

The second attempt to amend the Constitution occurred on June 28, 1983, when the Senate, by a vote of 50 to 49, rejected a constitutional amendment that would have set the stage for laws to curb abortions. The vote on the 10-word amendment, stating simply, “A right to abortion is not secured by this Constitution,” was 18 votes short of the two-thirds majority required. The vote came after two days of occasionally emotional Senate debate. The struggle to construct a constitutional framework for the banning of abortions was led by Senator Orrin B. Hatch, Republican of Utah. Senator Hatch, speaking to reporters just after the vote, said the 49 votes his amendment attracted sent “a message to the country that this is an issue that has to be resolved.”¹¹⁰ Despite the failure of these efforts to

amend the U. S. Constitution, the votes in 1976 and 1983 showed that the Senate was sharply divided on the abortion issue.

The other option, that the Supreme Court could reverse itself on the Roe decision, also failed. In a series of rulings the Court reduced the scope of the Roe . In Planned Parenthood of Central Missouri v. Danforth, 96 S. Ct. 2831 (1977), the Court ruled as constitutional a regulation requiring a woman's prior written consent before submitting to an abortion. In Maher v. Roe, 97 S. Ct. 2376 (1977), the Court ruled that a state was not required to use Medicaid funds to pay for non-therapeutic abortions. In H.L. v. Matheson, 101 S. Ct. 1164 (1981), the Court ruled that it is constitutional for a physician to "notify, if possible" the parents or guardians of a minor child upon whom abortion was to be performed. In Simopoulos v. Virginia, 103 S. Ct. 2532 (1983), a case involving a physician who was indicted and convicted under a Virginia statute making it illegal to "destroy an unborn child or to produce abortion or miscarriage,"¹¹¹ unless second-trimester abortions were performed in a state-licensed facility, the Court ruled that the State requirement that second-trimester abortions be performed in licensed clinics was not unconstitutional.

However, despite these rulings that affirmed the state's authority to impose certain limitations on access to abortion, the fundamental premise of the Roe decision, that a woman had a constitutional right to have an abortion for non-medical reasons, was preserved and the Court left open little chance for a reversal. In City of Akron v. Akron Center for

Reproductive Health, 103. S. Ct. 2481 (1983), the Court asserted that the

Doctrine of stare decisis [a Latin phrase that means “to stand by which was decided”¹¹², while perhaps never entirely persuasive on a constitutional question, is a doctrine that demands respect in a society governed by the rule of law.¹¹³

In Planned Parenthood of Southeastern Pennsylvania v. Casey, 112 S. Ct. 2791 (1992), the Supreme Court’s aversion to overturning Roe was even more explicit. In Planned Parenthood the Court determined that the “Rule of stare decisis is not [an] inexorable command.”¹¹⁴ However, Justices Sandra Day O’Connor, Anthony M. Kennedy, and David H. Souter, delivering the opinion of the Court, asserted that the Court’s decision on Roe was still a legally sound. Their opinion stated in part

No evolution of legal principle has left Roe’s doctrinal footing weaker than they were in 1973. No development of constitutional law since the case was decided has implicitly or explicitly left Roe behind as a mere survivor of obsolete constitutional thinking.¹¹⁵

Moreover, the Supreme Court was determined not to succumb to pressure while deciding on the issue of abortion. In Planned Parenthood the Court acknowledged the “sustained and widespread debate Roe [had] provoked,”¹¹⁶ but asserted that it would not overturn Roe to satisfy those opposing the decision. The Court was emphatic on this point. O’Connor, Kennedy and Souter wrote:

The Court must take care to speak and act in ways that allow people to accept its decisions on the terms the Court claims for them, as grounded truly in principle, not

as compromises with social and political pressures having, as such, no bearing on the principled choices that the Court is obliged to make.¹¹⁷

The Court was concerned that if it succumbed to pressure, its legitimacy as a body “fit to determine what the Nation’s law means and to declare what it demands,”¹¹⁸ would be undermined.

However, some of the Supreme Court Justices expressed misgivings with the Court’s continued involvement in the abortion issue. In Planned Parenthood four of the Justices – Chief Justice William Rehnquist, and Associate Justices Antonin Scalia, Clarence Thomas, and Byron White – urged that the Court stay out of the abortion issue where they felt the Court was doing only harm. Scalia, writing for himself and joined by Rehnquist, Thomas and White, wrote that

... by foreclosing all democratic outlet for the deep passions this issue arouses, by banishing from the political forum that gives all participants, even the losers, the satisfaction of a fair hearing and an honest fight, by continuing the imposition of a rigid national rule instead of allowing for regional differences, the Court merely prolongs and intensifies the anguish.

We should get out of this area, where we have no right to be, and where we do neither ourselves nor the country any good by remaining.¹¹⁹

In conclusion, despite the widespread, pervasive, vociferous and persistent opposition to Roe throughout the United States and repeated attempts to circumvent the decision and re-impose restrictions on abortion through legislative means, the decision itself remains legally valid, and

unless the U. S. Constitution is amended to prohibit abortion or the Supreme Court at a later date finds that there is sufficient legal grounds to overturn the decision, it can be reasonably anticipated that, barring a radical change in the system of checks and balances upon which the American political system is founded, the right of a woman to have an abortion for non-medical reasons will remain the law of the land.

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