CONTESTED SPACE:
ILLEGAL ABORTION IN NORTH CAROLINA

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PROLOGUE

"We should have said all medical procedures he performed were legal and ethical and left it at that."¹ In 1995, Dr. Henry Foster has taken center stage in the abortion debate as the controversy rages over his credentials to be Surgeon General. This conflict verifies that the 1973 Supreme Court decision, Roe v. Wade, did not, in fact, permanently alter the American cultural landscape. The current focus on the number of abortions performed, and whether they were "therapeutic," ignores the central underlying fact that the procedure is legal.

Of all the major public policy issues facing Americans during the past twenty-five years, few have had their past as well buried as abortion. Despite the volume of writing on the topic, the heart of the matter has been missed. While written polemics can be powerful, the actual voices of men and women involved in the abortion debate are even more potent. This study seeks to merge the private memories of women with the written record of those who are engaged in public debate. Perhaps if Americans can accommodate themselves to the experiences of those most intimately affected, we will begin to understand the ramifications of lost records.

As society continues to argue about abortion, more men and women who lived through what we may call the "back alley days" are dying without passing on their experiences and the knowledge gained from those experiences. There are fewer doctors who remember women dying of septicemia on their watch; and fewer doctors who have had training in abortion procedures, so that now many medical schools either cannot -- because of lack of expertise -- or do not offer such training.  

I have learned that the victory of legalized abortion is overstated if the emotional dimension is omitted from the debate. It is here -- at the intersection of emotional reality and formal law -- that any serious inquiry into the abortion controversy must focus. Through the stories of women who had pre-\textit{Roe} abortions and others involved in the debate, this study seeks to illuminate the long road from abortion as a natural event, to abortion as a legal right, to abortion as murder. The progression of the abortion experience from one that is personal and private to one that is personal but public is an absolutely central element. To view \textit{Roe v. Wade} as either a beginning or an endpoint in the abortion debate is to miss the insights that an understanding of nineteenth century legislation can give to twentieth century reform. To discern the various nuances of the modern debate, it is necessary to begin long before 1973. There is, first, the historical inheritance to consider. The process by which the private issue of abortion became a public controversy in the nineteenth century and how that evolved

\footnote{Abortion is one of the most common surgical procedures women undergo, yet more than one-fourth of obstetrics and gynecology residency programs offer no abortion training.\textsuperscript{a} \textit{Facing A Future Without Choice: A Report on Reproductive Liberty in America.} (Washington, D.C.: National Abortion Rights Action League, 1992), p., 5.}
into modern legislative debates on the one hand and underground practices on the other, must be unraveled.

In both periods, the intersection of politics and religion with the abortion debate is a central factor that, once included, imparts to the story of abortion its full human dimension.

A note on sources: First, I have chosen to focus on the experiences of women in North Carolina. The work of Kristin Luker on California, published as *Abortion: the Politics of Motherhood*, illustrates the significance of case histories rooted in single states. The story of North Carolina women is garnered both from oral and written records, a circumstance that both enhances and complicates the citation of sources. Some people interviewed spoke for attribution, but others, many of them women who openly spoke of the costs of abortion, asked that their names not be revealed. I have decided to use first-name pseudonyms for all in an effort to protect those who wish to remain anonymous.
The Shift from Private to Public

Prior to the mid-nineteenth century, abortion had not been a topic of much public discussion in America. While theologians had long considered the issue of ensoulment, most Protestant clerics did not find abortion a compelling issue. Nor did a clear directive on abortion emerge from the Catholic Church until Pope Pius IX declared it an excommunicative offense in 1869. But it was not until a century later, following the United States Supreme Court ruling in Roe v. Wade, that the Vatican became actively and publicly engaged in the abortion debate.

Until recently, then, abortion was a private matter, regulated largely by women, and perpetuated through knowledge passed down from generation to generation. Midwives had played a critical role in the health care concerns of women throughout American history, and served multiple roles: they were educators, politicians, diplomats and confidants. It was through these women that folk medicine passed from generation to generation. Midwives knew about natural stimulants to abortion, or "abortifacients" as they are termed in technical literature on the subject, such as the seeds of Queen Anne's Lace or wild carrot. As we now know, knowledge about abortifacients and birth control extended back to the ancient world. Recent research has excavated evidence of the
practice of fertility limitation without opposition from politicians or clergy. As long as midwives were the primary caretakers of family health matters (and this was true for most communities prior to the emergence of a male-dominated medical profession in the mid-nineteenth century), abortion was private and woman-controlled.

As industrialization and urbanization progressed during the nineteenth century, many individuals found themselves living among strangers, in towns and cities increasingly stratified by race, ethnicity and wealth. At the same time, the profession of midwifery grew embattled. Communities no longer relied on one woman who served multiple roles. Urban centers required the services of many to perform specific tasks. Supply and demand caused the commercialization of medicine and, within this altered framework, a revolution in gender roles. When the urban and industrial revolutions forced the private female experience of abortion into "the public and commercial world of men," historian Carroll Smith-Rosenberg argues, "induced abortion forced itself upon the consciousness of urban Americans."  

With this new awareness, it is not surprising that restrictions on women and their authority -- targeted specifically at controlling sexuality -- began to take form. In this process midwives were particularly vulnerable because of their sex and their close affiliation with the birthing process -- one which had traditionally excluded men. The perceived secretiveness of midwives left them as the prime targets in the anti-abortion campaign, which began in earnest in the early 1800s. The first American anti-abortion law was enacted in Connecticut in

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1821, and by 1840 ten of 26 states and territories had anti-abortion laws.\(^5\) Prior to 1821, American laws regarding abortion relied on a precedent set in English Common Law, that of "quickening" -- the term used to describe the first discernible fetal movement. Because of the nature of medical technology during the nineteenth century, it was difficult to determine that a woman was pregnant until she could feel movement in her womb -- a milestone which varies from pregnancy to pregnancy, but which usually occurs around the sixteenth week of gestation.

It was not considered a crime in the nineteenth century to attempt to restart menstruation prior to quickening, a fact which makes it virtually impossible to ascertain who was having abortions, and how many were occurring. One indicator would be deaths caused by overdoses of natural abortifacients, or estimates based on the number of medical guides and manuals addressed specifically to women. Historian James Mohr points out that medical journals such as William Buchan's *Domestic Medicine* (first published in 1782 and reprinted through 1850), written specifically for home use, contained abortifacient information. "One listed in explicit detail a number of procedures that might release 'obstructed menses' and the other identified a number of specific things to be avoided in a suspected pregnancy because they were thought to bring on abortion."\(^6\) Consequently, with abortifacient and birth control options widely known to the literate women of the day, and the concept


of quickening engrained as the accepted marker of a pregnancy, women were not trained to think in terms of legal or illegal abortions.\footnote{Women having abortions were from all classes, but society reacted most strongly when women of the middle and upper-class were thought to be aborting. As restrictions were enforced, a deadly underground of illegal abortionists emerged who dealt primarily with women who could not use "regular" physicians.}

The legal community, on the other hand, saw quickening as the dividing line between legal and illegal abortion, and while the law was vague, it gradually became securely established. As Stephanie Coontz points out in *The Social Origins of Private Life: A History of American Families 1600 - 1900*, "laws and attitudes towards birth control and abortion had been relatively permissive prior to 1860. [But] between 1860 and 1880 this permissiveness ended."\footnote{Stephanie Coontz, *The Social Origins of Private Life: A History of American Families 1600 - 1900* (New York: Verso, 1988), pp. 281-282.}

The movement to end this earlier tolerance was led by doctors. Prior to the creation of the American Medical Association in 1847, the medical community in the United States was not institutionalized, being comprised of both men and women, "regular" and "irregular" doctors. But to members of the AMA, women and those who practiced anything but allopathic medicine, were considered "irregular." The change in status was clear. Midwives who had for centuries been the primary caregivers in communities across the United States, (with doctors called in only when a medical emergency arose) were now relegated to the category of "irregular." A crucial historical juncture had been reached.

With the ascendancy of the AMA, state legislatures began to issue rules and regulations on who could become a physician and how, and to create specific guidelines within which these physicians were expected to operate.
The AMA grew out of the medical profession's battle to gain credibility, prestige, and all of the accoutrements they convey. As Kristen Luker has observed: "[much of the medical profession's] history during that century was an uphill struggle to attain just those attributes. Whereas European physicians entered the modern era with at least the legacy of well defined guild structures... American physicians did not."\footnote{Kristen Luker, Abortion and the Politics of Motherhood (Berkeley: University of California Press, 1984), p. 16.} To gain such status, the AMA and physicians affiliated with it sought to limit membership only to men of a certain class -- thereby regulating the profession so that "undesirables" could not enter.

Inherent in the philosophy of guild association is the concept of restricted access to a trade. The need for restriction is economic -- only members of the guild could practice the trade -- a decisive limitation on competition. Since performing abortions was a sure way for anyone to build a private practice, physicians in the mid-nineteenth century were concerned that permitting midwives to practice would undermine their own business.\footnote{Mohr, chapters 3-4.} Hence, the abortion issue heightened the conflict between "regular" doctors and their "irregular" competitors. Male gynecologists understandably felt that midwives competed with them for patients, and they surmised that women who went to an abortionist might stay with the same doctor for other ailments. By excluding midwives and other "irregular" doctors from the AMA, "regular" physicians limited competition for a livelihood. Thus, by the 1850s, the medical profession was well on its way to becoming an upper-class guild, and this class lens significantly shaped how the issue of abortion was subsequently viewed by the AMA, and others.
While the AMA fought to limit competition, concern over the propriety of male doctors in intimate contact with female patients also caused controversy. At the Harvard Medical School, a vocal young physician named Dr. Horatio R. Storer caused a stir by his decision to specialize in obstetrics and gynecology. The appropriateness of male obstetricians and gynecologists was troublesome within the confines of Victorian ethics, and at mid-century, Smith-Rosenberg observes, physicians and laymen "heatedly debated the morality of male physicians' conducting vaginal examinations."\textsuperscript{11} The fact that men were now specializing in the field of gynecology made many uncomfortable, and this is exemplified by the fact that the Harvard Medical School, the pinnacle of establishment medicine, was acutely aware of the double entendre that "women's medicine" really meant "abortion."\textsuperscript{12}

According to James Mohr, Dr. Storer had a reputation as "an activist who 'kept things stirred up wherever he was,' sensed that his elders were growing restive about abortion and that the time was right for a professionally ambitious leader to take advantage of the still unfocused opposition of regular physicians to abortion."\textsuperscript{13} It is necessary to question whether Dr. Storer was atypical in his viewpoints about the immorality of abortion. While he was certainly the loudest and the most visible opponent of abortion, it seems likely that his ability to make so much noise and thereby create significant agitation around the issue of abortion stemmed from the power of his father -- a prominent Boston physician -- and the family's affiliation with the AMA. Young Dr. Storer was a prolific writer, who eventually became vice-president of the AMA, and his ability to get wide coverage for his views must have helped him in

\textsuperscript{11}Smith-Rosenberg, p. 231.
\textsuperscript{12}Ibid., p. 233.
\textsuperscript{13}Mohr, p. 148.
his crusade. There is evidence to suggest that other doctors followed suit, but the question remains as to the viability of the abortion crusade within the medical community, had not Horatio Storer, with the support of his father, spearheaded the movement.

With institutions such as Harvard responding negatively to concerns about the legitimacy of male gynecologists, it seems natural that allopathic gynecologists -- with Horatio Storer again leading the field -- would be some of the most "insecure" members of this new medical guild, and so would assert themselves all the more loudly in an effort to gain respect.\(^\text{14}\) It is no coincidence that these doctors chose to focus on the issue of abortion because no other issue would allow them to claim that they were saving lives. Kristen Luker, employing the concepts of a century later, calls this overt attempt to change the course of abortion practice the first "right-to-life movement in the United States."\(^\text{15}\)

It is clear that the AMA and physicians across the United States had taken up abortion as an issue of public policy. According to Kristen Luker, they "wanted [to] convince the public that abortion was a problem of great magnitude,"\(^\text{16}\) and they got unintended help in this endeavor from newspapers and advertising. As historian James Mohr points out: "By 1850, then commercialization had brought abortion out into public view in the United States, and the visibility it granted would affect the evolution of abortion policy in American state legislatures."\(^\text{17}\) John D'Emilio and Estelle Freedman note in

\[^{14}\text{Dr. Horatio Storer was "removed" from the Harvard Medical School faculty in the 1860s, and his decision to specialize in gynecology was partly responsible for this action. Smith-Rosenberg, p. 231.}\]

\[^{15}\text{Luker, p. 14.}\]

\[^{16}\text{Ibid., p. 19.}\]

\[^{17}\text{Mohr, p. 50.}\]
their study of American sexuality that: "By the 1860s, over twenty-five different chemical abortifacients -- aloe, iron, and other cathartic powders -- could be located through newspaper ads, postal circulars and pharmacies."\textsuperscript{18} No longer was information about abortifacients relegated to expensive manuals. Now abortifacients -- and therefore abortion -- were commercialized in the print media, and physicians had their opportunity to further publicize a discussion that had previously been private.

Though the increased visibility of abortion through newspaper advertisements reinforced demands for stricter regulation of abortion -- acted out, surprisingly enough, over a debate about "race suicide" -- commercialization was not the sole reason for the AMA's success. At issue were other concerns, larger changes in society which affected how the abortion issue, for the moment, would be framed.

The role of urbanization and industrialization have already been discussed, but the attendant influx of immigrants into America's burgeoning new cities also affected the debate over abortion, particularly through the rise of nativism. The relationship between the largely Catholic newcomers and the resident Anglo-Saxon Protestant community was strained, but at its root was the rising fear among Protestant male physicians that Protestant women were both having fewer children and aborting more frequently. With "race suicide" as a driving force, the medical elite began systematically limiting the right of white, Protestant women to make "choices" about when and why they should have children.\textsuperscript{19} Ironically, Protestant fears about race suicide played a greater role


\textsuperscript{19} It should be noted that the term "choice" was not actually used in the nineteenth century in the way that is employed today. But, it is clear that women were making decisions, or trying to make decisions, about when and how many children they could have.
in the legislative flurry of anti-abortion laws than did Catholic opposition to abortion.\textsuperscript{20} Politicians sounded the alarm at the turn of the century -- led by Theodore Roosevelt, whose fear of race suicide led to his prescription, "Work -- fight -- breed." Thomas Dyer argues that "Roosevelt's conception of womanhood was a romantic middle and upper-class view,"\textsuperscript{21} but one that insisted on every woman's obligation to procreate.

While abortion was not openly discussed among white elites, the practice was nonetheless pervasive -- as demographic figures convincingly demonstrate. Nationally, fertility rates dropped almost 50 percent between 1800 and 1900, and abortion was a principle component of the decline.\textsuperscript{22} In the early nineteenth century, it was a common assumption among elite society that those seeking abortions were young, poor women who deserved pity and sympathy. But as nativist concerns over "race suicide" and moral purity mounted, "a shift in attitude regarding the aborting woman" was discernible, and she was "no longer seen as an innocent victim, but a rebel who failed to fulfill her natural role."\textsuperscript{23}

Aiding the medical establishment in its anti-abortion campaign were the country's anti-obscenity crusaders.\textsuperscript{24} Their campaign grew under the leadership of Anthony Comstock, a prominent New Yorker who headed that

\textsuperscript{20} Mohr, p. 166-167.
\textsuperscript{23} Abbott, p. 16.
\textsuperscript{24} Unfortunately for the physicians, the religious community -- due, in part, to the anti-Catholic opinions of most Protestants -- was unable to create a coalition around the abortion issue, and so remained on the fringes of the debate throughout the nineteenth, and much of the twentieth, century.
state's Society for the Suppression of Vice. In 1873, Comstock "persuaded Congress to pass 'an Act for the Suppression of Trade in and Circulation of, Obscene Literature and Articles of Immoral Use." Known as the Comstock Law, the legislation proved calamitous for abortionists who advertised, and for women like Margaret Sanger who were trying to promote birth control. The Comstock Law proved very effective: within five years abortion-related advertising declined dramatically as abortionists resorted to private cards and handbills. Abortion's "period of commercial viability" was over.

With all the resources available to manipulate the public's view on abortion, the AMA, according to Kristin Luker, "was able to pass a resolution condemning induced abortion and urged state legislatures to pass laws forbidding it . . . slowly, physicians responded to the AMA's call." With physicians now doing the AMA's bidding and lobbying state legislatures, the abortion issue moved even further into the public sphere, being regulated and restricted by law.

State legislation restricting abortion went hand in hand with the visibility of abortionists, and it was between 1860 and 1880 that most of the nation's anti-abortion legislation was passed, with more than 30 anti-abortion laws enacted in the quarter century after 1866. Much of it was still in place a century later. The most significant aspects of this legislative whirlwind were the designation of abortion at any point during pregnancy as illegal and thus the extension of public concern over this formerly private matter. Rosalind Petchesky, in her study Abortion and Woman's Choice: The State, Sexuality, and Reproductive

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25 Mohr, p. 196.
26 Ibid.
27 Ibid., p. 197-199.
28 Luker, p. 20.
29 Mohr, p. 200.
Freedom, points out that: "Laws criminalizing abortion in the latter half of the nineteenth century did not suppress abortion as much as they revealed it, regulated it, certified it as a legitimate domain of public intervention and control."

Still, many physicians believed strongly that there might be some instances where abortion was necessary -- to save the life of the mother, for example. This so-called "therapeutic exception" gave control over the abortion decision not to women, or ministers or legislators, but to the doctors themselves. Now the physician could control when, and under what circumstances, a patient could have an abortion. As Susan Abbott has noted: "In general, the new laws abandoned the quickening distinction and eliminated or tightened the therapeutic exceptions . . . while the court cases of the time period also reveal a harsher attitude toward the practice of abortion, the cases did not increase as rapidly as the statutes in either number or severity."

By 1900, there were more restrictive abortion laws on the books than ever before in United States history. Every state in the country had some type of anti-abortion regulation. Yet, while the number of statutes was multiplying, the number of prosecutions did not keep pace. The time lag between enactment and enforcement could indicate a reluctance on the part of the general public to treat abortionists, or women getting abortions, as harshly as the legal and medical communities wanted. Still, by limiting abortions to "therapeutic" exceptions, the medical community separated the experiences of upper-class women from those of the lower-class. Women who had private physicians

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31Abbott, p. 32.

32Ibid., p. 43.
would find their doctor more sympathetic to an abortion, while those who did not have a "regular" doctor were driven into the deadly abortion underground which flourished between the 1880s and the 1970s.

The lack of enforcement of these new laws underscores the confusion about gender and sexuality during the Victorian era. Things were not as they seemed. On the one hand, women were portrayed as prudish and weak and in need of "protection." Unfortunately, women were also very independent: they were having abortions and moving outside of the domestic sphere. So that it was not only necessary to protect women, but also to control them. Despite the mixed messages, new laws were on the books that legally limited women's access to abortions. As historian Leslie Reagan notes, "the states' attempt to control abortion reflected a turn-of-the-century trend toward growing intervention by the state in medical practice as well as in sexual and family matters. The regulation of doctors by the state in abortion cases coincided with expanding governmental control of medicine through licensing laws and medical practice acts." With this accomplished, and the medical community regularized, there was very little action on the legal front during the early twentieth century.

The regulation of abortion by states -- and not by the federal government -- allowed for considerable variation in how abortion laws were structured. Equally important, it meant that the road back to legal abortions began, not in Washington, but in the states themselves.

And when reform came, it emerged from some unlikely quarters indeed.

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Like most states in the country, North Carolina in the 1960s had an abortion law on its books stemming from the original attack on abortion rights in the 1880s. The 1881 law made abortion after quickening a felony, and "more significantly, abortion at any point in gestation a misdemeanor." For eighty years abortion was illegal in North Carolina. And, while the state had its share of back alley abortion providers -- as well, in some communities, pockets of knowledge of age-old natural abortifacients, and dubious and sometimes deadly home remedies for inducing miscarriages -- in strict legal terms, abortion was outlawed, and the public debate over abortion was virtually non-existent.

In 1967, North Carolina -- along with California and Colorado -- liberalized its long-standing abortion law, though the legislators did not eliminate it. Women still had to get permission from a physician to abort, and many states empowered a hospital panel of three to five professionals with ultimate decision-making power. Duke University Hospital, for example, used this committee system from 1967 until 1973.

The status of abortion was challenged in 1967 when a freshman legislator, Art Jones, of Charlotte, sponsored a bill that would liberalize the 1881 law. North Carolina was not alone in its legislative attempts -- California and

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34Mohr, p. 227.
Colorado changed long-standing abortion laws in 1967 as well. In fact, while part of the vanguard, two other states and the District of Columbia had already changed their laws. The passage of these laws skew our traditional view that the 1973 Supreme Court decision in Roe v. Wade was the turning point for abortion reform.

The story of abortion legislation in North Carolina is revealing. Legislation was introduced into the state's General Assembly in March 1967 and the bill passed on May 9, 1967, less than three months after its introduction. But while this legislation was a signal event -- and an important political precedent to Roe -- it did not open uncontested space for abortion in North Carolina. Indeed, despite changes in state and federal laws, the reality to this day is that there is no uncontested space for abortion.

It is an interesting irony that the terrain of abortion in North Carolina in 1967 was relatively uncontested. In a study of the North Carolina legislative process, Sagar C. Jain and Steven W. Sinding, point out that: "North Carolina's experience was relatively free of the rancor that customarily accompanies the consideration of significant and potentially controversial legislation."\textsuperscript{36} The reasons for this seamless introduction of potentially controversial legislation are multiple. Perhaps it was the "ethos of progressiveness" coupled with the small population of Catholics in the state which produced the necessary atmosphere. As Jain and Sinding explain, a certain defensiveness about their status as members of a southern legislature has caused many legislators to seek to appear "progressive."\textsuperscript{37}


\textsuperscript{37}As a partial result of this desire to be "progressive," North Carolina General Assemblies have dealt with such areas as voluntary sterilization, family planning, major spending for higher
legislators exhorted their colleagues to "get out of the nineteenth century."  

This need to be seen as "progressive" is a thread which runs through the process of changing the long standing abortion laws in North Carolina.

Another reason for the unencumbered passage of the liberalized abortion law was the fact that North Carolina was approximately one percent Catholic (about 56,000 persons) and Protestant churches had not yet developed a clear anti-abortion position. Thus strong church centered opposition which could grow into public opposition did not occur. And the lack of a public debate over the issue allowed the quick passage of the 1967 legislation. In addition, many physicians had changed their views on abortion, now hoping to change the laws to allow women access to safe abortions.

Yet, in North Carolina, as elsewhere, the liberalized law allowed abortions only for so-called therapeutic reasons, and physicians were given authority by the state to grant or deny services to women. While the bill proposed by Art Jones changed the abortion laws in North Carolina, by codifying what many hospitals were already doing, there was a time lag between enactment and enforcement. Dr. Takey Crist explained the situation in education, modern penal and corrective measures and a strong mental health program. (Quoted from footnotes, Jain and Sinding, p. 53.)

38Ibid., p. 11-12
39Ibid., p. 25.
40Researchers of abortion tend to use 1970s concepts to discuss issues of the 1960s. This confusion of the issues clouds the topic more than necessary. While against abortion, the Catholic church itself did not mobilize public protest against the issue until two years after the Roe v. Wade decision.
41See Appendix B: Senate Bill No. 104, the North Carolina Abortion Act of 1967.
42Doctors were already performing abortions for German Measles and other ailments, and these procedures were technically illegal because they were not performed to "save the life of the mother," but were undertaken to preserve the health of the mother.
a 1971 article written for the *North Carolina Medical Journal* in which he explains that "few physicians in North Carolina responded to the change. The people of North Carolina wanted to take advantage of these liberal changes and the citizenry demanded increasing numbers of abortions performed legally under acceptable and accepted medical conditions and practices."\(^{43}\) He went on to say that the number of illegal abortions in North Carolina has been estimated to be 25,000. "Even if reporting was poor, and even if we did in reality perform 5,000 legal abortions last year -- still there are 20,000 women being subjected to the risk of death! And for these people the laws might as well never have been passed."\(^{44}\) The new legislative reforms did not mesh with the daily reality for many women.

Even with a new law on the books, the task of informing the citizenry as to its provisions was a challenge, since abortion was still stigmatized. In the 1960s, with the advent of the sexual revolution and access to the birth control pill, women were experiencing sex in new and liberating ways. They were having sex more frequently, and delaying marriage and child birth, but they were doing so in an environment which could not guarantee them solutions to birth control failure. As Dr. Jaroslav Hulka, Professor of Obstetrics and Gynecology and Maternal and Child Health at the University of North Carolina at Chapel Hill explained: "The introduction of the pill in 1960 gave women new birth control options, but the problem still remained -- what would happen if contraception failed?" Dr. Hulka believed that doctors needed to respond to these concerns.\(^{45}\) In North Carolina, with the aid of physicians, the law was


\(^{44}\)Ibid., pp. 348-349.

\(^{45}\)Interview with Dr. Jaroslav Hulka, November 11, 1993, Chapel Hill, N.C.
liberalized, but, for many women, this new law did not improve the situation when an unwanted pregnancy occurred. Access to abortion was not significantly easier than before.

To best understand the 1967 legislation, and by extension, the origins of the public debate over abortion, one must examine these events within the context of postwar American society.

The 1950s have often been described in literature and history as a time of peace and prosperity in the United States. Today, many look back to the era of the 1950s as the "good old days" of traditional family values. There is a great deal of new scholarship, however, which refutes the old paradigm. The range of scholarly critiques of the 1950s vary, but include more attention to social activism, the emergence of a gay and lesbian subculture, the civil rights movement and the beat generation.

Wini Breines and Elaine Tyler May are two of several authors who now question conventional views of that era. In her work, *Young, White, and Miserable: Growing Up Female in the Fifties*, Breines sheds light on postwar adolescent women through the use of interviews and the examination of sociological studies. By examining the environment of young women coming to adulthood in the 1950s, Breines discovers signs of cultural discontent and resistance. She illustrates the convergence of the personal and the political and the break of many young women with traditional definitions of femininity. In what appears a conservative age, her insights allow us to see young women attempting to redefine themselves and the society around them.

Similarly, Elaine Tyler May unlocks the 1950s in much the same way as Breines by lifting the veil and exposing discontent. In the early years of the Cold

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War, May argues: "Men and women were hopeful that family life in the postwar era would be secure and liberated from the hardships of the past. They believed that affluence, consumer goods, satisfying sex, and children would strengthen their families, enabling them to steer clear of potential disruptions." Yet, throughout their testimonies runs an undercurrent of discontent.\footnote{Elaine Tyler May, \textit{Homeward Bound: American Families in the Cold War Era} (New York: Basic Books, 1988), pp. 12-13.}

This discontent manifested itself in many ways, including the evolution of new sexual mores and the use of abortion to terminate pregnancy. In fact, "In 1960," Rickie Solinger has noted, "the AMA [American Medical Association] determined that there were approximately a million illegal abortions in the United States annually."\footnote{Rickie Solinger, "Extreme Danger: Women Abortionists and Their Clients before Roe v. Wade," in Joanne Meyerowitz, ed., \textit{Not June Cleaver: Women and Gender in Postwar America, 1945-1980} (Philadelphia: Temple University Press, 1994), p. 335.} After World War II, "claims of the fetus were advanced separately from, even in opposition to, those of the mother, who was cast solely as a carrier or container."\footnote{Preface to Rickie Solinger, " 'A Complete Disaster': Abortion and the Politics of Hospital Abortion Committees, 1950-1970," \textit{Feminist Studies}, XIX, 2 (Summer 1993), p. 237.} The reality was that, despite the laws against abortion, women were finding ways to get them. The prevalent method was through an abortion underground, which could prove either safe or deadly.

In the past, back alley abortionists -- a hodgepodge of unlicensed doctors, medical students, and tailors, overwhelmingly male -- have been viewed as the primary providers. In her new work, \textit{The Abortionist}, Rickie Solinger challenges this view. Solinger argues that there were many women across the country who performed safe abortions, and documents her claims through the trial records and appeals of more than fifty such women. Solinger recognizes that the "back alley" abortionists existed alongside this more
woman-centered network, but argues that it was the nature of the existing legislation that created an abortion underground run not for the well-being of women, but for profit by racketeers who put women at risk.

Through Solinger's work, we can now see that the traditional role of women as abortionists was still in place in some cities in the decades preceding Roe. Scholars have already demonstrated that for centuries prior to the professionalization of the medical field in the 1850s, women had performed abortions with little or no community involvement. Abortions were, in fact, simply viewed as a part of life. Apparently they were still viewed as such by many women in the 1950s. Yet Solinger notes: "Even as antiabortion laws were flouted, they were nevertheless powerfully effective. The laws created the niche for and structured arenas of extreme personal danger for women seeking abortions and their abortionists. When abortionists and their clients met each other, together they occupied 'immoral terrain,' a place where human beings are very likely to encounter danger."50 These historical revisions of 1950s facilitate a discussion of sexuality in that era, as a logical forerunner of later controversy.

In response to growing concerns about therapeutic abortions and their indications, many hospitals throughout the country set up committees in the 1950s to decide when an abortion was necessary. These hospital boards had been created in response to the attempt by the American Law Institute to determine under what conditions a woman could receive an abortion. A woman could appeal to a hospital panel and would be granted an abortion if she could prove the pregnancy would endanger her life (a criteria which would prove

50Solinger, "Extreme Danger," p. 335.
easy to manipulate by women with means), her mental health, or was caused by incest or rape. In their attempt to regularize abortions, these committees in fact had tremendous leeway in their decisions. Still, according to Luker, "In an effort to choose cases that would be most defensible, only those cases acceptable to all doctors on the board were approved."52

Rickie Solinger discusses many of the problems with this system and found "most striking" the fact that very few of the physicians who wrote on the abortion issue were primarily concerned with the issue of when life begins. They were, however, "very concerned with what they took to be their role in the postwar cultural mandate to protect and preserve the links between sexuality, femininity, marriage, and maternity."53 Therefore, much of the hidden agenda of these committees was highly political; and, Solinger argues, the hospitals, doctors and lawyers who formulated this agenda via postwar abortion committees redefined pregnancy into the 1990s.

Getting doctors to discuss hospital abortion committees from the 1950s and 1960s is a difficult task. The former chair of the Obstetrics and Gynecology Department at Duke, who created the committee to review abortions at Duke University Medical Center, refused repeated requests for an interview, thereby limiting our understanding of the process there. Other physicians are similarly reluctant to discuss these committees, so it is necessary to extrapolate from

51 The class bias of these panels is overwhelming. Certainly women who had the financial resources, and personal access to her physician would have a better chance of slipping through the bureaucracy of the board. For example, these women could be diagnosed by their physician as simply needing a D and C (dilation and cutterage), not an abortion. For more information on the various techniques used by doctors to abort, see Patricia G. Miller, The Worst of Times (New York: Harper Collins, 1993).

52 Luker, p. 56.

other sources what these hospital abortion committees were in fact accomplishing by their overt control of pregnant women's lives.

Because of the political nature of these boards, the voices of the women before them were often lost in the cacophony of conflicting purposes. The hospital boards provided "individual physicians with institutional support so that opponents of any given abortion decision would have to challenge an entire hospital rather than a single doctor," but there real effect was to further limit access to abortions.

The very notion of standing before a hospital committee to plead for an abortion was enough to drive some women to the back alleys. On a political level, this meant, simply enough, that women's choice about abortion was still under the control of men. As Ellen Willis so aptly explained in her foreword to Alice Echols's *Daring To Be Bad*,

more than any other issue, abortion embodied and symbolized our fundamental demand -- not merely formal equality for women but genuine self-determination. Our target was not only those who opposed abortion altogether but the growing ranks of (mostly male) reformers, who proposed to allow the (overwhelmingly male) medical profession the right to grant abortions to "deserving" women in limited circumstances -- rape, substantial threat to health, likelihood of fetal deformity, and so on. The issue, we insisted, was not how cruelly or compassionately a male-dominated society should treat women with unwanted pregnancies, but women's moral right to control their fertility and therefore the direction of their lives.

Many of the reformers were not ready to tackle the issue of women's moral right to control their own fertility, and so the debate was couched in terms of how best to keep women safe from pregnancies that threatened their health.

54Luker, p. 56.

The North Carolina legislation itself was framed by individuals -- mostly men -- who brought their own perspectives and biases to the debate. It is to these men that we must turn for a clearer understanding of how and why the legislation was introduced.\textsuperscript{56}

A freshman legislator named Art Jones from Mecklenburg County was the House sponsor for the bill. What is so unusual about this was the status of Representative Jones. What would possess an inexperienced legislator to accept responsibility for guiding such a bill through the General Assembly? The answer lies in the permanent impact that a small Ohio college had on one of its graduates.

In 1926, Art Jones, a freshman at Oberlin College, underwent experiences that, forty years later, would shape the future of abortion legislation. He attended Oberlin as a Composite Religion major, and was very dogmatic in his attitudes. Once, in his freshman year, during a lecture in psychology, his professor actually stopped mid-sentence and said, "Mr. Jones, you better do one thing in your life, and that's open your mind." According to his wife, this comment, in conjunction with new experiences at college, changed the course of his life. He realized how closed-minded he was, and began to reconsider his way of looking at life.\textsuperscript{57}

With that advice in hand, Art Jones went on with the business of his education. Some might say that Oberlin was radical in the 1920s. After all, what place other than a radical enclave would invite a controversial birth control figure, Margaret Sanger, to speak on campus? Sometime during Sanger's stay at Oberlin, Art Jones interviewed her for a sociology thesis, and this

\textsuperscript{56}See Appendix A, "The Real Politics of the 1967 Abortion Law," for more specific details about the passage of the legislation.

\textsuperscript{57}Interview with Gertrude Jones, April 13, 1994, Chapel Hill, N.C.
conversation would influence his future work. He said that he made a "mental
note to 'do something' in these areas."\textsuperscript{58}

Because of Representative Jones' connection with Margaret Sanger, it is
important to understand Sanger's role in the various reproductive movements of
the 1920s. It is through this connection that North Carolina's abortion policy
was shaped, and the ideologies of the early twentieth century play a crucial role
in how modern abortion policy was written. Margaret Sanger was a
complicated and controversial figure. She is first and foremost known for her
crusade for access to contraception at the beginning of the twentieth century. In
fact, it was her struggle to inform women of their contraceptive choices which
caused her to flee the United States in 1913 to avoid prosecution under the
Comstock Law.

Margaret Sanger invented the term "birth control" in 1915,\textsuperscript{59} and around
that term a mass movement coalesced. As Linda Gordon comments: "They
wanted to change the world. They believed that birth control could alleviate
much human misery and fundamentally alter social and political power
relations, thereby creating sexual and class equality." Margaret Sanger herself
had working-class origins, and the common bond of oppression convinced her
that she could "transcend class differences."\textsuperscript{60} Whether Sanger and the birth
control movement were able to transcend class differences is open for debate,
especially since Sanger's actions as the movement progressed belie a lack of
understanding about the consequences of pregnancy for working-class women.
She operated in what we might call an imagined community, in that she
believed that her working-class background meant that she understood the

\textsuperscript{56} Jain and Sinding, p. 15.
\textsuperscript{59} Gordon, p. 203.
\textsuperscript{60} ibid., p. 204.
experiences of the working-class and could therefore represent their wishes and needs.

Sanger's friendship with Swedish writer Ellen Key proved one of the most influential of her life in that it would guide how she thought about the issues of abortion and birth control within a patriarchal society. Key wrote about female sexual fulfillment -- a radical concept. Key believed that "women's true fulfillment was sex-specific, intrinsically bound to the nurturance expressed in maternity -- just as the nineteenth century conventions had it -- but she broke through . . . by link[ing] 'motherliness' to heterosexual desire."\(^6^1\) Sanger took hold of these ideas, and translated them into her own work.

Sanger certainly believed in the concept of "voluntary motherhood" as opposed to involuntary motherhood in that she believed that "no woman should be a mother against her will."\(^6^2\) But, she operated within the construct of women's happiness and fulfillment through maternity. Birth control would allow women the opportunity to regulate their own fertility, and remove the fear of unwanted children. Thus, Sanger's support of birth control did not extend to full reproductive rights. As activist Larry Lader notes: "Margaret had always opposed abortion . . . [She] detested the waste and degradation of human life, and pleaded for contraception as a rational and humanitarian alternative."\(^6^3\) Sanger's stand on abortion was not, in fact, unusual among feminists of the early twentieth century. Many were anti-abortion and, as Carroll Smith-Rosenberg explains: "Abortion did not symbolize an increase in personal and sexual freedom for these women, but its reverse. Abortion . . . doubly violated


\(^6^2\)Petchesky, p. 88.

women's physical integrity." With abortion viewed in this context, birth control symbolized a way to guard against unwanted pregnancy. Perhaps birth control would even make abortion obsolete, but birth control was only part of the battle over fertility rights. A critical intellectual movement of the day involved eugenics, which, according to Ellen Chesler, "remained popular with a wide range of progressive thinkers who simply failed to anticipate that the enforcement of hereditarian reforms was likely to foster the very discrimination by ethnicity, race, and class that they denounced and worked elsewhere to combat."  

Art Jones came of age in the 1920s, and his vision was influenced by Margaret Sanger, and many others. He felt, as did Sanger the need to "Further refine [his] argument for the essential compatibility of a progressive vision embracing both social reform and eugenics." Margaret Sanger's influence can be seen in the drive for abortion reform in North Carolina in 1967. The links forged in the 1920s between abortion, eugenics, population control, and social welfare came to fruition in the 1960s, connected by the men who came of age in the 1920s. Lader further notes that her stance was right for her time, but not as appropriate in the context of the 1960s. Technology had now advanced to the point where abortions could be performed safely, and it was under these conditions that abortion was now debated.

Art Jones married Gertrude von Bergen between his freshman and sophomore years at Oberlin, and Gertrude recalls her husband making contraceptive jelly at their home and distributing it to married students on

64Smith-Rosenberg, p. 243.
66Ibid.
67Lader, Abortion II, p. 20.
campus. The ingredients included glycerin and lactic acid which were then "simmered on the stove" in a pot that resembled a still. 68 Jones got into trouble with the dean at Oberlin for this enterprise, but was allowed to stay and complete his studies.

After college, Art Jones continued to maintain an interest in family planning issues and, throughout his life, was involved in numerous organizations in the Charlotte area including the Charlotte Mental Hygiene Association and the Mecklenburg County Family Life Council. Mrs. Jones also played a role in maintaining her husband's interest in family planning issues through her employment as a counselor in the Charlotte and Mecklenburg domestic courts. Art Jones said that his wife's work gave her almost daily contact with disruptive family problems stemming from unwanted or deformed children, and her findings played a definite role in his decision to introduce the abortion bill. 69

Jones himself told The New York Times that he "developed plans for the bill without being asked by any group." He went on to say that "I've been interested a long time in this problem, ever since I was a major in sociology at Oberlin College in Ohio in the nineteen twenties... It was a continuing thing. I've been interested in this for a long, long time and after I was elected, I would [lie] awake at night asking myself, 'Jones, what are you going to do over there.' I decided then this would be one of the things I tried to do, and I came to Raleigh with the bill in my pocket." 70

68 Interview with Gertrude Jones, April 13, 1994, Chapel Hill, N.C.
69 Jain and Sinding, p. 16. Mrs. Jones discussed her work as a counselor in the local domestic court system in our interview on April 13, 1994.
While Art Jones sponsored the legislation, the initial idea came from his close friend, Wallace Kuralt, Sr. Kuralt, then the director of the Mecklenburg County Public Welfare Department, came up with the idea for the bill after the 1966 election. His interest in abortion "stemmed from a desire to control family dependency. He noted that it was normally not the duty of a public welfare department to enter this area, but he added that frequent attacks on the role of welfare in supporting illegitimate children and nonviable dependencies stimulated his thought regarding prevention of these dependencies."^{71}

Kuralt collected a file of material on abortion and he and the lawyers for the Mecklenburg County Public Welfare Department drafted the initial bill. A decision was made after conferring with obstetricians and gynecologists in the area that amending the bill on the books was preferable to introducing new legislation. All agreed that the bill should focus on the "health of the mother,"^{72} and that the procedure should be performed by a licensed physician.

As David Garrow, in *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade*, tells the story, Kuralt and a local welfare attorney Myles Hanes, composed a first draft of a reform bill and took that draft to Senator Herman Moore for help in finding a sponsor.^{73} At this point, there was a concerted effort to separate the 1967 legislation from the issues of public welfare. Kuralt wanted his name to be kept out of the issue; there was to be

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^{71} Jain and Sinding, p. 16. Wallace Kuralt, who worked at the office of Public Welfare from 1945 until 1972, had expertise in the area of birth control which was widely known. He was responsible for the North Carolina Sterilization Act of 1963, which was modeled on Virginia's 1961 sterilization act.


^{73} ibid. Herman Moore himself claims no responsibility for the 1967 legislation except that he suggested that Art Jones and Jack White sponsor the bill from the House and Senate respectively. Interview with Herman Moore, February 25, 1994, Charlotte, N.C.
virtually no publicity about this legislation, and thus no public debate. This effort would explain Art Jones' claim to The New York Times that, "I came to Raleigh with the bill in my pocket." He probably did come with the "bill in his pocket," but it was a bill conceived and written by his next-door neighbor and good friend, Wallace Kuralt, Sr.74

Kuralt's involvement with the abortion legislation is particularly curious. Was there a connection between the Director of Public Welfare's desire to promote liberal abortion legislation and race and class issues in the state of North Carolina? Certainly the timing would have been right for such a connection. Daniel Patrick Moynihan published The Negro Family: The Cause for National Action, otherwise known as the Moynihan Report, in 1965. The focus of this report was on black fathers who desert their families. Did Wallace Kuralt, Sr. support, or compose, the original version of the 1967 abortion bill in a eugenic attempt to link race, class and abortion, and so lighten the load on the welfare registers?

Kuralt made the point that the creation of the birth control pill helped promote family planning: "It was easy to teach poorly educated women how to use it."75 Linda Gordon, in Woman's Body, Woman's Right: Birth Control in America, points out the linkage between "Birth Control and Government," a subtitle of her chapter "The Depression." She highlights the "liberal" attitudes of many states, and indictes their liberalism by linking it with racism. Gordon points out that North Carolina was the first state to offer birth control services through its public health program, which it did in 1937. "Despite control by health

74 The question of who actually wrote the original bill becomes even more curious when one realizes that the first bill drafted included a serious error. The bill stated that abortion was legal to save the health or life of the mother and the child. For more on this issue, see Appendix A, pages 56-57.

75 Interview with Wallace Kuralt, Sr., by phone, February 27, 1994, Kitty Hawk, N.C.
Officials, birth control was offered to women for economic and social as well as medical reasons." She goes on to note that advice about contraceptives was offered only to "indigent mothers," while everyone else was referred to a physician. Most importantly, Gordon points out that states like North Carolina's "pioneering role in government-sponsored birth control was conditioned by the absence of large Catholic constituencies, and stimulated by racism." North Carolina certainly perceived itself to be liberal, indeed, Mr. Kuralt believed that his state was "fifty years ahead of everyone else." But this was not the view held by some outside the environs of North Carolina. In a paper presented in Asheville, on April 10, 1968, Dr. Alan F. Guttmacher, the President of Planned Parenthood/World Population, assessed North Carolina's abortion legislation. He began by asking what the objectives of a "good abortion bill . . . not your bill" are. Guttmacher delineated the points of a good bill as follows: "The first objective is reduction of illegal abortion . . . The facts are that your bill will do very little, if anything, to reduce illegal abortion. . . . The second thing your bill should do is eliminate discrimination, and your bill is going to do precious little toward this end. What do I mean by discrimination? I mean discrimination in legal and illegal abortion." Dr. Guttmacher's interpretation of North Carolina's bill as liberal, but not enough to make a real difference is born out by the women who continued to feel stigmatized by a system that prevented full access to abortion.

At the same conference where Guttmacher spoke, the sponsor of the bill also gave his perception of the legislation. Jones believed in limiting the right to

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77 Interview with Wallace Kuralt, Sr., by phone, February 27, 1994, Kitty Hawk, N.C.
bear children with questionable genes. In his words: "Someday, society will demand that a woman will have to obtain from the state a permit to bear a child. When that day comes, the human race will have the chance to improve itself physically and mentally." Jones views this eventuality with enthusiasm: "It will be then that a scientifically trained medical fraternity will truly come into its own."\(^79\)

Eugenics guided the thinking of Art Jones, and possibly Wallace Kuralt, Sr., and concerns about race, class and population control framed the legislation proposed in North Carolina in 1967. And, while some members of the medical community were concerned about the carnage of back alley abortionists, the legislature focused on other issues.

\(^79\)Art Jones quoted in Hulka, pp. 20-21. To help doctors in their decision making process, a symposium on current political, moral, and medical aspects of abortion was organized by the Department of Obstetrics and Gynecology, University of North Carolina Medicine, and the Carolina Population Center. The symposium was held in Chapel Hill on Saturday, July 15, 1967, and it was here that Art Jones made his comments about the state of abortion.
The reality of women's lives did not always, or often, mesh with legislative reforms. Despite the movements to liberalize long-standing abortion laws, the legislative facts did not improve access to abortion for the majority of women. The stigma of abortion, and the choices faced by pregnant women -- permission from a hospital abortion committee, a back alley abortion, self-induced abortion, or the fortune of knowing a kindly small town physician willing to perform the procedure -- did not change significantly despite the passage of "reform" bills in the 1960s and 1970s. However, although abortions could no longer be legally denied, the process of securing abortion services continued to be complicated and as riddled with stigma as it had been in the 1960s. The stories of women who had abortions before the reform era illustrate the emotional cost of the decision to terminate pregnancy in a society where laws dictated that the practice was restricted. Women did have choices once the decision had been made, yet these choices were controlled by issues such as class.

By 1962, abortion by a physician had now become a "safe and simple procedure" with "new techniques making it far safer than childbirth itself."60 Within this context, physicians faced the problems of advancing technology and how best to use it. For many, the issue focused on one of safety. It was this issue which many members of North Carolina's medical community tried to address in the 1960s by attempting to reform abortion laws.

60Lader, Abortion II, p. 20.
In the 1960s and 1970s, a group of doctors in Chapel Hill made a concerted effort to procure safe abortions for women. The concern centered around their awareness of the "butcher shops" women resorted to, and the increasing number of women engaging in attempted acts of self aborting.\textsuperscript{81} For Dr. Takey Crist, the story of a young woman who had an illegal abortion which cost weeks in the hospital and her chance for motherhood spurred him to action. "I began talking on college campuses . . . about human sexuality, about responsibility in relationships, about birth control and about choices."\textsuperscript{82} Soon "Elephants and Butterflies," initially a booklet written and edited by medical students, became a regular column in the University of North Carolina at Chapel Hill's campus newspaper, \textit{The Daily Tar Heel}. This column became a forum in which Dr. Crist and a colleague answered questions about human sexuality. He also developed Health Education 33, a night course which students made popular by over-enrolling.\textsuperscript{83} Through these efforts Dr. Crist made a difference on the UNC campus. His popularity and open style facilitated interaction with students, and he recalls arriving home "and there'd be a couple in the car, another in the kitchen, a third in the living room and another on the back porch. [I] gave them information." Crist believes that efforts such as those on the UNC campus helped create "a new attitude toward sexuality . . . I felt I had done all I could for college students at that time."\textsuperscript{84} It was the efforts of reformers like Dr. Crist who, even before \textit{Roe v. Wade}, addressed

\textsuperscript{81}Interview with Dr. Takey Crist, February 2, 1994, Jacksonville, N.C.
\textsuperscript{82}Crist Takes His Message Home" undated article from "Elephants and Butterflies" column in \textit{The Daily Tar Heel}.
\textsuperscript{83}Interview with Dr. Takey Crist, February 2, 1994, Jacksonville, N.C.
\textsuperscript{84}Crist Takes His Message Home" undated article from "Elephants and Butterflies" column in \textit{The Daily Tar Heel}. Interview with Dr. Takey Crist, August 24, 1994, Jacksonville, N.C.
the issue of women's right to choose and made access to abortion a compelling issue.

At the same time, but on the other side of the country, a recent memoir describes the plight of Donna and Loren, a young unmarried undergraduate couple in Berkeley, California. Donna found herself pregnant for the second time. Her first pregnancy, in 1963, had ended at a "chop shop" with a tailor performing the abortion. They paid $600 in cash and swore never to do it again. The next year, when they found themselves in the same situation, Donna came up with a different solution. She went to the grocery store and purchased a clean sheet, a flashlight, hair curlers, and a piece of plastic tubing. She filled a pot with water and put it on the stove to boil, dropping in the curlers and the tubing. She told Loren to clear the table and cover it with the sheet. "I don't know about this," he said, his voice trailing off. "I trust you Loren," she said. 'You're the only person in the world I'd let do this to me.' After the water was boiling, she removed the curler and the tubing and set it on top of the sheet. Then she took off her skirt and underpants and scooted up on the desk, spreading her legs, and inserted the hair curler in her vagina to prop it open. Then, using the flashlight to see, Loren slowly eased the piece of plastic tubing inside her as she instructed, carefully moving it back and forth against the walls of the uterus until they were convinced the fetus was destroyed."\(^{85}\) Donna survived her self-induced abortion, but others were less fortunate.

Statistics of women who died from illegal abortions are staggering. According to one pre-\textit{Roe} estimate, "as many as 5,000 American women die each year as a direct result of criminal abortion," and, "the figure of 5,000 may be a minimum estimate, inasmuch as many such deaths are mislabeled or

Indeed, death was common enough that in some hospitals certain rooms acquired ghoulish nicknames. The North Carolina reform pioneer, Dr. Jaroslav Hulka, tells about his medical residency at Magee Hospital in Pittsburgh, Pennsylvania, during the early 1960s. The physicians had a room which, in their gallows humor, they called the "septic tank." This was the room where women dying from septic abortions were taken.87

Physicians were increasingly concerned about the availability of back alley abortions, and they saw increasing numbers of patients whose lives were endangered by these brutal procedures. There was a thriving trade in these procedures for those desperate enough to search them out. As Dr. Crist noted: "obtaining an illegal abortion is as easy as walking into a store and buying a shirt." He noted that a dirty catheter started at $50, but many went as high as $300, "cash, of course." The higher prices ranged from $1,250 to $1,500 with "three days vacation in England or Puerto Rico as a bonus." Crist illustrates the ease of procuring back-alley abortions with the story of a young woman living in Arlington, Virginia, who has $500 cash in hand. She can "wear a pink dress and stand on the corner of any downtown street at two, four, or six o'clock and be picked up and taken to a clinic for her abortion, a shot of penicillin, and a package of Darvon compound."88


87Interview with Dr. Jaroslav Hulka, Chapel Hill, N.C., October 4, 1993. A septic abortion occurs when a woman's vaginal, cervical or uterine wall is punctured and bacteria escapes into the peritoneal cavity. Bacterial infection of this sort is usually deadly because of the pervasiveness of the infection.

There is no dearth of graphic accounts of the terrifying decision to abort, and the subsequent procedure. What is lacking is public recognition of these events. Usually these stories are only related in hushed tones to hand-picked audiences, or are related under pseudonyms. For example, when, in 1988, it appeared that Roe would be further limited, the National Abortion Rights Action League commissioned a report comprised of stories of illegal abortions. The following account appeared in a letter written by a woman who had a back-alley abortion in 1937. We will call her Michelle.

Michelle was the first person in a family with 13 children to graduate from high school. She was 20 years old, with a "good job," and in love. "Suddenly I felt as though all the good parts of my life was [sic] coming apart at the seams, because I was pregnant." Michelle told her lover and "heard the word that I had only heard whispered about -- abortion." This word conjured up "horror stories" of women "dying on kitchen tables with knitting needles and coat hangers" as surgical instruments; yet Michelle was told not to be afraid. Her lover's response to her fears was to tell of a "guy in Ohio who is safe. All the mob guys take their girlfriends there." While a frightening concept, the idea made sense to Michelle because "after all, abortion was a crime, so why shouldn't criminals know the best place to go?" With that, she found herself in a car "heading towards an unknown fate... I sat between these two men who talked of sports and gambling, one was the man I thought myself to be in love with, the other was a convicted murderer." Michelle and her companions arrived at dusk and pulled into an alley behind an old house. She left the car alone, and went into a small room with one table. "I remember an old black man with frizzy white hair, I remember seeing an old calendar with 1937 on it, and I remember nothing else." With the warning that she "will probably feel some pain," Michelle went back to the car for the trip back to Pittsburgh. "I waited, afraid of what was going
to happen, and then the pain began." For hours the pain went on, and then "the bleeding began, a hemorrhage so bad the memory of it still frightens me." Other memories are acute as well. She knows that she would not let her roommate call a doctor or her mother, and she refused requests to go to the hospital. "I did nothing, I was afraid to do anything, because I was convinced that I would go to jail. I was outside the law, and there was no help for me." Michelle's final comment about the experience was that "the memory is buried in a dark and secret place."

Forty-one years later this woman felt compelled to tell her story because of her fear that the days of back alley abortions would return. This concern about reverting to those days is paramount among many of the women who experienced illegal abortions. Therefore, some feel the need to tell their stories to protect future generations. Joyce is one such woman. She talks openly and freely about her experiences because of "the importance of educating the young." Joyce, a lifelong North Carolinian, was born in 1947, and had her first of three abortions when she was 16 years old. She was raised by her paternal grandparents, and her grandfather knew a midwife in a small town nearby who he had been helping make some money. Apparently he was "nosy and rode around a lot" and knew when someone got in "trouble." Joyce remembers the day she had her first abortion, and says that the ride to the midwife's house was "the worst ride of my life." Once there, the woman inserted a catheter into Joyce's uterus. She remembers no pain, only that her grandparents gave her gin that night. She also remembers a friend of her mother's who was

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performing abortions in town. She used to send Joyce down to the local store for ammonia and catheters. Joyce knew what they were for -- she had already experienced their effects.

Joyce's second abortion came two years later, and the circumstances were much more painful. She was pregnant when she graduated from high school, and went to Washington, D.C., to get a job and have her baby. She moved in with her aunts. One day her Aunt Vernetta came home with a nurse who ordered Joyce into the bedroom and told her to undress. She then performed the abortion and told Joyce that the baby was a boy. She felt -- and still feels -- betrayed by this event, and those feelings have guided her since. From that pregnancy on, she never told anyone when she was pregnant because she did not want to risk being forced into having an abortion.

To this day Joyce wonders what her son would have been like. She had very set ideas about what marriage meant, and what having children would be like. She "dreamed about marrying and having three children, first a son." In fact, her first-born was a daughter, born when she was 20 years old. Later she had two sons. Joyce worries about young children today getting pregnant before they are married. She drives a school bus, and talks about conversations she hears. One day she heard an 8th grade girl talk about her new baby; all the other girls think this is "the ultimate," that this is their ticket to adulthood. Joyce wants these girls to "get it right," to marry first, and then have children. To make this happen, she talks openly with anyone who will listen about her experiences. She talked to her daughter about birth control, and believes that parents need to be open and honest with their children about sex.90

90Interview with Joyce, April 15, 1994, Rolesville, N.C.
The circumstances of Joyce's first abortion are not as unusual as one might think. In many towns in the rural South, "granny" midwives performed the same functions that midwives had performed in the nineteenth century and earlier. In other parts of the United States, physicians in small towns had flourishing abortion practices. These men were not butchers, they were licensed physicians who operated with the tacit consent of their community. Activist Larry Lader identified two such physicians in his work, Dr. Robert Spenser of Ashland, Pennsylvania and Dr. W. J. Bryan Henrie of Grove, Oklahoma. Both of these men functioned as abortionists within their community, serving any woman who needed help. Dr. Spenser was in practice from the 1920s into the 1960s and for "over 40 years . . . handled more abortion cases than anyone on the East Coast, his phone number so prized that one woman writer remarked, 'Really, I think of it as the telephone number of God.'" The community of Ashland protected Dr. Spenser. "He treated unwanted pregnancies as well as pneumonia for over forty years because the community wanted it that way." These men were in the vanguard of reform. By performing abortions illegally, they opened the door to challenge long-standing abortion laws.

Unfortunately, not many communities supported such behavior, and so the majority of illegal abortions were performed by unskilled men and women. The story of Betty illustrates just such an encounter, and the societal stigma which initially prevented her from getting the help she needed after the botched abortion. In 1964, while attending Meredith College in Raleigh, Betty got

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92Lader, *Abortion II*, pp. 4-5. Dr. Henrie went to jail in 1962 for over two years after performing 5,000 abortions at a top price of $100.
pregnant. Through a network of friends, she and her steady boyfriend found someone who would perform an abortion. On the designated day, Betty and her partner got into a car blindfolded. After driving around for a while, they arrived at the designated place and were ushered upstairs. When the procedure was finished, Betty went back to her boyfriend's house, but later had to go back to her dorm at night for check-in. A few days later she became very ill and went to the college infirmary. The doctor told her she had the flu, and sent her home. Betty was hemorrhaging, and she remembers that the doctor asked her no questions, just checked her temperature.

The refusal to acknowledge her condition highlights the stigma attached to abortion. While Betty did not volunteer information, the power dynamic was such that she could not divulge the facts of her illegal operation. She believes that the onus was on the doctor to question her thoroughly, yet she still is not sure that she would have told him the details of her condition. "That would have depended on him," is her response to questions about the power relationship, illustrating the typically skewed relations in doctor-patient situations. The importance of a physician's demeanor in shaping the extent of candor available in the patient-doctor dialogue when the subject was abortion cannot be understated.

The next day, Betty's boyfriend took her to the hospital. Her parents were called and told by the hospital that their daughter would not live until morning. Betty did live, but her kidneys had stopped functioning, and she was eventually moved to Memorial Hospital in Chapel Hill where they had dialysis machines. She remained hospitalized for three months.93

Thirty years after her illegal abortion, Betty can talk openly about the experience. She had told only a few close friends and family members until a

93Interview with Betty, January 27, 1994, Raleigh, N.C..
few years ago when North Carolina fell in line with the rest of the country and tried to pass legislation that would undermine *Roe v. Wade*. Betty decided it was time to go public, so that people would know what could happen if abortion was again restricted. She had long been a member of the North Carolina Abortion Rights Action League and was also involved in the Religious Coalition for Abortion Rights in Raleigh. She spoke before a subcommittee of the North Carolina Senate and was interviewed for an HBO broadcast. Despite her experience discussing abortion in open forums, the subject remains so emotionally powerful that, from time to time, she still cries when she talks about the issue. This sadness, she says, she will carry for the rest of her life; despite her firm belief that she did the right thing, she feels a sense of loss. This is common among the women I have talked with, and goes to the heart of the public versus private debate which is so central to the issue of abortion.⁹⁴

Betty's story is only one of many that lead some physicians to begin reforming outdated abortion laws in the 1960s. As more and more botched abortions came into hospital emergency rooms, the need for action became clear. Some women did not venture into local emergency rooms, and instead fled to places where they perceived the stigma to be less overwhelming.

It was 1972. Sally was a 17 year old senior in high school in Lumberton, North Carolina when she discovered she was pregnant. It was not until the second month that reality set in, and she waited two more months to tell anyone. She was very religious and had been involved with the charismatic church, and so avoided her dilemma as long as she could out of fear and shame. When she

⁹⁴There are two points: 1) the literal public versus private debate — meaning a legislative, political debate (which is certainly a factor after 1973) and 2) the private decision to have an abortion and the internal debate about private feelings and beliefs versus what the culture tells us is acceptable.
told her boyfriend, he told his father who gave them the money needed to get an abortion. They had decided that the best way to deal with this was to go to Dr. Vuitch's clinic in Washington, D.C. because they knew that he performed abortions and that the stigma would be less severe in a large city.

However, the trip to D.C. had been foiled when the car broke down and she missed the plane. Her elaborate web of deceit fell apart when a friend of hers called her mother and her boyfriend's mother to tell them of the situation. When she missed the plane, she went to a friend's house and called her boyfriend who told her she better call home. Her mother was "matter of fact" about the situation, and the next weekend they boarded a plane for Washington. The procedure went without mishap, and the Sally got her abortion in January of 1973. Monday of the next week the Supreme Court ruled on Roe v. Wade.

Twenty years later, Sally still has recurrent nightmares about her aborted daughter. Sally believes that the fetus has a soul, and she has given it a name, Elizabeth. The trip to Washington D.C. did not alleviate the stigma of the procedure. Her friends knew what she was doing, and her reputation suffered as a result. As well, she feels that the church failed her: "What I didn't hear from

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95The District of Columbia's abortion law had been successfully challenged by Dr. Vuitch in 1968 because the old DC law had a valuable loophole -- the law dictated that abortion could be performed to save the life or the health of a woman. Vuitch accepted open referrals to his clinic knowing that the only way to change the laws was to openly challenge them. The law did not restrict abortions to the hospital, and so Dr. Vuitch performed them in his clinic. After two years, the "authorities" could no longer ignore his activities, and he was arrested. In 1969, the U.S. District Court of the District of Columbia declared that the D.C. law was unconstitutional on the grounds that it "failed to give the clarity and certainty required by due process." Lader, Abortion II, pp. 4-15.

96Sally asked, and was told, the sex of the fetus at the time of the procedure.
anybody was that I could forgive myself. I was led to believe that this was the unpardonable sin . . . . The church didn't want to hear about it.⁹⁷

Not all churches responded negatively to a woman's choice to end unwanted pregnancy. Just as some physicians realized the need for reform, a coalition of churches realized the inadequacy of reform measures and the need to help women find safe abortions in a society which failed to ensure equitable access to the procedure.

Established in New York City in 1967, the Clergy Consultation Service (CCS) offered women not only pregnancy counseling, but access to skilled abortionists. Reverend Howard Moody was the founder of CCS in New York, and in 1969 he told New York Magazine a story exemplifying the struggle of the CCS to break down stereotypes about the clergy.⁹⁸ One afternoon while in his study, Reverend Moody's phone rang, and there was a woman's voice on the other end. "Hello, is this where you can get an abortion?" Moody choked a little, he recalls. Mindful of the long ear of the law over a tapped telephone, he replied, 'You're calling the Judson Memorial Church, ma'am. This is Reverend Moody. We do abortion counseling here. If you'd like to come in and discuss a problem pregnancy . . .' The voice at the end of the phone crackled, 'I don't need the Sermon on the Mount, Reverend. I need an abortion." The distraught women hung up the phone without realizing that Reverend Moody would simply have requested a 45 minute meeting, after which she would have left his office with the name and address of a safe abortionist.⁹⁹ As noted in the article,

⁹⁷Interview with Sally, January 29, 1994, Durham, N.C.
⁹⁸The idea of the church providing abortion counseling seemed contradictory to the public, and so the CCS had to fight both public perception and the law to educate women about the options available.
Moody "reserves his sermonizing for the law which makes abortion a criminal offense," for it was precisely societal condemnations of pregnant women that prompted the formation of the CCS.

While this particular encounter occurred in New York, the CCS quickly expanded from its home base to other states throughout the country. As reported in a 1969 news article, "there exist[ed] a loose federation of autonomous Clergy Consultation Services in Los Angeles, Philadelphia, New Jersey, Boston, and Cleveland. Similar groups are presently organizing in other cities. The clergyman, whose primary goal is to change the nation's abortion laws, use the established tactic of civil disobedience to help achieve that goal. They secure expert abortions for women who want them."  

North Carolina was one of those other states, and the driving force behind the CCS there was the Reverend James Riddle, who had been appointed the minister of the Community Church in Chapel Hill in 1968. In an interview with a local reporter, Reverend Riddle explained how he came to be involved with the CCS; and, in the process, related three case histories, all of which occurred in Chapel Hill between 1968 and 1970. The first concerned an impoverished woman just over the age of 30, who had two children, 13 and 15, both of whom were pregnant. "Horrified at the thought of their reliving her own life, she sought abortions for them and was threatened by the FBI if she pursued it. The result: Her daughters will have to have their babies." The second case involved a woman from suburbia with several children. "They were living just over their means... She found herself pregnant and realized that another child would make chaos of their economic status. She found an abortionist, through a friend. He came to operate on her in her kitchen. When she began

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\(^{100}\) Ibid.

\(^{101}\) Ibid.
hemorrhaging, he killed her. The story was kept quiet to spare the children." And the third case involved a young, 21-year-old college woman, who had no real relationship with her father. He "was very hung-up, very dogmatic, authoritarian. Her mother was submissive, and it all was translated into the children. The girl didn't date the first three years in school, so the first or second guy she finally dates, she decides she loves, whatever that means exactly. So she has intercourse with him, and gets pregnant and discovers that he isn't the kind of guy who cares very much for her at all."102 Riddle did not inform his readers as to what happened to the young woman because the point of his story was to challenge society's expectations -- that, if you're pregnant, you must pay, whether through having an unwanted child or dying at the hands of a butcher. It was this retributive sentiment which prompted Reverend Riddle to get involved in the consulting service.

Therefore, when Howard Moody came to Chapel Hill in the late 1960s, Reverend Riddle attended a meeting at the Presbyterian Campus Center to discuss the formation of a CCS in North Carolina. Although a number of local ministers chose not to participate, it was decided "not to operate in an isolated fashion, and therefore to reach out to other clergy." Thus, a coalition of churches in North Carolina joined together to aid pregnant women who had nowhere else to turn. And, in fact, by 1970, the North Carolina Council of Churches, at their 33rd annual meeting in Greensboro, publicly stated that "the Clergy Consultation Service now exists."103

Now, if a woman chose to seek an abortion, she could go the CCS and be sure that she would be given the name and address of a safe abortionist. The CCS maintained its standards by inspecting each clinic used as a referral, and requiring that each patient fill out a questionnaire evaluating her experience. Reverend Riddle recalls that: "Once the service was available, people began calling at the rate of 10 or 15 a day, and up to 150 per week throughout the Southeast. North Carolina was the first state in the South where the CCS existed."\footnote{Interview with the Reverend James Riddle, by phone, March 9, 1994, Springfield, Massachusetts.} Reverend Riddle also pointed out that the CCS received widespread support from doctors and lawyers in North Carolina.

This did not ensure, however, that members of the CCS served without risk. They were under surveillance and were occasionally arrested, as the first \textit{National Clergy Consultation Service on Abortion Newsletter} noted: "There have been several instances within the last year of arrests of clergy in connection with counseling. There have as yet been no prosecutions or convictions although there are several cases which are scheduled to go to trial."\footnote{National Clergy Consultation Service on Abortion, \textit{Newsletter}, Vol. 1, No. 1, February, 1970, p. 2.}

With this service in place some women in North Carolina had access to go to receive abortion counseling. While the CCS cut across class lines, it is impossible to guess at the racial mix of the clientele because no records were kept. The service did get fairly widespread news coverage, from stories in \textit{Time} and \textit{New York Magazine} to those in the local press, such as the Charlotte \textit{Observer}. But, for those who couldn't read, or didn't read regularly, access was limited.
The need for the CCS in areas which had "liberalized" abortion laws highlights the fact that there was little difference between states in which the act was legal or illegal. The need for organizations such as the CCS even in "liberal" states illustrates that the reforms of the 1960s did not go far enough.

The significance of the link between women's stories, the development of the 1960s reform movements, and groups like the Clergy Consultation Service is not easily overstated. These stories amplify the cost of silence and inaction, and highlight the array of reformers and their varying agendas.
Epilogue

The Mixed Legacy of Reform

While clergymen, with support from some doctors and lawyers, were helping women find access to safer abortions, there was a general movement afoot in the United States after 1969 to legalize abortion -- not liberalize, but legalize. That movement culminated in the 1973 Supreme Court decision Roe v. Wade, which held that the Constitution protected a woman's right to privacy, thus allowing her to make the decision to terminate her pregnancy, at least during the first two trimesters. In light of Roe v. Wade, a state could outlaw abortion only in the last three months of pregnancy. But, as Linda Gordon points out in her study on birth control in America: "The Court situated women's rights to abortion in a right to privacy, but not an absolute right; it was limited by the doctor's discretion throughout, and by the state's 'justifiable interest' in the health of the pregnant woman and in 'preserving the potentiality of human life' in later pregnancy."106

Professor Kathy Rudy states what Linda Gordon implies, that the "victory" of Roe was, in fact, perceived by some feminists as a compromise. "Although with it abortion was legalized in the first two trimesters, women still did not have the absolute right to control their bodies. Access to abortion was still dependent on male approval as they controlled the circumstances under which safe abortions would be performed such as length of pregnancy and ability to

106Gordon. p. 405.
pay. The alternative to these compromises was the repeal of all abortion laws. New Yorkers for Abortion Law Repeal was one among many groups leading repeal movements across the country. They argued that the need for "reform" is based on the idea that "abortion must be regulated, meted out to deserving women under an elaborate set of rules designed to provide 'safeguards against abuse.'" The idea of repeal, on the other hand, is based on the "idea of justice: that abortion is a woman's right and that no one can veto her decision and compel her to bear children against her will." This movement was an attempt, then, to place abortion back in the hands of women, where it had rested a century earlier. For centuries midwives and other women had performed abortions safely and without much notice, and in the 1960s and 1970s there was some hope that return to that era might be possible.

While the movement for repeal continued to gain support, new constituencies, absent from earlier debates and directed at limiting access to abortion, emerged. Leading the crusade was the National Conference of Catholic Bishops, which, in 1975 adopted a policy that would make abortion a public policy issue. In its document, "A Pastoral Plan For Pro-Life Activities," the Bishops stated their goals: "1. an educational/public information effort to inform, clarify and deepen understanding of the basic issues; 2. a pastoral effort addressed to the specific needs of women with problems related to pregnancy and to those who have had or have taken part in an abortion; and, 3. a public

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108Echols, p. 141.
policy effort directed toward the legislative, judicial and administrative areas so as to insure effective legal protection for the right to life."\textsuperscript{109}

With the Catholic Church now publicly involved in the discussion, the abortion debate took on a new cast. No longer would state legislatures -- especially those located in states with large Catholic constituencies -- be able to address abortion issues with the ease that North Carolina did in 1967.\textsuperscript{110} Anti-abortion efforts would now bring to the fore the issue of fetal ensoulement and would inspire the formation of groups calling themselves "Right To Life" advocates. Those opposing them would be labeled pro-abortion, though most reform and repeal advocates preferred the term pro-choice. But the issue of choice was often lost in dogmatic debates led by the church and various New Right organizations supported by the Catholic Church and other fundamentalist Protestant churches.

Up until the mid-nineteenth century, abortion had been an accepted fact of American life. While some members of the religious community argued about whether the fetus had a soul, the general population did not think about abortion in terms of "killing." As time progressed, the issue of abortion turned into a public debate. This debate began as the industrial revolution and the professionalization of the medical field intersected, and was carried on primarily as a conversation among elites about access to abortions and who could grant such access.


\textsuperscript{110}The Catholic Church's involvement in the North Carolina legislative process was minimal. Many factors created this, not the least of which was the fact that North Carolina in 1967 was approximately one percent Catholic, and thus strong clerical opposition which could grow into strong public opposition, did not occur.
By the onset of the twentieth century, every state in the U.S. had an abortion law on the books. With abortion restricted, an underground network of illegal abortionists evolved to satisfy the needs of women with no access. These abortions were often unsafe, unsanitary and killed thousands of women. But, ironically, the very same medical community that had closed the doors to abortion during the nineteenth century would help re-open those doors in the twentieth.

In 1967, in North Carolina, a coalition of doctors and legislators liberalized the abortion statute which had been on the books since 1881. While medical and political communities posed as the mouthpiece for the legislation, the concept for the bill came from the office of Public Welfare in Mecklenburg County. The impetus for the legislation may have been a desire to limit the number of children born on the welfare rolls; and while this conclusion is not publicly discussed, some say "it is rumored within public health circles."111

What had once been a private issue became a public debate when legislators in the mid-nineteenth century followed the lead of the newly institutionalized medical profession and began the process of restricting women's access to abortion. Initially, the concern was about white, Protestant middle and upper-class women terminating pregnancies, and the nativist fear that "others" would soon out-populate the elite. This racist perspective became more finely tuned with the eugenics movement of the 1920s. Certainly the individuals who espoused eugenics believed that they were promoting "family planning," a responsible process of limiting births; but what they were really doing was practicing a form of race and class discrimination unheard of to that point.

111 Interview with Mary, April 27, 1994, Chapel Hill, N.C.
What the future holds for abortion legislation in the United States is, of course, anybody's guess. Patricia Miller, in her study of illegal abortion, discussed her concern about the future of reproductive rights in an era where few individuals in positions of political leverage know the horrors of illegal abortion. Her concern centers on the fact that many of our legislators and policy makers do not have experiential knowledge of the pre-\textit{Roe} era. "When these newcomers formulate abortion policy they often have no idea what abortion was like in the United States before 1973. How many of them know the barbaric and dangerous techniques of the abortion underground? How many know about the untold millions of women who terminated their pregnancies by whatever means available for reasons known only to them? How many know about the sheer numbers of women who died from illegal abortions? How many know anything at all about the public health consequences of recriminalizing abortion?" Miller's final point is the crux of the issue: "How many understand that the real public policy question is not \textit{whether} we will have abortions, but \textit{what kind} of abortions we will have.\textsuperscript{112} And while Miller's analysis may prove sobering to those on either side of the debate, it also underscores an even more disturbing reality.

Neither the reforms of the 1960s, nor \textit{Roe v. Wade}, have effected \textit{real} change on the abortion landscape. The use of 1973 as a cultural lodestar becomes particularly ineffective in light of the current debate over Dr. Henry Foster's credentials to be Surgeon General. In 1995, women are still denied access, societal stigma is reaching new heights, and the abortion debate continues to be driven by the voices of religion and politics, not the voices of women.

\textsuperscript{112} Miller, p. 2.
APPENDIX A

The Real Politics of the 1967 Abortion Law

The following information about the legislative process of what became Senate Bill 104 is taken from Sagar Jain and Steven Sinding's study North Carolina Abortion Law: A Study in Legislative Process.

Between the time he accepted sponsorship of the bill and the convening of the General Assembly in February, Art Jones discussed the legislation with doctors regarding the attitudes of physicians towards the legislation.113 It was during this time that Jones and Kuralt consulted as to who should testify for the bill, and other issues relating to the legislative process.

The coalition which Art Jones created to help pass this legislation was advantageous in many ways. It was in the creation of this coalition that Jones avoided a huge mistake in the wording of the bill. For example, on March 1, 1967 Art Jones took his bill to the Legislative Printing Office, and copies were made for every representative's "folder of bills." Since the legislation was to introduced during the next week, Jones approached Representative Nancy Chase (D-Wayne County) and Representative Charles Phillips (D-Guilford County) and asked them to co-sign the bill. Chase was "wary and told Jones that she would think it over." In the process of doing so, Chase called her friend, Dr. Edgar T. Beddingfield, Jr., for advice.114 Beddingfield studied the bill and advised Chase that everyone associated with the bill "would look very foolish

113 Jain and Sinding, p. 18.
114 Ibid., p. 19. Dr. Beddingfield was known as the medical profession's "principle spokesman on legislative affairs."
and that the bill would be laughed out of court." As written, the bill sought to legalize abortion to preserve the "life or health of the mother or child." This preservation of the life or health of the child is an impossibility because abortion inevitably terminates the life of the child (or fetus). Beddingfield was concerned that the bill would become a "laughing stock," and, more importantly, "completely kill any chance of a well-drawn bill being enacted in 1967." Beddingfield went on to suggest that Mrs. Chase not sign the bill, and that Jones wait to introduce the bill until after the two could meet. So, on March 9 the two men met and Beddingfield presented his case to Jones, who quickly saw the errors in the bill as written.

With technical assistance from the North Carolina Medical Society -- both Jones and Beddingfield wanted to avoid any chance that the bill would be identified as a "doctor's bill" -- Jones redrafted the bill from a model abortion law proposed by the American Law Institute (ALI). The new bill precisely and explicitly outlined the conditions under which an abortion might be performed. . . "The model law permitted abortions without certification in cases of emergency and stipulated that the certificate authorizing abortion must be submitted to the prosecuting attorney or police in the case of 'felonious intercourse' (rape or incest)." The redrafted bill was co-signed by Representatives Phillips and Chase and introduced on March 15, 1967 for reading in both the House and Senate. The next step, carefully plotted, was to send the bill to the Senate Committee on Judiciary because the best legal minds in the legislature were on this committee, and if it could pass the scrutiny of this group its chances for passage would increase. In the House, the Public Health Committee was assigned the

\[\text{\textsuperscript{115}Ibid., pp. 19-20.}\]

\[\text{\textsuperscript{116}Ibid., pp. 21-22.}\]
bill because Representative Jones knew that its chair, Representative Earl H. Tate was sympathetic to the bill. "Since both Jones and White thought the bill stood a better chance for passage in the more "liberal" Senate, Jones asked Tate to postpone the Health Committee's public hearings and consideration of the bill until after the Senate had acted on the bill. Tate agreed to postponement."\textsuperscript{117}

The process of passing the bill grew complicated at certain points. Although the proponents of the bill had tried to think of every loophole and possible trouble point in advance, there were some surprises.

On March 26, the Senate Judiciary Committee held public hearings. Seven witnesses appeared before the committee, four in favor and three against. Those in favor included two male physicians, one female physician, and a local pastor. The names were given to Jones upon his request by the State Medical Society because it was thought that they would make a strong case for passage. The opposition was entirely Catholic, although no officials of the Church appeared. Dr. David Young, a professor of entomology at North Carolina State University at Raleigh emerged as leader of the opposition. "Young kept under surveillance any proposed legislation of interest to the Church." And it was Bishop Vincent Waters of the Raleigh Diocese who called the bill to Young's attention.\textsuperscript{118} Young then took the lead and enjoined two others to testify. What is particularly fascinating about his issue, is that not one Catholic clergyman came forward to testify, despite their active preaching against the bill.

On March 28, 1967 a public hearing was held and "constituted the first round of the fight to liberalize abortion, and it ended, by most accounts, in a

\textsuperscript{117}ibid., p. 22.
\textsuperscript{118}ibid., p. 24.
'draw.' Art Jones opened the hearings with a defense of the law, discussing how the new law would "add safeguards" and "bring the law up to the standards North Carolina has set in related areas, such as our sterilization laws."

Representative Jones also made the point that "this is not a doctor's bill . . . There undoubtedly will be some who oppose this bill. Such opposition stems from the religious beliefs and doctrines, but it is axiomatic in a free society such as ours, that no religious belief of a minority should be imposed by law upon the whole of society." Jones explained that "Doctors want and need this legislation to back up their responsibility."

Three other doctors testified in favor of the bill, yet for all three, their testimony raised more problems than it solved. One said that the bill did not go far enough, the second brought up the issues of population and family planning, and the third raised the theological issue of "When does life begin?" By the conclusion of proponent testimony, the senators were described as "very hostile."

The length of proponent testimony left little time for opponent testimony -- and there were only three people in chambers to testify against the bill. The first opponent attacked the bill as legally deficient, stressing "That the bill made no mention of obtaining the woman's consent before abortion could be performed and did not provide a hearing on the subject." The second opponent was a Roman Catholic attorney who focused on the rights of the unborn child. The final speaker was a doctor who expressed concern that the bill had no

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120 Ibid., p. 27.
121 Ibid.
122 Ibid., p. 28.
123 Ibid., pp. 28-29.
"geographical restrictions and [he] asked that a residency requirement be added."\textsuperscript{124}

The J-2 Committee reconvened two days later to make a final decision on the bill. One more person was allowed to testify in opposition to the bill on that day because he had not known about the public hearing. Finally, on April 4 the Senate convened and five amendments were added to the bill.\textsuperscript{125} With very little wrangling, the amended bill was voted on and passed on the second reading with only two dissenting votes.\textsuperscript{126}

\textsuperscript{124}Ibid., p. 29
\textsuperscript{125}The amendments included a 4 month residency requirement as had been requested in opposing testimony.
\textsuperscript{126}Jain and Sinding, pp. 32-33.
Appendix B

S.B. No. 104: The 1967 North Carolina Abortion Bill
INTERVIEWS

All interviews were conducted by the author.

Barnes, N.C. Representative Anne
February 4, 1994, by phone, Raleigh, N.C.

Betty
Illegal Abortion Survivor
January 27, 1994, Raleigh, N.C.

Christakos, Dr. Arthur
Professor of Obstetrics and Gynecology, Duke University Hospital
January 21, 1994, Durham, N.C.

Crist, Dr. Takey
Former Assistant Professor of Obstetrics and Gynecology, UNC School of Medicine
February 2, 1994 and August 24, 1994, Jacksonville, N.C.

Graham, Dr. John
Founder of the North Carolina Population Center
January 19, 1994, Chapel Hill, N.C.

Hamilton, Briggita
Activist in 1967, became an abortion counselor at the Woman's Pavilion in Durham, N.C.
March 1, 1994, Chapel Hill, N.C.

Hulka, Dr. Jaroslav
Professor of Obstetrics and Gynecology and Maternal and Child Health, University of North Carolina at Chapel Hill
October 4, 1993, Chapel Hill, N.C. and November 16, 1993 by phone

Humphreys, Dr. Margaret
Professor of the History of Medicine, Duke University
January 20, 1994, Durham, N.C.

Jones, Clark
Son of Art Jones, sponsor of the 1967 legislation
April 6, 1994, Chapel Hill, N.C.
Jones, Gertrude
Widow of Art Jones, sponsor of the 1967 legislation, worked with Wallace Kuralt, Sr.
April 13, 1994, Chapel Hill, N.C.

Joyce
Illegal abortion survivor
April 15, 1994, Rolesville, N.C.

Judy
Friend of illegal abortion survivors
January 19, 1994, Raleigh, N.C.

Kuralt, Wallace, Sr.
Director of Public Welfare, Mecklenburg County, N.C.
February 27, 1994, by phone, Kitty Hawk, N.C.

Lader, Lawrence
Founding chair of the National Abortion Rights Action League (NARAL) and founding member of the National Organization for Women (NOW)
February 25, 1994, by phone, New York, N.Y.

Mary
Longtime member of various public health organizations in North Carolina
April 27, 1994, Chapel Hill, N.C.

Moore, Herman
President Pro Tem of the N.C. Senate in 1967
February 25, 1994, Charlotte, N.C.

Mumford, Dr. Stephen
Founder, Center for Population and Security, Raleigh, N.C.
January 24, 1994, Chapel Hill, N.C.

Riddle, The Reverend James
Former Pastor, Chapel Hill Community Church - Director of the Clergy Consultation Service
Sally
Illegal abortion survivor
January 29, 1994, Durham, N.C.

Seymour, The Reverend Robert
Former Pastor, Binkley Baptist Church
February 4, 1994, Chapel Hill, N.C.

Steeley, Deborah
Past president of N.C. Planned Parenthood
February 9, 1994, Raleigh, N.C.

Thompson, Sharon
Founder, N.C. National Abortion Rights Action League (NCNARAL)
February 15, 1994, Durham, N.C.

Walker, The Reverend Bud
Chaplain, Meredith College 1963-1967
February 16, and February 22, 1994, by phone, Raleigh, N.C.

Winstead, Connie
Former administrator of the Woman's Pavilion, Durham, N.C.
January 28, 1994, Durham, N.C.
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