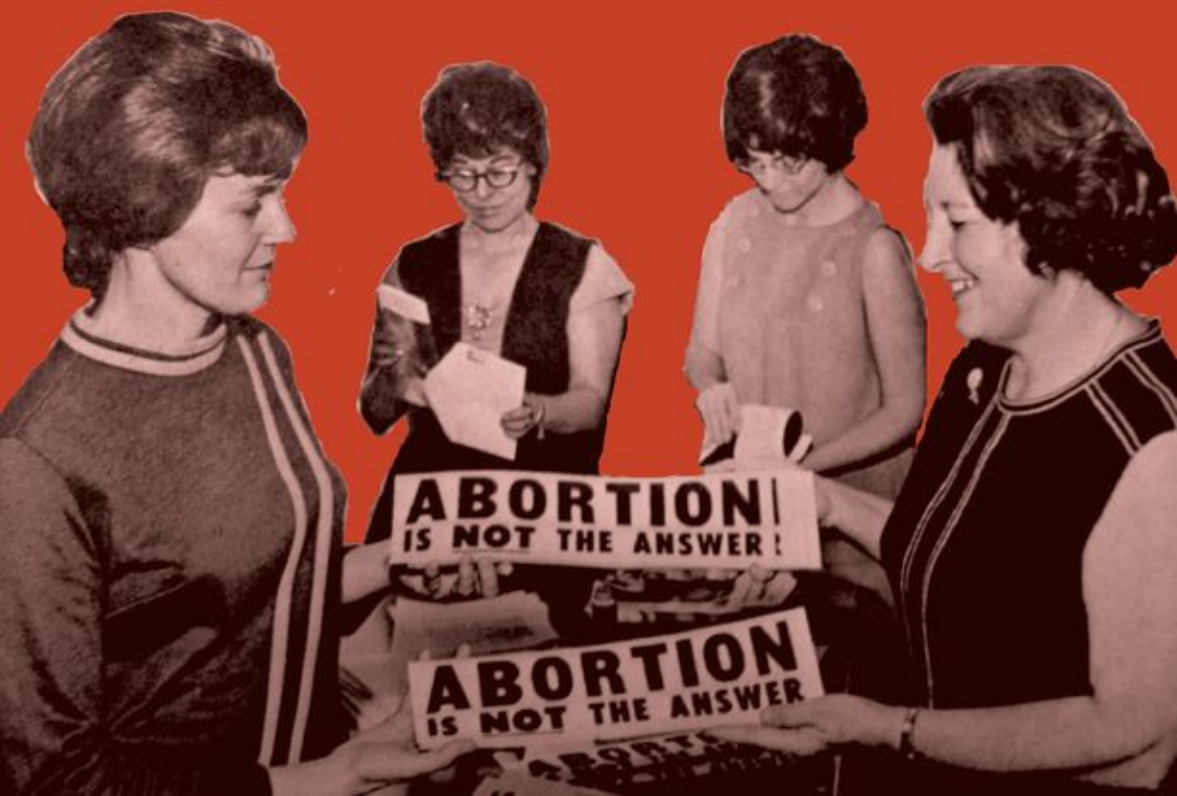


# Defenders *of the* Unborn

THE PRO-LIFE MOVEMENT BEFORE ROE *v.* WADE

DANIEL K. WILLIAMS



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## *A Note on Terminology*

To a greater degree than most other historical topics, the debate over abortion is an issue of current political controversy with deep convictions on both sides, which means that any terminology surrounding the issue of abortion is likely to be contentious and laden with political overtones. This book is an attempt to explain the history of one side of that controversy and the development of its ideas—ideas that some readers may find deeply objectionable. Thus, in tracing this history, I have made choices in wording that some readers may find disconcerting.

Some readers may object to my frequent use of the term “pro-life,” a term that is politically charged today. *The Associated Press Stylebook* recommends that journalists should “use *anti-abortion* instead of *pro-life* and *abortion rights* instead of *pro-abortion* or *pro-choice*,” and many news analysts have followed this advice.<sup>1</sup> Supporters of abortion rights often resent the implication that someone who supports a woman’s right to terminate her pregnancy is “anti-life” or that opposition to abortion—which they view as opposition to women’s rights—makes one a defender of life. They also frequently point out the hypocrisy of calling someone pro-life if that person also supports the death penalty, gun rights, or recent wars in Iraq and Afghanistan. Wouldn’t the term “anti-abortion” be more accurate? they ask.<sup>2</sup>

I understand these objections but think that there are at least two reasons for a historian to use the term “pro-life.” First, this term, along with the phrase “right-to-life,” has been the term favored by almost all activists in the movement since the late 1960s. If we want to approach the study of the pro-life movement as historians, rather than as champions of a particular political opinion, it would probably be best to set aside our presuppositions and attempt to understand the movement’s own use of terminology before passing judgment on it. But I think that there is an even more important reason for me to use the term “pro-life” in this historical account, and that is that the pro-life movement thought of itself

from the very beginning not as a movement primarily devoted to opposing abortion—though that is what it largely became—but as a movement to defend the legal protection of all human life from the moment of conception. Pro-lifers saw themselves as defenders of the “inalienable . . . right to life,” a right championed in the Declaration of Independence and legally enshrined in the Fifth and Fourteenth Amendments of the Constitution. They argued that this right to life began at the moment of conception. Their opponents accused them of campaigning against abortion primarily because of their religious views or their discomfort with women’s rights, but pro-lifers rejected those accusations. In their view, they were simply defending the value of all human life, as outlined in the nation’s founding documents. Thus, in their view, the term “pro-life” was the most accurate descriptor of their political project.

In this book I also did not hesitate to use the term “pro-choice,” even though *The Associated Press Stylebook* discourages the use of this word. The term “pro-choice,” in addition to being the preferred self-designation of supporters of abortion rights after the early 1970s, accurately conveys the movement’s emphasis on defending women’s personal autonomy through their own reproductive choices. Just as pro-lifers viewed their cause as larger than merely restricting abortion, so pro-choice activists thought of their cause not primarily as a fight for the availability of safe, legal abortion for its own sake, but rather as part of a larger battle to secure reproductive choices for women. It thus seemed fair and accurate to use the term “pro-choice” when describing defenders of abortion rights over the past forty years.

However, the term “pro-choice” originated only in the early 1970s, so when discussing the abortion legalization movement prior to 1970, I generally avoided using a term that would be historically anachronistic. Before 1970, the movement for legalized abortion focused not on defending women’s “right to choose”—a phrase that people in the 1960s would not have recognized—but on protecting women’s health, preventing the birth of unwanted children (particularly if they were likely to be born with severe deformities), reducing population growth, and giving doctors greater legal protections in making choices that they thought would be in the best interests of their patients. In its early years, the campaign for legalizing abortion was a medical or population control movement, not a women’s rights cause.<sup>3</sup> Thus, readers will rarely see the term “pro-choice” used in the early chapters of this book, which focus on the abortion debate prior to the 1970s, but they will often encounter the term in the book’s final chapters, which

discuss the abortion debate after *Roe v. Wade*. When describing early advocates of abortion legalization, I used phrases such as “abortion law reformers,” “advocates of abortion law liberalization,” or similar nomenclature that was used at the time and that accurately conveyed the desire of reform advocates to modify abortion laws but not necessarily to legalize all abortions. Throughout the book, I attempted to use terminology that would accurately describe the beliefs of my subjects. In most cases, that meant using the self-designations that the historical subjects chose for themselves, even if they might seem surprising to some contemporary readers.

The language of the pro-life movement developed before the language of the pro-choice movement. Catholics argued even in the early 1950s that abortion violated the fetus’s “right to life,” while abortion rights advocates did not adopt the term “pro-choice”—or even the term “abortion rights”—until much later. Yet in order to avoid historical anachronism, I waited until discussing the events of the 1960s to describe my subjects as “right-to-life advocates,” and I waited until a discussion of the late 1960s to describe them as “pro-life,” because even though opponents of abortion used the phrase “right to life” before the 1960s, they did not employ the term as a movement label. I think that, had I chosen to do so, I could have used the word “pro-life” as a descriptively accurate term for the Catholics who spoke out against abortion in the 1930s and 1940s, because the Catholics who mobilized against abortion law reform proposals invariably grounded their arguments in claims that abortion legalization constituted a societal disrespect for human life. But because the terms “right-to-life” and “pro-life” were not used as movement descriptors in the 1930s and 1940s, I waited until the Catholic opponents of abortion had formed a grassroots movement in the 1960s—which now had its own labels—to begin applying those terms to their cause.

At times, my desire to avoid historical anachronism in terminology led to complications. Nowhere was this more evident, perhaps, than in the dilemmas I faced when searching for the right words to describe the removal of legal restrictions on abortion during the first two trimesters of pregnancy. Pro-lifers called this phenomenon “abortion on demand.” Advocates of abortion rights called it “abortion law repeal.” I had to decide which of these terms I should use, since both carried political connotations. I ultimately decided to split the difference by using the phrase “abortion on demand” when describing the pro-lifers’ *perspective* on the legalization of abortion, and the phrase “abortion law repeal” when describing the actions of abortion rights proponents. I also tried, whenever possible, to

use a more neutral term—the “legalization of elective abortion”—which was occasionally used at the time, even though participants in the debate commonly favored one of the more politically charged phrases.

Despite my attempt to be balanced and historically accurate in my use of terminology, it will be clear to readers that I have not written an even-handed treatment of both sides in the abortion debate. This is because my book is not primarily a study of the abortion controversy but rather a history of the pro-life movement. I have tried to be as fair as possible in representing the arguments and ideas of the pro-life movement’s opponents and to provide an accurate and fair-minded explanation of their various motivations for advocating the legalization of abortion, but the primary focus of the book is on the pro-life activists and their reasons for mobilizing, not the abortion rights movement and its ideas. Several other historians have already written detailed studies of the abortion rights activists, but until now, no one has produced a comprehensive history of the early years of the pro-life movement, so that has been my focus in this work. In order to bring the pro-life activists’ story to light and give readers a sense of their concerns, I have presented most of the narrative from their perspective. As a consequence, some readers who are familiar with the histories of abortion legalization that have been written from the perspective of the abortion rights advocates may find the perspective presented in this book unfamiliar, surprising, and perhaps even disconcerting. Some readers may strongly disagree with the reasoning of the abortion opponents that I describe. If you are a reader in this category, I do not assume that you will lay aside your philosophical and political commitments on this issue, but I would ask that for the purposes of historical inquiry, you would try to understand the mindset of the mid-twentieth-century opponents of abortion who were just as convinced as their feminist opponents that they were engaged in a campaign for human rights. You may think that they were wrong in their beliefs, but I think that as historians, we owe it to these subjects to accurately understand their thoughts, motivations, and actions. If we begin taking the political pronouncements and ideological rhetoric of the early pro-life activists seriously, we may discover that we have been mistaken in some of our assumptions about the political realignments of the late twentieth century, and that the pro-life movement that we have always labeled “conservative” was at one time much more deeply rooted in liberal rights-based values than we might have suspected.

## *Introduction*

ON SUNDAY, APRIL 16, 1972, ten thousand people gathered in New York's Central Park to protest New York's liberal abortion law. The Supreme Court's decision in *Roe v. Wade* was still nine months away, but the battle over abortion was already raging. Yet the divisions did not fall neatly along partisan or ideological lines.

In New York, the state with the highest number of legal abortions, the polarization was especially acute. It had been a Republican legislator and Republican governor who had been chiefly responsible for the legalization of abortion in the state two years earlier, and many of New York's Republicans—including Governor Nelson Rockefeller—were still strongly supportive of abortion rights. But it was also a Republican who was leading the charge to reverse their actions. Democrats were equally divided.

The media portrayed the pro-life movement as a Catholic cause, but by 1972, that stereotype was already outdated.<sup>1</sup> In Michigan, for instance, the fight against a referendum to legalize abortion was spearheaded by three Protestants—a gynecologist, a white Presbyterian mother, and an African American woman who was a liberal Democratic state legislator. In Minnesota, the leader of the state's pro-life campaign was a liberal Methodist whose physician husband was a member of Planned Parenthood. In Massachusetts, one of the leading pro-life activists was an African American Methodist physician who had been the first black woman to graduate from Harvard Medical School. And even in New York, where Catholics accounted for the vast majority of the movement's activists, there was more religious diversity than the media often acknowledged, partly because Catholics had joined forces with Orthodox Jews. In fact, one of the keynote speakers at the April 16 pro-life rally in Central Park was an Orthodox Jewish rabbi who served as president of the Rabbinical



Alliance of America.<sup>2</sup> One of New York City's most vocal pro-life advocates was a liberal Lutheran minister who was best known for his protests against the Vietnam War and his advocacy of civil rights.<sup>3</sup>

Perhaps most surprisingly, at the time the protest took place, the pro-lifers were winning. Only a few years earlier, their campaign had looked like a last-gasp battle against the forces of progress. They faced opposition from the women's rights movement, newspaper and television media, the medical and legal establishments, mainline Protestant denominations, ecumenical religious organizations such as the National Council of Churches, and political leaders in both major parties. Yet the pro-life movement had figured out a way to defy the international trend toward abortion legalization and defeat several efforts to liberalize state abortion laws.

The right-to-life movement had faced nearly insuperable challenges in the late 1960s, when a wave of sixteen states legalized at least some forms of abortion within a three-year period.<sup>4</sup> But then the pro-lifers regrouped, changed their strategies, and figured out how to win legislative battles. In 1971, twenty-five states considered abortion legalization bills. Every one of them failed to pass. In 1972, the pro-life movement went on the offensive and began campaigning for measures to rescind recently passed abortion legalization laws and tighten existing abortion restrictions. In the wake of the Central Park protest, the New York state legislature voted to repeal New York's liberal abortion law and was thwarted only by Governor Rockefeller's veto.<sup>5</sup>

The size of the backlash against abortion legalization surprised many supporters of abortion rights. What had happened? How did a small, beleaguered Catholic movement manage to create a massive ecumenical coalition of grassroots activists and stop the march of abortion legalization?

### *Why We Need a History of Pro-Life Activism*

Most histories of postwar American politics say almost nothing about the millions of Americans who opposed abortion before *Roe v. Wade*. They do not mention the African Americans in Detroit, the Lutheran wheat farmers in rural North Dakota, or the Catholics in Midwestern parishes who mobilized on behalf of the unborn at the beginning of the 1970s. They do not discuss the pro-life movement's success in defeating abortion liberalization proposals in dozens of state legislatures and ballot initiatives in 1971 and 1972. Nor do they include much information about the pro-life

movement's failures in the late 1960s—or its quiet successes a few years earlier.<sup>6</sup>

Instead, most histories of postwar American politics treat the pro-life movement—if they mention it at all—only as a reaction against *Roe v. Wade*, the feminist movement, the sexual revolution, and the growth of federal power. As Rickie Solinger has written, “There was no organized anti-abortion movement in the United States until after 1973. In reaction to *Roe*, a growing number of people, identifying a pervasive ‘values crisis,’ called for laws and policies to restrain what they saw as an excess of equality.”<sup>7</sup> Solinger, who is one of the nation’s leading authorities on the history of abortion and reproductive rights in twentieth-century America, is hardly alone; her summary represents a widely accepted historical consensus on this topic, especially among historians of feminism and sexuality. “One might speculate that had there not been a feminist movement, abortion might have been decriminalized with less opposition,” Linda Gordon declared.<sup>8</sup> This consensus has largely been established by historians of abortion rights activism, and the activists they study have almost invariably misunderstood the motives of their opponents. As a result, historians have mischaracterized both the chronology of the pro-life movement and its ideological origins.<sup>9</sup> Pro-life activism actually began decades before *Roe v. Wade* or the formation of the National Organization for Women. And it originated not as a conservative backlash against individual rights, but as a defense of human rights for the unborn.

Because historians have misunderstood the pro-life movement’s origins, they have been unable to explain why it remains a potent political force today, long after other socially conservative, religiously inspired causes, from Prohibition to school prayer, have faded from the scene. If the opponents of abortion had based their opposition merely on religious teaching or the seemingly arcane principles of natural law—as Catholics had when campaigning against contraception—it is unlikely that the pro-life cause could have withstood the forces of the sexual revolution, the feminist movement, and the social changes of the 1960s. But because the pro-life movement grounded its arguments in the language of human value and constitutional rights, it was able to attract a politically and religiously diverse coalition that actually gained strength over time. The pro-life movement succeeded because it drew on the same language of human rights, civil rights, and the value of human life that inspired the struggle for African American freedom, the feminist movement, antiwar protests, and the campaign for the rights of gays and lesbians.

This book offers an intellectual and political history of the pro-life movement. I argue that the movement's origins and endurance can be explained by its rights-based paradigm and its utilization of the language of postwar American liberalism. The pro-life cause originated at a far earlier date than historians have previously thought, and its origins were not tied to a backlash against the women's movement, but instead to a concern about the consequences of the nation's disrespect for human life. This book also challenges conventional presuppositions about the pro-life movement by showing that it originated not among political conservatives, but rather among people who supported New Deal liberalism and government aid to the poor, and who viewed their campaign as an effort to extend state protection to the rights of a defenseless minority (in this case, the unborn). Only after *Roe v. Wade*, when the pro-life movement's interpretation of liberalism came into conflict with another rights-based movement—feminism—and it became clear that pro-lifers would not be able to win the support of the Democratic Party, did the movement take a conservative turn. Yet because of the movement's liberal origins, its position in the Republican Party remains an uneasy one even today.

### *The Pro-Life Movement as a Campaign for Rights*

The Catholics who launched the pro-life movement grounded their campaign not only in their Church's natural law theology, but also in the twentieth-century American liberal values of individual rights, legal protections for minorities, and societal recognition of human dignity. Many of the people who first began speaking against abortion in the 1930s, as well as those who created the first right-to-life organizations in the mid-1960s, were Catholic Democrats who were committed to New Deal liberalism. Their devotion to ideals such as a living wage and the legal recognition of workers' rights, both of which Pope Pius XI had endorsed, led them to give enthusiastic support to President Franklin Roosevelt and his Democratic successors from Harry Truman to Lyndon Johnson. American Catholics who came of age in the New Deal era believed that the principle of human dignity should be the foundation for government social policy—that both the government and the Church had a responsibility to care for the less fortunate, and that the law should respect human life.

In the 1930s and 1940s, the campaign against abortion was almost inseparable from the Catholic Church's fight against contraception, which

Catholics also viewed as an attack on the value of human life. But in the postwar period, Catholics began articulating their concern for fetal life in the language of both “inalienable” human rights and constitutional rights, broadening their appeal far beyond the walls of Catholic churches. For defenders of fetal rights, the idea that the law should protect the lives of all human beings—both born and unborn—was a fundamental American principle rooted in the Declaration of Independence and the Fourteenth Amendment. The fetus’s right to life was thus not only an inalienable human right, but also a constitutional one.<sup>10</sup>

This message attracted many Catholic liberals and, after the late 1960s, won over a few left-leaning antiwar activists, civil rights advocates, and African American Democrats as well. It also attracted millions of people across the country who, regardless of partisan affiliation, accepted the basic liberal principle of equal rights under the law and were persuaded that this principle extended to fetuses. Because the pro-life movement used the language of liberal values and individual rights—a language that had widespread credence during the era of other rights-based movements—it was able to build a bipartisan, ecumenical coalition capable of exercising political power.<sup>11</sup>

But if the pro-life movement was a liberal cause in one respect, it also found itself in conflict with liberals who argued that the removal of certain restrictions on abortion would promote societal betterment by saving women’s lives and fostering public health. In this conflict between two conflicting sets of liberal values, pro-life Catholics were able, for a while, to win the public debate by continually reiterating their argument for the personhood of the fetus, thereby keeping the focus on human rights. But that argument failed to resonate with Americans in the mid-1960s, largely because of Catholics’ longstanding insistence on linking abortion with contraception, which alienated Protestants and Jews. For a while, the efforts of Catholics alone were sufficient to stop the threat of abortion law reform, but the Church’s political influence dissipated rapidly after the mid-1960s. Two events that took place in 1965—the Supreme Court’s decision in favor of birth control legalization in *Griswold v. Connecticut* and the conclusion of Vatican II, which emboldened lay Catholics to dissent from Church teachings—discredited the Church’s campaign against contraception and diminished its influence in the abortion debate. By 1967, even a few Catholic politicians, including Senator Robert Kennedy, publicly supported abortion legalization. When sixteen states liberalized their abortion laws between 1967 and 1970—and when four of those states

removed almost all restrictions on abortion before the second trimester, thus allowing several hundred thousand abortions to be performed legally in the United States each year—it was a sign that pro-life Catholics no longer had the upper hand.<sup>12</sup>

To turn the tide, Catholics decided to separate the issues of abortion and contraception and focus on the rights-based pro-life arguments that had long sustained their cause. In short, they portrayed themselves as American liberal human rights advocates rather than sectarian Catholics, and because of that they were able to win the support of Protestants and Jews, create large state and national organizations, and achieve legislative victories that had previously eluded them. By the summer of 1972, momentum had clearly swung toward the pro-life side. Both sides expected that some of the states that had recently legalized abortion might soon rescind those laws.<sup>13</sup>

The shift in strategy meant that there would now be no question that the pro-life movement would be solely about human rights, and not about sex. Prior to the 1960s, the Catholic Church had treated abortion as an issue of both human life and human sexuality; abortion was fundamentally wrong because it destroyed a human life, the Church argued, but this evil was a direct result of a prior sin—the desire for sex without consequences. After the late 1960s, most pro-lifers abandoned this argument; in public, they would talk only about the human rights that abortion violated, and not discuss sexual ethics or contraception. This move was critical to forging alliances with Protestants and other non-Catholics. It transformed what might have become a parochial, quixotic crusade into a vibrant, diverse movement of people across the religious and political spectrum. For a brief moment, it appeared to be a winning strategy. But because the pro-life movement's opponents viewed the issue of abortion as fundamentally related to sex (i.e., sexual freedom and sexual equality), it was not a strategy that could be maintained for long.

It was at this point that the pro-life movement came into conflict with two other key values of late twentieth-century American rights-based liberalism—personal autonomy and gender equality. Advocates of abortion legalization had initially called for the limited reform of abortion laws—a call that they had grounded in utilitarian arguments in favor of public health and societal betterment. But in the late 1960s, they began calling for the recognition of abortion as part of women's fundamental right to control their own bodies and fertility. Women, in other words, had an absolute right to choose not to be pregnant. The feminist movement

of the late 1960s brought this argument to the forefront of the abortion debate. It soon gained widespread appeal among liberals who valued personal autonomy, individual rights, and human equality, and who accepted some of the values of the sexual revolution of the 1960s, including the idea that the state had no business regulating issues of sex and reproduction between consenting adults. The arguments of the “pro-choice” movement—a term that advocates of abortion rights began using in the early 1970s—seemed to force pro-lifers into conflict with some key liberal ideas.<sup>14</sup>

Pro-life Catholics met this challenge by drawing on arguments they had used since the early twentieth century. Human life, they argued, was ultimately more important than individual choice. Women in the pro-life movement took the lead in the debate with feminists, arguing that it was in women’s best interests not to abort their babies. Instead, the government should provide financial assistance for women facing crisis pregnancies—an argument that linked their movement to the social welfare politics of New Deal liberalism—rather than leaving impoverished women to choose between abortion and poverty.<sup>15</sup> By grounding their arguments in the liberal values of the need to care for the less fortunate and protect the lives of all people, including the unborn, pro-lifers continued to win political victories until the moment *Roe v. Wade* was decided.

The conflict between these two strands of rights-conscious liberalism centered in part over a fundamental difference of opinion regarding pregnancy, equality, and womanhood. Pro-choicers believed that the right of women to choose whether to become pregnant was critical to their liberation; gender equality required full bodily autonomy. Pro-lifers, by contrast, viewed all pregnancies, planned or unplanned, as gifts of human life, and thought that women would only be hurt if they destroyed that life. They also thought that they were promoting women’s long-term freedom and well-being by advocating government programs that would give women the resources necessary to bear children and care for them. While pro-choicers spoke of the right of women to control their own bodies and to be free from forced pregnancies, pro-lifers spoke of women’s right to be mothers, a right that some of them argued the state had a duty to support by offering prenatal and maternal health programs. To make their case, they drew on an older strand of American liberalism that promoted the feminism of difference—the notion that men and women had biologically distinct roles that public law needed to protect, an idea that had been widely accepted in the nineteenth and early twentieth centuries—and the

early twentieth-century political tradition of providing legal protections for women and government assistance for mothers. In the pro-lifers' view, their own values offered the path of true freedom for women: freedom from sexual exploitation and freedom to follow their maternal desires. This view of freedom accorded well with twentieth-century Catholic doctrine on the role of the state in protecting the family.<sup>16</sup> But it conflicted with the values of the pro-choice and second-wave feminist movements. The conflict between these views came to a head in *Roe v. Wade*.

*Roe v. Wade* ended the pro-lifers' winning streak, because it ruled that the Constitution did not protect the unborn child. *Roe* enshrined the values of the abortion rights movement while directly repudiating the pro-life movement's belief that the fetus was one of the defenseless minorities protected by the Constitution. *Roe* thus privileged one set of liberal arguments while ignoring another. This had a profound effect on American liberals. Prior to *Roe*, the Democratic Party had been divided over abortion, because both pro-life and pro-choice Democrats could legitimately claim that their arguments were grounded in the party's historic liberal tradition. But by making one particular set of arguments settled law, *Roe* bolstered the claims of one group of liberals and tipped the balance of power in the Democratic Party in favor of pro-choice advocates. Sensing the direction in which the debate was moving, several formerly pro-life Democratic leaders, such as Senator Ted Kennedy, became defenders of abortion rights, and in 1976, the party adopted a platform that opposed attempts to rescind *Roe* through a constitutional amendment. Many Democrats (including Kennedy) who endorsed abortion rights after *Roe* continued to insist that they were personally opposed to abortion, and some Democrats, such as Sargent Shriver, tried to conciliate pro-lifers with a promise to adopt measures to reduce abortion rates. But in the aftermath of *Roe*, these attempted reassurances counted for little; pro-lifers were willing to settle for nothing less than constitutional protection of the unborn. They wanted a full reversal of *Roe*'s declaration that the Constitution did not protect the fetus, which they viewed as a direct assault on the nation's traditional recognition of human rights.<sup>17</sup>

Most of the limited political support that pro-lifers found for a constitutional amendment to protect unborn life came from the political right. In 1980, they solidified a new alliance with conservatives by throwing their support to Ronald Reagan. But pro-lifers' alliance with the Republican Party was never a comfortable one, and it required them to make compromises that distressed some members of their movement. As they became

more narrowly focused on reversing *Roe*, pro-lifers began to lose interest in some of the earlier human rights causes, such as anti-poverty efforts, that had once been important to them.

In spite of this political shift, pro-lifers' central human rights claim—the claim that the fetus has an inalienable right to life—remained their guiding principle, and it was the primary reason why the movement retained its political influence in the rights-conscious era of the early twenty-first century. Most pro-lifers today have long forgotten the Catholic New Deal liberals of the 1930s who first spoke out against abortion legalization, and they are ideologically distinct from their forebears in many respects. Yet they continue to believe that they are championing a foundational human right—the right to life for the unborn. That central idea has enabled the pro-life movement to broaden its appeal and build a new generation of supporters.



## I

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# *A Clash of Values*

THE CATHOLIC DOCTORS who gathered in Atlantic City in 1937 for the annual meeting of the National Federation of Catholic Physicians' Guilds were worried about what they saw as an unprecedented societal assault on the value of unborn human life. The American Medical Association had just issued a statement in favor of birth control, which was bad enough, but some doctors were even beginning to argue for the acceptability of abortion in some cases. It was time, the Catholic doctors believed, to take a strong stance against all attempts to destroy human life before birth.

"Abortion," the Federation declared, was, along with contraception, sterilization, and euthanasia, one of the "pagan and irrational philosophies" based on "modern creeds of unlimited sex indulgence." It reduced human beings to the "level of a beast or to that of a cog in the social mechanism, thus destroying the essential dignity of man as a child of God and destined for God in heaven." The Catholic physicians therefore pledged that they would never cooperate with those who would "make the medical practitioner the grave-digger of the nation."<sup>1</sup>

The disagreement over the extent to which the law should protect fetal life was a symptom of a larger ideological divide. Proponents of "therapeutic abortion," as it was then called, took a utilitarian approach, arguing that they could improve societal well-being by allowing women to obtain abortions when pregnancies endangered their health. But many Catholics believed that allowing someone to kill a fetus in these circumstances would make anyone's right to life dependent on the will of the majority or calculations of societal happiness. The right to life would no longer be absolute. Abortion, therefore, threatened to usurp God's control over life and death, and replace the absolute protection of life under civil law with a relativistic set of calculations about which lives were worthy of protection. The

clash over abortion was therefore a battle over the values that formed the basis for the nation's most fundamental rights and laws. It was a battle that eventually entered the political sphere in the 1960s, and it is still raging in the twenty-first century, seventy-five years after the National Federation of Catholic Physicians' Guilds first adopted its resolution.

### *From a Societal Consensus against Abortion to a Debate over Contraception*

The calls for legalized abortion that were first issued in the 1930s alarmed Catholic physicians precisely because they challenged a societal consensus that Catholics considered unassailable. Most state abortion laws had been in existence for at least half a century. Prior to the early nineteenth century, judges had generally interpreted the common law to allow for abortion prior to "quickening"—that is, the point at which a pregnant woman could feel her unborn child moving. But in the nineteenth century, a number of Protestant doctors convinced state legislatures that medical science proved that biological life began long before quickening, which meant, in their view, that abortion should be prohibited at any stage of fetal development. By the end of the nineteenth century, legislatures in nearly every state had enacted laws that allowed abortion only in cases in which the procedure was required to save a woman's life. At the same time, many states also passed laws against contraception as part of broader anti-obscenity measures.<sup>2</sup>

The physicians behind this effort also embarked on an educational campaign to convince the public of the value of fetal life. Armed with cases of glass slides showing the fetus at various stages of development, they traveled to libraries and civic groups across the country to spread the message that human development proceeds along a continuum, that quickening is a biologically meaningless stage, and that the embryo deserved protection from the moment of conception. "It is not enough merely to tell them that in producing an abortion in the early months they are taking a human life; they must be shown that at this period the child is already well along in its development," Dr. Frederick Taussig, a professor of obstetrics and gynecology at Washington University in St. Louis, stated in 1910. "I think pictures like that of the six weeks' embryo will keep many women from having an abortion done."<sup>3</sup>

Although most of the physicians who launched this campaign were Protestants, their message was most eagerly embraced by Catholics.

The Catholic Church seized upon the doctors' biological evidence as proof that human life began at conception and that abortion was therefore homicide. Attempts to limit procreation through artificial means, including abortion, had always been prohibited by Catholic teaching. An ancient Christian text from the early second century called abortion "murder" and equated it with infanticide, and other early Church fathers echoed this teaching. The Church never backed away from the idea that abortions in the later stages of pregnancy constituted the destruction of human life and were therefore to be treated as homicides. But in the medieval and early modern eras, many of the Church's leading theologians, including Thomas Aquinas, classified abortion during the first few weeks of pregnancy as a much lesser sin than killing a fully developed human. Following Aristotle, they did not believe that ensoulment occurred until forty days after conception in the case of males and eighty days in the case of females. Before that point, the fetus was only a *potential* human being. In the seventeenth century, a few Catholic physicians and theologians challenged this assumption by arguing that human life began at conception, which meant that abortion was always murder—a theory that gained increasing acceptance in the Church in the nineteenth century, when medical opinion, backed by the latest discoveries in embryology, was beginning to pinpoint conception as the point at which each human life began. In 1869, Pope Pius IX issued the papal bull *Apostolicae Sedis*, declaring that all abortions, performed at any stage of pregnancy, were excommunicable offenses, a declaration that brought the Church's teaching into line with the ancient Christian view that all abortions were murder. As Vatican rulings subsequently clarified, this meant that even abortions performed to save a woman's life were gravely sinful.<sup>4</sup>

The Catholic Church's position on this issue was more restrictive than the views of the Protestant physicians and legislators who had created the nation's first anti-abortion laws. Protestants often appealed to the right of self-defense to argue that abortion was justifiable if pregnancy threatened a woman's life, whereas the Catholic Church argued that an innocent unborn life could never be deliberately killed.<sup>5</sup> But since the law prohibited almost all abortions, these fault lines were dormant.

Indeed, there appeared to be a widespread societal consensus against abortion in the early twentieth century. Illegal abortion remained a thriving industry, but even if many law enforcement officials were reluctant to enforce the law unless criminal negligence resulted in a woman's death, there was no serious discussion of legalizing abortion during these years.

The nation's newspapers took it for granted that abortion was a dangerous, immoral activity, and that those who performed abortions were criminals.<sup>6</sup> Though most non-Catholics paid no attention to the pope's pronouncements against abortion, Protestants had their own reasons for opposing abortion: their regard for fetal life—a concern that the physicians' campaign of the late nineteenth century had highlighted—and their antipathy toward sex outside of marriage, which many of them believed abortion encouraged. At the time, Protestants, like Catholics, opposed contraception, and they saw a connection between abortion and birth control. The anti-obscenity crusader Anthony Comstock lumped birth control, sexual promiscuity, pornography, and abortion under the general category of obscenity, and the laws for which he campaigned in the 1870s attempted to limit all of these supposed vices by making it illegal to send advertisements for contraceptives or abortions through the mail. For fifty years, Comstock's prohibitions remained the law of the land.<sup>7</sup>

The first apparent challenge to this consensus came with the birth control campaigns of the 1920s and 1930s. The campaigns were not about abortion per se—they focused on contraception—but Catholics nevertheless viewed them as a dangerous assault on human life that would soon put the societal consensus against abortion in jeopardy. For decades, the two issues had been linked, in both Catholic teaching and public discussion. In addition to the national Comstock laws, there were state laws that restricted the sale or use of birth control devices. Neither Catholic nor Protestant churches approved of contraception; the Anglican Communion issued official condemnations of the practice in 1908 and 1920.<sup>8</sup>

In the early 1920s, Margaret Sanger and her American Birth Control League (which later became Planned Parenthood) challenged this taboo and quickly won widespread acceptance among middle-class Protestants for the use of contraceptive devices. The Anglican Communion reversed course in 1930 and declared that Christian married couples had a right to use artificial birth control, and other Protestant Church bodies quickly followed suit. The Federal Council of Churches' Committee on Marriage and the Home issued a report endorsing contraception in 1931. By the late 1930s, national committees of the American Episcopal, United Methodist, United Presbyterian, and Congregational Christian Churches had officially endorsed birth control. Several Jewish organizations, including the Central Conference of American Rabbis and the National Council of Jewish Women, did the same. Though many Protestant fundamentalists continued to oppose contraception for several decades, liberal Protestants

and Jews embraced it as a progressive humanitarian measure. By 1946, 3,200 ministers were members of Planned Parenthood's Clergyman's Council.<sup>9</sup>

The nation's physicians—especially those who were not Catholic—also joined the cause. In 1947, 98 percent of American doctors approved of contraception for health reasons and 79 percent approved of it in cases when a family's economic situation required it. One Jesuit philosophy professor in Kansas lamented in the mid-1950s that it was almost impossible to find a non-Catholic doctor who would refuse to fit a patient with a birth control device in at least some circumstances. In less than a generation, a once-taboo (and often illegal) practice had become a positive good that was now used by most middle-class Protestant couples, prescribed by their doctors, and endorsed by their pastors. A few heavily Catholic states in the Northeast, including Massachusetts and Connecticut, continued to restrict the sale of birth control devices until the 1960s, but those states were in the minority. After the 1930s, the overwhelming body of Protestant opinion in the United States was in favor of birth control use, with 85 percent of Americans in 1943 believing that married women should have access to contraceptives, according to a *Fortune* magazine survey.<sup>10</sup>

There was also substantial support in some areas of the country for the eugenic use of birth control to limit the reproductive capabilities of poor, sexually promiscuous, or mentally disabled women—especially those who were African American—a project that Sanger and many of her allies in the birth control movement endorsed. Some birth control advocates hoped to reduce birth rates among the poor through the use of voluntary contraception, but others accepted the use of more coercive means in at least some circumstances. In the early twentieth century, more than half of America's forty-eight states passed laws allowing the forcible sterilization of criminals or the “feeble minded,” a practice that the Supreme Court upheld in *Buck v. Bell* (1927). Sixty thousand Americans were forcibly sterilized under these programs.<sup>11</sup>

Catholics were aghast at the disrespect for human life that had given rise to the idea of eugenics. “Its propagandists talk much of the betterment of the race very much as the owners of stock farms talk of the betterment of stock,” the Jesuit magazine *America* complained in 1924. This was a direct attack on the “law of God,” the “law of nature,” and “human life” itself.<sup>12</sup> A later generation of secular liberals would agree with the Catholic denunciation of eugenics programs, but disagree with Catholic proscriptions on voluntary contraception. Yet at the time, Catholics saw

these issues as inseparable aspects of the same fundamental problem—a disrespect for the divine gift of human life.

With the exception of some Protestant fundamentalists, Catholics stood almost alone in their refusal to countenance artificial birth control and sterilization under any circumstances. While a sizeable minority of Catholics (a minority that included 30 percent of married, white Catholic women of childbearing age, according to a 1955 survey) quietly violated official Catholic teaching by using forbidden means of birth control and then abstaining from communion until they received absolution for their “sin” from a priest, the majority of Catholics continued to follow their church’s teaching on this issue, and some launched public efforts to oppose the rapid liberalization of public attitudes toward contraception and sterilization.<sup>13</sup>

They believed that birth control was equally wrong for both Catholics and non-Catholics, because the use of contraception not only violated nearly two thousand years of Church teaching but was also an offense against natural law, which should have been accessible to anyone—whether or not they were Catholic—by reason alone. In their view, abortion, contraception, and sterilization were violations of the same natural law principles, so they were dismayed when Protestants, who for the most part still opposed abortion, nevertheless rejected natural law arguments against contraception and sterilization, thus jettisoning the philosophical principles on which, for Catholics, opposition to abortion rested. Protestants saw the matter differently, of course. Though nineteenth-century Protestants had often conflated contraception and abortion, Protestants of the mid-twentieth century separated the two issues, approving of one as a beneficial social good while condemning the other as the taking of a human life that should be performed only in extreme circumstances. But Catholics were convinced that a compromise on contraception would inevitably lead to an acceptance of abortion, and they became increasingly vocal in their defense of the natural law principles that condemned both practices. Indeed, in their successful campaign against a referendum to legalize birth control in Massachusetts in 1948, they claimed that birth control was “like abortion” and against “God’s law.”<sup>14</sup>

The Catholic idea of “natural law” came from the thirteenth-century theologian Thomas Aquinas, who was, if not the most influential theologian in Catholic Church history, a close second only to Augustine. His approach to theology and philosophy had shaped the intellectual tradition of the Dominican and Jesuit orders, and by the early twentieth century,

his teachings not only provided the foundation for most Catholic moral reasoning, but had also shaped the philosophy of the most influential Catholic intellectuals of the era, such as the French philosopher Jacques Maritain. Aquinas taught that all moral truths are accessible via human reason, and he provided a model for deducing those moral truths through logical reflection on the natural function of human beings and human actions. Maritain and many of his Catholic contemporaries argued that because natural law was universally accessible to human reason, it offered a nonsectarian universal guide to morality that could not only shape civil law but also provide a foundation for a universal system of human rights. Human rights, Catholics like Maritain believed, had to be grounded in universal principles in order to be universally recognized, and natural law philosophy offered such a foundation. But natural law theology gained little traction among Protestants, who had longstanding suspicions of Catholic theology and who, by the mid-twentieth century, had become especially skeptical of Catholics' argument that contraception violated a universal natural law.<sup>15</sup>

Catholic theologians argued that contraception contravened natural law in several ways. First, it separated sex from its natural purpose of procreation. Second, by attempting to prevent the formation of new human life, it challenged God's authority as the Creator. Finally, it treated human life as something to be prevented rather than valued. Contraception introduced a "deadly . . . cheapening of human life," the Jesuit magazine *America* charged in 1924. Those who promoted contraception "would destroy the law of God and the law of nature by interfering with human life at its inception. For they would teach the custodians of human life how to frustrate life before birth." In the views of Catholics, this was only a short step removed from abortion. "Does artificial prevention of life stand on any higher moral ground than the artificial taking of life?" Edward J. Heffron, executive secretary of the National Council of Catholic Men, asked in 1942.<sup>16</sup>

Birth control advocates, including Sanger, disagreed. They saw contraception as an anti-abortion measure, since women would likely have fewer illegal abortions if they had a more convenient and safer way to limit their fertility. Catholics disputed this claim. They argued that legalized birth control would actually increase the abortion rate, because people who had been encouraged to try to avoid pregnancy would resort to any means at their disposal—even an illegal abortion—if their contraceptive devices failed. Birth control had "created the mentality which abhors births,"

Jesuit priest Wilfrid Parsons declared in 1935. Its “inexorable outcome will be the killing by abortion of unwanted babies.”<sup>17</sup>

It was thus not surprising that when Pope Pius XI issued his landmark anti-contraceptive encyclical *Casti Connubii* in 1930, he coupled his condemnation of artificial birth control with an injunction against “the taking of the life of the offspring hidden in the mother’s womb.” While most of the encyclical was devoted to the issue of contraception, which he viewed as the more immediate threat, he also believed that abortion was merely a more extreme manifestation of the same impulse: a general attack on the family. The individualism that had led some to attempt to prevent pregnancy by artificial means was leading others to justify the termination of pregnancies that had already begun. Although hardly anyone in the United States had yet dared to publicly claim the right to an abortion, the pope was aware that some in Europe were arguing for that right, and that in the Soviet Union, abortion was legal and widely practiced. Even in the United States, doctors were commonly performing legal abortions to save women’s lives, which the pope viewed as “misguided pity.” “What could ever be a sufficient reason for excusing in any way the direct murder of the innocent?” he asked.<sup>18</sup>

Many Protestants, by contrast, argued that contraception had nothing to do with abortion; they saw no reason why they could not accept the legitimacy of doing everything possible to prevent pregnancies before conception while continuing to condemn the taking of unborn human life afterward. In 1930, when the Anglican Communion became the first Protestant denomination to give birth control at least a cautious endorsement, it coupled the resolution with a firm declaration of its unequivocal opposition to abortion. Margaret Sanger insisted that she also was opposed to abortion.<sup>19</sup>

While the consensus against abortion held—at least momentarily—it had been weakened. The birth control campaigns created a religious divide in Americans’ approach to reproductive issues. After the 1930s, few Protestants outside of fundamentalist circles preached against birth control, and many clerics from more progressive denominations joined campaigns to promote its use. By rejecting Catholic natural law-based arguments against birth control, Protestants made it more difficult to use those arguments against abortion. By the time that abortion policy became a matter of political controversy, most Protestant denominations had no consistent theological position on the subject.<sup>20</sup>

Catholics, by contrast, became more vocal in their denunciations of both birth control and abortion after the 1920s. American Catholic priests



were preaching against birth control long before *Casti Connubii*, but the encyclical encouraged their efforts and gave renewed vigor to their campaign. Warnings against the use of contraception appeared in Catholic diocesan papers and Sunday homilies, and premarital counseling sessions for Catholic couples invariably included instruction on the subject. The discussions of birth control in the mid-twentieth century laid the natural law groundwork for later arguments against abortion. Some priests even preached directly about abortion as early as the 1930s.<sup>21</sup>

The Church's intense focus on issues of reproduction at a time when the medical community was becoming increasingly open to the idea of birth control forced Catholic doctors to make the difficult choice between the teachings of their Church and the views of their profession. In reaction to this crisis, Brooklyn physician Richard Rendich began to organize guilds of Catholic physicians who chose to remain faithful to Church teachings while carrying out their professional duties. In 1931, he consolidated these local societies into a national organization called the National Federation of Catholic Physicians' Guilds, whose chief purpose, according to the organization's Jesuit moderator Fr. Ignatius Cox, was to "form a powerful barrier of both science and Catholicism, against the loose morals and sex liberalism of the day."<sup>22</sup>

Nowhere were these "loose morals" more evident than in the area of birth control, the Federation's leaders believed. The Federation's organizational meeting featured a keynote address against birth control, and the organization's official journal, the *Linacre Quarterly*, devoted much of its space to contraception and sterilization, publishing detailed natural law arguments about why artificial birth control was not only "intrinsically evil" but also a violation of the Fifth Commandment's prohibition against the taking of human life. Conscientious Catholic physicians were aghast that their Protestant colleagues—including, as the Jesuit medical ethicist Fr. Gerald Kelly lamented, "even very competent and conscientious doctors, whose general attitude toward the child-bearing function is both wholesome and reverent"—failed to view contraception as an assault on human life, and even gave contraceptive assistance to their patients who requested it.<sup>23</sup>

The Federation argued that Americans' willingness to use contraceptives signaled a dangerous disrespect for human life that could compromise the entire Western legal tradition of respect for human dignity. When the American Medical Association endorsed contraception in 1937, Fr. Ignatius Cox viewed the resolution as a setback for a much larger

program of human rights. "This action is closely connected with a long denial of a truly living wage and of social justice in our present economic order," he declared. "Those who advocate contraception . . . have a philosophy which in its cynical disregard of the dignity of human life is equivalent to the philosophy which accounts for the massacres of history."<sup>24</sup> If people began to view the formation of new human life as an impediment to societal progress, economic prosperity, and social well-being—something that they should try to prevent if it inconvenienced them in any way—then we should not be surprised, Catholics such as Fr. Cox thought, when they had little regard for the rights of workers, the poor, and other people whom they viewed as burdens on society.

The Catholics who opposed contraception and abortion were strong advocates of relief for the poor. Indeed, Catholic clerics of the 1930s, who had embraced a theology of social obligation and care for the less fortunate that papal encyclicals such as *Rerum Novarum* (1891) and *Quadragesimo Anno* (1931) had mandated, often outpaced the New Deal in their call for government social programs, aid to the impoverished, and a living wage for workers.<sup>25</sup> But in contrast to Protestant, Jewish, and secular liberals, Catholics believed that care for the poor was incompatible with the promotion of birth control or sterilization, whether voluntary or coerced. In their view, the entire Catholic program of social justice depended on a regard for human life that the contraceptive movement threatened.

The debate over birth control in the 1930s was thus a conflict between two factions of political progressives who both saw their stance on reproductive issues as a logical extension of their support for social reform and a welfare state. On the one side was an eclectic coalition of Protestant, Jewish, and secular progressives who believed that they could use state resources and the power of technology to improve society by reducing the number of unwanted children and hungry mouths to feed, especially in impoverished households. Some of these progressives were New Deal administrators who saw the promotion of birth control as an extension of government efforts to reduce poverty and advance human happiness through social reform. On the other side were Catholics who were also avid supporters of the New Deal, but who believed that the attempt to improve society through the artificial limitation of human reproduction signaled a dangerous disregard for human life. Their commitment to poverty relief equaled or exceeded that of many of the birth control promoters and political liberals; indeed, the pope, the National Catholic Welfare Conference, and politically progressive clerics such as Fr. John Ryan had

been calling for the recognition of workers' rights and a living wage for years before Franklin D. Roosevelt's election in 1932. They believed that they were advancing the principles of the New Deal by protecting human life. Ryan, for instance, who had been campaigning for a living wage for decades and who served on Roosevelt's National Recovery Administration Appeals Board, was also an outspoken leader in the campaign against contraception.<sup>26</sup> Because the politics of reproduction had not yet become a partisan issue, Catholic opponents of contraception in the 1930s could happily join with birth control advocates in supporting the New Deal, unaware that their disagreement on the politics of reproduction would eventually split apart the liberal coalition.

The physicians' opposition to contraception prepared them to speak out against abortion as soon as the first calls for its legalization were sounded. Indeed, the arguments that they used against abortion—arguments that appealed to human dignity, natural law, social justice, and the value of human life—were the same arguments that they used against contraception in the 1930s. Thus, when the first books advocating abortion legalization were published in the early 1930s, Catholic doctors were ready for battle, because they already had a nationwide professional organization, a papal encyclical, and a bevy of natural law arguments at the ready.

### *The Abortion Debate Begins*

Catholics who opposed the physician-led campaign for abortion law reform in the 1930s believed that they were defending the absolute values of natural law against moral relativism and utilitarian arguments that sought to justify "killing" for the sake of a higher social good. The first abortion law reformers conceded that abortion was morally problematic—likely even the taking of a human life—but they thought that its legalization was the lesser of two evils, given the public health crisis produced by illegal abortion. With the onset of the Great Depression, the nation's birthrates plunged to record-low levels, and numerous women terminated their pregnancies illegally in a desperate attempt to avoid having additional mouths to feed. The most reliable estimates suggested that the abortion rate likely more than doubled during the early years of the Great Depression and that perhaps as many as 700,000 abortions occurred annually during the early to mid-1930s.<sup>27</sup> Since several thousand women died each year from these illegal operations, a few doctors decided that the most humane

response to the crisis would be to provide a way for these women to terminate their pregnancies legally—and safely—in hospitals.

The doctors who issued this call harbored a deep antipathy toward Catholic moral teaching on the subject, with one calling the Church's proscriptions on abortion a "resuscitated relic of the Dark Ages."<sup>28</sup> In fact, their disagreement with the Church's moral doctrine went far beyond the narrow subject of abortion. Most of them were liberal or secular Jews who believed that Catholic attempts to use public law to enforce the Church's own standards of sexual morality violated people's personal freedoms and impeded social progress. They had been at the forefront of the contraceptive campaign of the 1920s. Indeed, one of the physicians writing in favor of abortion legalization wanted to separate sex not only from procreation but also from marriage itself—a radical idea at the time. Some of them were also eugenicists who believed that society would be better off if certain people were discouraged from reproducing. And all of them, despite their regard for fetal life and their moral squeamishness about abortion, justified the loosening of abortion restrictions on utilitarian grounds—that is, they claimed that legalizing abortion would produce fewer social evils than the prohibitions on abortion had already caused.

One of these doctors, William J. Robinson, had already established himself as one of the leading advocates of birth control in the United States. He was a self-identified humanist "freethinker" who had written tracts against religion and had spent the previous two decades trying to convince the public to accept eugenics (including forced sterilization of "morons and imbeciles"), pacifism (a view that got him arrested during the First World War), and non-monogamous sex. After years of campaigning for contraception, he called for legalized abortion in a book on sexual morality published in 1928, and then argued his case in much greater detail five years later in *The Law against Abortion: Its Perniciousness Demonstrated and Its Repeal Demanded*, which the Eugenics Publishing Company released in 1933. Robinson's advocacy of legalized abortion did not mean that he thought that the practice was moral. In fact, despite his strong endorsement of contraception and his approval of non-monogamous sexual relations in a variety of contexts, including adultery and incest, he still viewed abortion as "an evil." It is "not a *nice* thing," he wrote, because "it does mean the destruction of a commencing life." He hoped that the universal use of contraceptives would eventually make it a "rare occurrence." In the meantime, though, he argued that it was better to legalize abortion than

to drive a desperate woman into the hands of an “incompetent midwife” whose abortion methods might kill her.<sup>29</sup>

Robinson did not present himself as a women’s rights advocate, and he frequently made statements that, even by the standards of his own time, could hardly have been considered feminist. His argument, for instance, that the penalties for rape should be reduced on the grounds that some women “perhaps did not mind the assault so terribly much” or his statement that a man was “justified in having extramarital relations if he can do so without causing his wife any suffering” seemed more indicative of a commitment to sexual freedom than to women’s rights. But Robinson also had a deep sympathy for women who experienced lifelong health complications or even death after botched abortions. Early in his medical career, he had watched a twenty-five-year-old woman die from the after-effects of an illegal abortion obtained from a midwife, and he wanted to do everything possible to prevent such unnecessary and untimely deaths. “The anti-abortion law is a stupid senseless law, which does not abolish or diminish abortion, but in addition causes endless suffering and anguish, chronic invalidism, death and suicide—and even murder,” he declared. It was best, he argued, to repeal all laws against abortion during the first three months of pregnancy, provided that they were performed by a licensed physician.<sup>30</sup>

Robinson freely admitted his utilitarianism and his willingness to sacrifice fetal life for the sake of a higher social good. There was no “divine origin of morality,” he thought, and thus no fixed standard of value that transcended human society; instead, a moral “code” would have to be “based upon the greatest happiness of the greatest number.” The good that abortion legalization would produce for the women involved far outweighed the harm that would come to their fetuses, he believed. “Yes, abortion is an evil, and always will be one,” he declared. “But very often . . . it is so much the lesser of two evils, that there cannot be a moment’s hesitation as to the choice.”<sup>31</sup>

Robinson’s proposal for the repeal of all laws against abortion during the first trimester did not receive much support until the late 1960s, thirty years after his death. But even if Robinson’s ideas seemed radical at the time he published them, a few of his fellow physicians in the 1930s sympathized with his argument that prohibitions on abortion drove some women to their deaths, and the idea gradually gained a larger hearing. In the late twentieth and early twenty-first centuries, decades after Robinson himself had largely been forgotten, his claim that laws against abortion would not

prevent the practice and would instead only cause desperate women to die remained one of the pro-choice movement's central arguments.<sup>32</sup>

In the same year in which Robinson published his book, A. J. Rongy, another New York physician who identified with the political left, made a related argument in his book *Abortion: Legal or Illegal?* (1933). Abortion laws should be repealed, he said, because nearly two million illegal abortions were occurring in the United States each year, which meant that the laws were as useless as Prohibition had been. Just as the Eighteenth Amendment had not stopped drunkenness and had instead given rise to violent gangs, so too, Rongy argued, laws against abortion had not stopped women from terminating their pregnancies and had instead encouraged the growth of criminal abortion rings and rampant bribery of law officers. Anti-abortion legislation had also encouraged "a contempt for the law" on the part of doctors and pregnant women. Rongy's estimate of the number of illegal abortions was almost certainly too high, but there was strong evidence that at least a few hundred thousand women obtained illegal abortions each year, and that the number was rapidly increasing. One New York criminal syndicate alone accounted for nearly 250,000 illegal abortions annually, and it was by no means the only such organization that provided the procedure.<sup>33</sup> In addition, Rongy claimed that, as a gynecologist, he knew many colleagues in the profession who routinely offered ostensibly legal "therapeutic" abortions that were not necessary to save women's lives.

Though Rongy's views were diametrically opposed to the pope's in most respects, he concurred with Pius XI in seeing a link between public acceptance of contraception and increased demand for abortion. "Now that the tide of public opinion is swelling in favor of greater freedom in the matter of childbearing," he wrote, more women were requesting abortions. It was therefore time, Rongy argued, for Americans to follow the example of the Soviet Union and legalize abortion "under circumstances justified by the health of the parent, her economic condition, the danger of a social stigma, or any one of a number of valid reasons."<sup>34</sup>

For the next thirty-five years, the abortion law reform movement continued to make the arguments that Robinson and Rongy had first posited. Yet almost no one in the movement cited either of these doctors as the source of his or her views or lauded them as pioneers for the cause. Though both were leading medical professionals, Robinson was a Russian Jewish immigrant and pacifist with an open antipathy to religion and a penchant for provocative statements on matters of sex, and Rongy was

a Jewish Lithuanian immigrant and socialist who made no secret of his admiration for the Soviet Union.<sup>35</sup> Their political, ethnic, and religious backgrounds would not have endeared them to most socially conservative American Christians in the early 1930s. It was thus left to others to pick up their arguments.

Three years after Robinson and Rongy published their books, another doctor, the former anti-abortion lecturer Frederick Taussig, published a defense of abortion legalization. Taussig's book was more widely distributed than Rongy's, and it set the terms of the abortion debate partly because, as a 500-page, exhaustively detailed study of the medical and legal aspects of abortion, it was by far the most comprehensive analysis of abortion published up to that point. Taussig was, like Rongy, both a Jew and a gynecologist, but in contrast to his slightly younger colleague, the sixty-four-year-old Taussig was careful to distance himself from any direct approval of the Soviet Union's abortion policy. Unlike Rongy, he had once been active in the fight against abortion. In 1910, he had boldly declared that "life begins with conception," and that "each fertilized ovum . . . is a precious object, that we must, by every effort in our power, save from premature destruction." He had called for more stringent abortion laws to prevent the "slaughter of the innocents."<sup>36</sup>

But Taussig found that none of this had succeeded in reducing the abortion rate. Through a series of detailed calculations, he determined, in an estimate that was probably accurate at the time, that between 8,000 and 10,000 women died from abortions each year—approximately one out of every eighty women who sought an illegal abortion. Taussig decided that it was best to give women the legal right to obtain what they wanted in a safe facility rather than force them to risk their lives by seeking abortions from unskilled criminal operators. "I know of no other instance in history in which there has been such frank and universal disregard for a criminal law," Taussig wrote.<sup>37</sup> In this respect, Taussig's argument was similar to Rongy's.

Taussig also presented another argument that would ultimately have far-reaching effects on the abortion debate: he redefined the value of life in relative, rather than absolute, terms. Already, he argued, physicians commonly performed abortions when they were necessary to save a woman's life. Why not also perform abortions when they were necessary to effect a higher social good, such as preventing the further impoverishment of a family through the birth of another child or saving the health of a pregnant woman? Unlike Robinson and Rongy, Taussig did not favor allowing

women to obtain abortions whenever they desired, but he did suggest that it would be in society's best interest to allow abortion in carefully circumscribed cases—rape or incest, dangers to the health or life of the mother, suspected fetal deformity, and socioeconomic disadvantage. As a strong believer in both contraception and eugenics, Taussig was convinced that society would benefit from planned fertility. No good would come from women being forced to give birth to badly deformed or mentally defective babies. Nor would it be in society's best interest to force women to bear children they could not properly care for. It would be uncompassionate to require a woman who had been raped or whose health was in peril to bring her pregnancy to term, he argued. Taussig had previously insisted that the value of fetal life was paramount, but now he decided that women's health and larger societal considerations were more important.<sup>38</sup>

Taussig suggested that Americans could have the best of all worlds: they could reduce the illegal abortion rate, save women's lives, protect women's health, adopt a compassionate policy, and promote social well-being, while simultaneously recognizing the value of fetal life and avoiding a policy of indiscriminate abortion legalization. Rongy and Robinson had been well outside of the mainstream of public opinion when they had suggested that Americans should permit abortions in almost all cases. Taussig offered a middle ground that was more appealing. Like most Americans, Taussig was still personally uncomfortable with abortion; he viewed it as "probably the most wasteful of known ills in its expenditure of human life and human health." He hoped that free birth control clinics and better contraceptive devices would eventually make the practice almost obsolete. But in the meantime, he believed, doctors had a duty to campaign for the liberalization of abortion laws in order to prevent the "needless wreckage of human lives" that resulted from illegal abortions. "Saving the mother's life or health," he declared, "is more laudable than the observance of theoretical ideas regarding the viability and rights of the fetus." He recognized that this pronouncement was a direct affront to Catholic views of morality, but he believed that the Church's prohibition on abortion had been responsible for "much unnecessary suffering, disease and death" and therefore should be given no consideration in making public policy. The only "fixed standard of morality," he said, was the Golden Rule; "antiquated" laws and doctrines would therefore have to give way to "progress and reform."<sup>39</sup>

Taussig's book was not enough to cause most doctors to reject a half-century of professional medical opinion vilifying abortion practitioners, but some influential physicians found his arguments persuasive,



a sign that the longstanding medical consensus against abortion was beginning to crack. In 1936, the president of the Medical Society of the County of New York announced his support for a liberalized abortion policy that would prevent the birth of the “unwanted and unloved child, to be raised in poverty and ignorance.”<sup>40</sup> While Taussig’s ideas were not widely accepted in his own lifetime, his argument that abortion law liberalization was a public health issue became the central platform of reform activists for the next three decades. In the mid-1960s, abortion law reformers were still repeating Taussig’s arguments and citing his claim that more than five thousand women died from illegal abortions each year, even though by that time, improvements in medical care had greatly reduced the number.<sup>41</sup>

Behind this argument, of course, was the assumption that the loss of fetal life was a price worth paying in order to save the lives of women. To Taussig, Rongy, and other abortion law reformers, this was obvious, and it accorded well with longstanding legal doctrine. But to Catholic doctors, it threatened to set a dangerous precedent. In 1937, the National Federation of Catholic Physicians’ Guilds declared that the demand for abortion was a direct result of the assumption that humans had the right to attempt to improve society by deciding who should live and who should die, a right that Catholic physicians believed belonged only to God. If the fetus was a human being, which even some advocates of liberalized abortion laws had conceded might be the case, no one had the right to take its life for any reason. One simply could not kill an innocent person for the sake of a greater social good.

The problem, Catholic physicians believed, was that Americans had decided that they had a right to sex without consequences. It was a small step from preventing pregnancy to terminating it. Catholic physicians thought that an incorrect view of sex had led to disrespect for human life and a new willingness to dispose of it for utilitarian reasons.<sup>42</sup> The calls for abortion legalization were an affront to the Church’s core moral and social values: its teachings on sexuality, the family, the creation of human life, the value of human persons, natural law, and human rights. They were therefore a threat of the highest order.

By 1942, the Federation had moved abortion to the top of its list of stated concerns. In passing a resolution reaffirming the organization’s “allegiance to all Catholic and moral principles which have a bearing on the practice of medicine,” the Federation particularly noted its “abhorrence of the assaults on the sanctity of human life which arise from the