

2012

The Possibility of Compromise: Antiabortion Moderates after Roe v. Wade

Mary Ziegler
Florida State University College of Law

Follow this and additional works at: <https://ir.law.fsu.edu/articles>



Part of the [Law and Politics Commons](#), [Law and Society Commons](#), and the [Legal History Commons](#)

Recommended Citation

Mary Ziegler, *The Possibility of Compromise: Antiabortion Moderates after Roe v. Wade*, 87 *CHI.-KENT L. REV.* 571 (2012),

Available at: <https://ir.law.fsu.edu/articles/333>

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Scholarly Publications by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

THE POSSIBILITY OF COMPROMISE: ANTIABORTION MODERATES AFTER *ROE V. WADE*, 1973–1980

MARY ZIEGLER*

INTRODUCTION

Did *Roe v. Wade* destroy the possibility for compromise in the abortion debate? Leading studies argue that *Roe* itself radicalized debate and marginalized antiabortion moderates, either by issuing a sweeping decision before adequate public support had developed or by framing the opinion in terms of moral absolutes.¹ Others rely on this history in criticizing the sweeping privacy framework set out in *Roe*, attributing the radicalization of the general discussion and the antiabortion movement to the timing, reach, or framing of the abortion right in the opinion.²

* Mary Ziegler is an assistant professor at St. Louis University School of Law.

1. See, e.g., DONALD T. CRITCHLOW, *Birth Control, Population Control, and Family Planning: An Overview*, in *THE POLITICS OF ABORTION AND BIRTH CONTROL IN HISTORICAL PERSPECTIVE* 1, 14–16 (Donald T. Critchlow ed., 1996) (arguing that *Roe* “only intensified, although unintentionally, growing polarization on the [abortion] issue,” that *Roe* “activated pro-life opposition,” and that *Roe* rendered “[s]erious moral dialogue and political compromise . . . more difficult”); LINDA GORDON, *THE MORAL PROPERTY OF WOMEN: A HISTORY OF BIRTH CONTROL POLITICS IN AMERICA* 300, 319 (3d ed. 2002) (arguing that political divisions and absolutist divisions in the abortion debate stem from broad disagreements about social values related to sex and reproduction and asserting that that absolutist divisions remain stable and tenacious); ELIZABETH MENSCH & ALAN FREEMAN, *THE POLITICS OF VIRTUE: IS ABORTION DEBATABLE?* 161 (1993). By contrast, Celeste Michelle Condit has argued that *Roe* represented a form of legal compromise between competing rhetorical frames, and she suggests that the media, too, has adopted elements of both pro- and anti-abortion strategies. See CELESTE MICHELLE CONDIT, *DECODING ABORTION RHETORIC: COMMUNICATING SOCIAL CHANGE* 117, 141, 201–03 (1990). Mark Graber has also been critical of the prevailing idea that compromise in the contemporary abortion debate is impossible. See MARK GRABER, *RETHINKING ABORTION: EQUAL CHOICE, THE CONSTITUTION, AND REPRODUCTIVE POLITICS* 17, 20–38 (1999). For his part, Gene Burns argues that, before *Roe*, the abortion debate had reached an impasse at which compromise was impossible, and he attributes this result to the rhetorical frames each movement endorsed, not to the Supreme Court’s decision. See GENE BURNS, *THE MORAL VETO: FRAMING ABORTION, CONTRACEPTION, AND CULTURAL PLURALISM IN THE UNITED STATES* 310 (2005).

2. WILLIAM N. ESKRIDGE JR. & JOHN FEREJOHN, *A REPUBLIC OF STATUTES: THE NEW AMERICAN CONSTITUTION* 242 (2010); CASS R. SUNSTEIN, *ONE CASE AT A TIME: JUDICIAL MINIMALISM ON THE SUPREME COURT* 114 (1999); Ruth Bader Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, 63 N.C. L. Rev. 375, 381–82 (1985); Robin West, *From Choice to Reproductive Justice: De-Constitutionalizing Abortion Rights*, 118 Yale L.J. 1394, 1394–96 (2009).

The polarization narrative on which leading studies rely obscures important actors and arguments that defined the antiabortion movement of the 1970s. First, contrary to what the polarization narrative suggests, self-identified antiabortion moderates played a significant role in the mainstream antiabortion movement. As we shall see, activists like Warren Schaller and Marjory Mecklenburg assumed positions of leadership in the National Right to Life Committee (NRLC), then the largest national antiabortion organization and a clearinghouse for strategy for the wide variety of groups active at the state level. These activists shaped the mainstream movement's policies on issues like the treatment of unwed mothers or the Equal Rights Amendment. During testimony about a human life amendment to the Constitution, they helped to forge the movement's public-relations strategy.

Second, because of the influence exercised by these activists, post-*Roe* compromise in the 1970s was more possible than is conventionally thought, especially on issues beyond abortion itself. Working in organizations like Feminists for Life (FFL) or American Citizens Concerned for Life (ACCL), antiabortion moderates campaigned for what they defined to be alternatives to abortion: for example, laws prohibiting pregnancy discrimination or funding contraception or sex education. *Roe* did not undo these important opportunities for compromise.

Ultimately, however, for several reasons, moderates lost influence. First, in the mid-1970s, as part of their campaign against the Equal Rights Amendment (ERA), conservative women's groups like Phyllis Schlafly's STOP ERA took up the abortion issue. In order to persuade abortion opponents to condemn the Amendment, Schlafly and her allies began stressing that the Amendment would make *Roe v. Wade* a permanent constitutional fact. Similarly, Schlafly and her allies contended that feminism was and always would be pro-abortion. The involvement of antifeminist groups in the abortion debate helped to convince activists otherwise supportive of or indifferent to the ERA that no part of the feminist agenda was deserving of support. Moreover, Schlafly and a newer group, Beverly LaHaye's Concerned Women for America (CWA), identified and mobilized a cohort of women opposed to both abortion and the ERA.

Similarly, in the late 1970s, for strategic reasons, both the women's movement and the antiabortion movement began marginalizing activists opposed to abortion but supportive of the ERA or anti-pregnancy discrimination legislation. For the National Right to Life

Committee or other mainstream antiabortion groups, the Religious Right and New Right, both of which were becoming politically powerful in the late 1970s and both of which had members strongly opposed to abortion, appeared to be attractive allies. In the same period, as abortion-rights groups increasingly stressed that the antiabortion movement was intent on oppressing women, antiabortion moderates also lost any place they might have had on the political left.

The history of antiabortion moderates complicates leading criticisms of *Roe* that rely on the polarization produced by the decision. Arguing that *Roe* sidelined moderates, scholars criticize the sweep of the opinion, the privacy rationale it offers, or the timing of its issuance in a period in which the abortion issue was very much alive in state legislatures. However, to the extent that the history of antiabortion moderates offers an example, *Roe* did not polarize discussion. If *Roe* did not sideline antiabortion moderates, could it be properly said to have created a clash of absolutes? If *Roe* did not polarize debate, then should criticisms of the opinion's rationale, timing, or scope be reexamined? The history here makes more urgent a reconsideration of these questions.

The history considered here also offers new perspective on an increasingly rich scholarship on women of the Right. Scholars like Sarah Barringer Gordon and Donald Critchlow have studied the emergence, evolution, and strategies of organizations like Phyllis Schlafly's STOP ERA and Beverly LaHaye's Concerned Women for America.³ Although strongly opposed to second-wave feminism, these groups argued that they were redeeming the essence of womanhood from feminists. These studies have not fully done justice to important "pro-woman" antiabortion activists in groups like the NRLC, ACCL, and FFL. Unlike the members of the CWA or STOP ERA, these activists identified with second-wave feminism or defined themselves partly by a willingness to form alliances with feminists. These moderate activists have largely been lost in the current history of both the abortion debate and of women of the Right.

This Article proceeds in four parts. Part I studies the influence of self-described antiabortion moderates on the mainstream antiabortion

3. See, e.g., DONALD T. CRITCHLOW, *PHYLLIS SCHLAFLY AND GRASSROOTS CONSERVATISM: A WOMAN'S CRUSADE* (2005); CAROL FELSENTHAL, *THE SWEETHEART OF THE SILENT MAJORITY: THE BIOGRAPHY OF PHYLLIS SCHLAFLY* (1981); see generally SARAH BARRINGER GORDON, *THE SPIRIT OF THE LAW: RELIGIOUS VOICES AND THE CONSTITUTION IN MODERN AMERICA* (2010); REBECCA E. KLATCH, *WOMEN OF THE NEW RIGHT* (1987); CATHERINE E. RYMPH, *REPUBLICAN WOMEN: FEMINISM AND CONSERVATISM FROM SUFFRAGE THROUGH THE RISE OF THE NEW RIGHT* (2006).

movement between 1973 and 1975. Part II examines the role played in the abortion debate of the 1970s by the freestanding organizations these activists formed. Part III shows that these groups were marginalized not simply because of *Roe*, but because of a wide variety of factors, including the rise of the New Right and the evolution of the ERA battle. The final part briefly concludes.

I. WOMEN'S RIGHTS AS AN ALTERNATIVE TO ABORTION: ANTIABORTION RIGHTS FOR WOMEN

A wide variety of antiabortion leaders held liberal or moderate views on some social issues. For example, the United States Catholic Conference's Family Life Division, the group that spawned many subsequent organizations, was run throughout the 1970s by Monsignor James McHugh, who became known for his endorsement of sex education in public schools.⁴ Similarly, Americans United for Life, a group originally formed by conservative Catholics displeased with Monsignor McHugh, had splintered because moderate members had led a vote refusing to oppose the use of certain forms of contraception, prompting an exodus by more absolutist members like Notre Dame Professor Charles Rice.⁵

However, the most telling evidence of the influence of antiabortion moderates may be found in the history of the largest national antiabortion organization, the NRLC. From the outset, the organization's leadership had a wide range of views on contraception, feminism, and sex education. More conservative Catholic members like Randy Engel, the founder of another organization, the United States Coalition for Life (USCL), held the view that support for sex education had ultimately led to the legalization of abortion.⁶ Others were like Dr. Frederick Meck-

4. For McHugh's stand on the desirability of public-school sex education, see, for example, *SEX EDUCATION: A GUIDE FOR TEACHERS* (Rev. James T. McHugh ed., 1969). On the founding of the NRLC, see, for example, Keith Cassidy, *The Right to Life Movement: Sources, Development, and Strategies*, in *THE POLITICS OF ABORTION AND BIRTH CONTROL IN HISTORICAL PERSPECTIVE* 128, 140 (Donald T. Critchlow ed., 1996); MARY JO WEAVER & R. SCOTT APPLEBY, *BEING RIGHT: CONSERVATIVE CATHOLICS IN AMERICA* 273 (1995).

5. See Julie Grismstead, "Profound Obligation, Highest Privilege": Dr. Joseph R. Stanton and the Pro-life Movement 131-38 (Feb. 20, 1991) (unpublished manuscript) (on file with author); Letter from Charles E. Rice, professor of law, Notre Dame Law School, to George Hunston Williams, professor, Harvard Divinity School (Feb. 10, 1972) (on file with author); Meeting Minutes, Americans United for Life, 4, 6-7 (Mar. 10-11, 1972) (Executive File, Folder 91, Concordia Historical Institute of the Lutheran Church Missouri Synod).

6. Engel argued that the "Sangerite movement," one she believed supported population control, contraception, and abortion, had "come full circle following the Supreme Court decision on abortion." *Abortion Part III: Hearing on S.J. Res. 119 and S.J. Res. 130 Before the Subcommittee on*

lenburg, a member of the American Association of Planned Parenthood Physicians and the founder of a family planning clinic at the University of Minnesota.⁷ His wife, Marjory, also supported the availability of legal contraception.⁸

This diversity notwithstanding, it was the Mecklenburgs and their supporters who successfully promoted the idea of creating a separate and secular national organization opposed to abortion.⁹ The influence of this moderate faction continued after the organization became independent from the Catholic Church. Because she had attracted an influential group of supporters, Marjory Mecklenburg was elected chairman of the organization.¹⁰

In the face of considerable opposition, the Mecklenburg faction also imposed its choice of interim Executive Director, Warren Schaller, an Episcopal minister from St. Paul, Minnesota, on the organization.¹¹ Later disagreements about Schaller's leadership reflected deeper divisions about how the organization should be run. Mecklenburg and her allies wanted the NRLC to take a stand more often on issues related to abortion, such as family planning or forced sterilization.¹² For the most part, members of the Mecklenburg faction supported or at least accepted broad access to family planning services, as well as publicly-funded daycare.¹³ Finally, reversing an earlier position, the faction

Constitutional Amendments of the S. Comm. on the Judiciary, 93d Cong. 98 (1974) (statement of Randy Engel, director, U.S. Coalition for Life).

7. See Frederick Mecklenburg, Biographical Information (c. 1975), in *The American Citizens Concerned for Life Papers* (Box 17, Gerald Ford Memorial Library, University of Michigan).

8. See, e.g., *Abortion—Part IV: Hearings on S.J. Res. 6, S.J. Res. 10 and 11, and S.J. Res. 91 Before the Subcommittee on Constitutional Amendments of the S. Comm. on the Judiciary*, 94th Cong. 660 (1976) (statement of Marjory Mecklenburg, President, American Citizens Concerned for Life).

9. See Robert N. Karrer, *The Formation of Michigan's Anti-abortion Movement, 1967–1974*, 22 MICH. HIST. REV. 67, 98 (1996).

10. See Arlene Doyle, *Do You Need Permission to Save an Unborn Baby?*, in U.S. COALITION FOR LIFE 1, 9 (1977), available at http://uscl.info/edoc/doc.php?doc_id=88&action=inline (on Mecklenburg's role as Chairman).

11. See *id.* at 11.

12. See *The Owl in the Saguaro* (Feb. 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

13. See, e.g., Frederick Mecklenburg, *Building Bridges Instead of Walls* (1975), in *The American Citizens Concerned for Life Papers* (Box 14, Gerald Ford Memorial Library, University of Michigan); Letter from Judy Fink to Edward Golden et al. (Jun. 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan); Judy Fink, *Policy Statement of the NRLC Concerning Birth Control* (May 15, 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan) [hereinafter *Fink, Policy Statement*] (proposing that the NRLC endorse "the pill" and IUDs in order to guarantee, among other things, "the participation of . . . 12 million Southern Baptists").

endorsed an open-ended, decentralized, participatory model of decision-making.¹⁴

Between June 1973 and October 1974, with Schaller's help, the Mecklenburg faction played an important role in shaping the structure, public image, priorities, and decisions of the NRLC. The first important development involved the group's daily operations and structure.¹⁵ Throughout much of 1973, Marjory Mecklenburg successfully proposed and promoted a system whereby everyone on the NRLC's Executive Committee had "[f]reedom . . . to take some initiative in particular areas to get things done."¹⁶

The structure she endorsed was closely tied to her vision of "pro-life activism." Because of her influence, between 1973 and 1974, the NRLC endorsed a number of goals beyond abortion, including demands for the fair treatment of unwed mothers.¹⁷ Moreover, in part because of the impact of Mecklenburg and her supporters, the NRLC did not come out against the Equal Rights Amendment (ERA) until 1977, voting in 1975 against a resolution critical of the Amendment.¹⁸ Both of these policies offended conservatives within the organization.¹⁹ That the Mecklenburg wing was able to exert such an influence is telling.

One important incident began when Judy Fink and Mecklenburg expressed anger at a recent program adopted by the Girl Scouts, called "To Be a Woman."²⁰ Mecklenburg and Fink voiced concern that it gave a misleading and destructive view of womanhood and feminism. In particular, they were outraged that participating Girl Scouts were obligated to visit an abortion clinic.²¹ The pair demanded that the NRLC oppose the program and offer a countervailing view of womanhood and women's rights.

14. See Letter from Marjory Mecklenburg to the NRLC Executive Committee (Aug. 16, 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan).

15. See *id.*

16. See *id.*

17. See, e.g., Resolution 3 (Jul. 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

18. See NRLC Board Meeting Minutes (Sep. 20-21, 1975), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

19. See, e.g., Letter from Randy Engel to the NLRC Board of Directors et al. (Mar. 30, 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan) (objecting to the Mecklenburgs' position on contraception).

20. See Letter from Judy Fink to the NRLC Executive Committee (Jul. 1, 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan).

21. See *id.*; see also NRLC Board Meeting Minutes (June 29-30, 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan).

Fink also raised a related, high-profile incident involving the involuntary sterilization of two African American teenagers in Alabama.²² Fink argued that the NRLC should itself develop an argument about “rights to choose,” opposing coercion in the context of reproductive decisions.²³ Neither effort resulted in a major public education campaign on the part of the organization. Instead, and perhaps more significantly, Mecklenburg’s allies voted in favor of the creation of a Policy Committee designed to address and announce “pro-life” views on matters beyond the ratification of a human life amendment.²⁴ The creation of the Committee dovetailed nicely with one goal of moderate antiabortion advocates in the NRLC: these activists hoped to show that interest in protecting life reached beyond the Catholic Church and beyond the issue of abortion.²⁵

Antiabortion moderates did spark controversy in the broader movement. Randy Engel, an influential opponent of population control from Pennsylvania, and Carolyn Gerster, a prominent Arizona activist, pressed for condemnation of Planned Parenthood as a whole, as well as criticism of supposedly “abortive” forms of contraception, like prostaglandins and the IUD.²⁶ For the moderates, persuading the organization to remain silent on these issues represented a significant victory.²⁷

By the end of 1974, however, prominent moderates left the organization partly because of the bitter divisions that consumed it. However, as we shall see, Mecklenburg and Fink did not leave because of a significant decline in support for moderate positions. The immediate catalyst for their departure involved a dramatic loss of financial support.²⁸

However, in spite of the funding crisis, Mecklenburg and the moderates retained influence over the organization. Schaller played an important role in framing the organization’s public-relations strategy

22. See Bill Kovach, *Sterilization Consent Not Given, Father Tells Kennedy’s Panel*, N.Y. TIMES, July 10, 1973, at 16; *Expand Sterilization Suit*, CHI. DEFENDER., Aug. 14, 1973, at 4.

23. See Fink to NRLC Executive Committee, *supra* note 20; Fink, Policy Statement, *supra* note 13.

24. See NRLC Board Meeting Minutes, *supra* note 21.

25. See Fink to NRLC Executive Committee, *supra* note 20; Fink, Policy Statement, *supra* note 13.

26. See Engel to NRLC Board of Directors, *supra* note 19.

27. The NRLC has not until present taken an official position on contraception. See William Saletan, *Rubber-Baby Money Lumpers: The Pro-Life Movement’s Contraception Problem*, SLATE, Aug. 3, 2009, available at <http://www.slate.com/id/2224154/>.

28. See, e.g., Letter from Frances Frech to Marjory Mecklenburg (Oct. 25, 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan).

during congressional testimony about a human life amendment. In February 1974, Schaller contended that the organization should emphasize medical arguments and should stress the religious diversity of the antiabortion movement.²⁹ In March, the leaders of the organization agreed, arguing for a broader focus on "Protestant, Lutheran, Mormon, and Jewish testimony."³⁰

Indeed, as late as June 1974, the NRLC continued to pass relatively liberal resolutions. Two major policy statements issued by the organization at that time took up Mecklenburg's arguments about alternatives to abortion and antiabortion feminism. One proposed that antiabortion advocates work to remove the stigma attached to unwed motherhood.³¹ If single women could act as mothers without fear of condemnation, as the resolution reasoned, there would be less need for abortion. Another resolution provided that antiabortion women, not members of NOW, truly spoke for women's rights: women exercised their own civil rights, the resolution argued, "by campaigning . . . for the enactment of an amendment to protect the civil right to life of all defenseless life and . . . for the affirmation of a pro-life ethic consistent with a truly liberated feminine role."³²

As these resolutions suggested, Mecklenburg had maintained strong support. Moreover, as we shall see, moderates remained influential within the antiabortion movement even after the departure of Mecklenburg and Fink.

II. BEYOND ABORTION: THE INFLUENCE OF THE ACCL AND FFL, 1974-78

When Fink and Mecklenburg left the NRLC, they revived a more openly liberal antiabortion organization, American Citizens Concerned for Life (ACCL), a national expansion of Mecklenburg's Minnesota group. The group at first appears to be small and relatively short-lived: founded prior to *Roe*, active beginning in 1974, and no longer functioning by the mid-1980s.³³ However, the ACCL itself was more influential in the late 1970s than might be expected. As this Article will demonstrate, the organization's philosophy held that fetal rights could be

29. See Letter from Warren Schaller to the NRLC (Feb. 25, 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

30. See NRLC Meeting Minutes (Mar. 15-16, 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

31. See Resolution 3, *supra* note 17, at 1.

32. See Resolution 4 (June 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

33. See, e.g., MENSCH & FREEMAN, *supra* note 1, at 138.

protected only if women were themselves guaranteed better legal and economic opportunities.

Members of the Mecklenburg faction began expressing this view more openly after their formal break with the NRLC. In 1975, when many antiabortion moderates had left the NRLC or had registered their dissent, Frederick Mecklenburg, a leader of the ACCL, issued an indictment of the mainstream antiabortion movement: "On the subject of building walls, if we persist in avoiding and rejecting the help of concerned citizens who may promote sex education or family planning or welfare programs, to support the unwed, we deserve to be left frustrated and angry."³⁴

Dr. Mecklenburg laid out one vision of the moderates' philosophy: the only way to protect fetal rights was to "work harder than ever to make abortion unnecessary."³⁵ One way to achieve this goal concerned women who already had children: "more medical assistance for the unwed mother and her baby, programs to keep pregnant girls in school, and . . . provision for daycare centers and training."³⁶ A second and equally important set of proposals involved women's rights to prevent pregnancy.³⁷ In 1974, in her congressional testimony, Marjory Mecklenburg stressed a similar point, arguing that government should "treat pregnant women, wed or unwed, with some dignity and respect their rights" but "not at the expense of . . . children."³⁸ In short, as Mecklenburg argued, the ACCL took the position that "[a]ll these rights need to be balanced."³⁹

Several developments in the mid-1970s allowed the ACCL to promote this vision effectively. The first was the 1976 presidential race. The NRLC had limited its role in the campaign, citing its tax-exempt status in deciding not to endorse or campaign heavily for any candidate, including Ronald Reagan and Ellen McCormack, who both supported a human life amendment.⁴⁰ By contrast, Marjory Mecklenburg and the ACCL campaigned for Gerald Ford, petitioning various antia-

34. See Mecklenburg, *supra* note 13, at 3.

35. *Id.* at 2.

36. *Id.*

37. *Id.*

38. *Abortion Hearings—Part IV, supra* note 8, at 643–53 (arguing for several measures, including publicly funded contraception and "daycare facilities [as] an important alternative to abortion").

39. *Id.* at 644.

40. See Judy Klemesrud, *Abortion in the Campaign: Methodist Surgeon Leads the Opposition*, N.Y. TIMES, Mar. 1, 1976, at 28 (explaining NRLC's position on the 1976 election).

bortion organizations for support.⁴¹ She even served as a kind of in-house counsel, advising Ford on how best to approach antiabortion Americans.⁴²

After the election, Marjory Mecklenburg and the ACCL found themselves in an equally advantageous position. President Jimmy Carter came into office seeking a compromise solution on abortion. The reasons for this were complex. The passage of Medicaid funding restrictions (commonly known as the Hyde Amendment) in 1976 began a series of battles in Congress about the scope of restrictions on the Medicaid funding of abortion, struggles so intense that Congress found itself repeatedly gridlocked and unable to pass major appropriations legislation.⁴³ In such an environment, compromise in and of itself was appealing.

Moreover, in his Administration and more generally, Carter hoped to attract and appease both women's-rights supporters and opponents of abortion. The divisions within the Administration in this regard were stark: the head of the Department of Health, Education, and Welfare under Carter, Joseph Califano, was a vocal opponent of abortion rights, while Sarah Weddington, a former leader of NARAL, served as general counsel for the Department of Agriculture.⁴⁴ Carter portrayed himself as a religious Christian and, by opposing some forms of abortion rights, hoped to create or maintain support among evangelical Protestants during his first term in office.⁴⁵ At the same time, by declaring the celebration of International Women's Year and support for the ERA, Carter hoped to court women in general and feminists in particular.⁴⁶

The compromise settled on by the Carter Administration involved the kinds of legislation long promoted by the ACCL: Carter supported restrictions on the use of Medicaid for abortion while demanding greater funding for sex education and family planning, especially for

41. See, e.g., ROBERT MASON, *RICHARD NIXON AND THE QUEST FOR A NEW MAJORITY* 230 (2004).

42. See *id.*

43. See, e.g., Marjorie Hunter, *Congress Approves an Abortion Accord*, N.Y. TIMES, Nov. 17, 1979, at 10; James Strong, *Thousands of Workers Face Pay Delay on Abortion Fight*, CHI. TRIB., Oct. 8, 1977, § 1, at 3.

44. For Califano's account of his position, see JOSEPH CALIFANO, *GOVERNING AMERICA* 64-65 (2007). On the appointment of Weddington, see Douglas Frantz, *Carter Hit on Hiring of Abortion Backer*, CHI. TRIB., Sep. 9, 1978, § 1, at 12..

45. See, e.g., Maxwell Glen, *The Electronic Ministers Listen to the Gospel According to the Candidates*, NAT'L J., Dec. 22, 1979, at 2142, 2145; Gary Willis, *'Born Again' Politics*, N.Y. TIMES MAG., Aug. 1, 1976, at 8-9.

46. See CHRISTINA WOLBRECHT, *THE POLITICS OF WOMEN'S RIGHTS: PARTIES, POSITIONS, AND CHANGE* 43 (2000).

juveniles.⁴⁷ The focus on juveniles came because of a series of reports, released by both Planned Parenthood's Guttmacher Institute and by university researchers, highlighting a hike in the rate of pregnancy for unwed white and black teenagers.⁴⁸

In campaigning for and testifying on behalf of the so-called Adolescent Health Services and Pregnancy Prevention Act of 1978, Marjory Mecklenburg made the ACCL the public face of compromise in the debate. Testifying before Congress, she portrayed her organization and its position as the only one that enjoyed popular support. She pointed out that there was popular support for using "tax money to help . . . pregnant women with services," while there was no such support for publicly-funded abortions.⁴⁹ She described her position as a politically appealing one, a stance "on which people who differ on the questions of abortion legality or abortion funding should be able to agree."⁵⁰

The passage of the Act was an important victory for antiabortion liberals. Debate about the Act also made Mecklenburg herself more prominent: Carter considered making her a part of his Administration but declined to do so primarily because she was too publicly known as an opponent of abortion.⁵¹

The ACCL's influence was also apparent in the public response to the Supreme Court's 1976 decision in *General Electric Company v. Gilbert*. In *Gilbert*, the Court had held that the systematic exclusion of pregnancy from disability coverage was not, under Title VII, sex discrimination.⁵² In doing so, the Court effectively barred any pregnancy-discrimination claim, since an earlier decision, *Geduldig v. Aiello*, had held that pregnancy discrimination was constitutional under the Equal Protection Clause of the Fourteenth Amendment.⁵³

Gilbert almost immediately produced outrage: a coalition of labor and feminist leaders formed an organization designed to undo *Gilbert*

47. On Carter's position, see, for example, *Calls For Sex Education: Abortion No, Family Planning Yes*: Califano, CHI. TRIB., Feb. 22, 1977, § 1, at 6.

48. See *Rising Concern Over Surge in Illegitimacy*, U.S. NEWS & WORLD REP., June 26, 1978, at 59.

49. *Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978: Hearings on S. 2910 Before the S. Comm. on Human Res.*, 95th Cong. 431 (1978) (statement of Marjory Mecklenburg, President, American Citizens Concerned for Life).

50. *Id.*

51. See *From Reject to Boss*, U.S. NEWS & WORLD REP., Jan. 1, 1981, at 38.

52. See *Gen. Elec. Co. v. Gilbert*, 429 U.S. 125, 138-140, 146 (1976).

53. See *Geduldig v. Aiello*, 417 U.S. 484, 494, 496-97, 496 n.20 (1974).

and its effects.⁵⁴ Although not part of that coalition, the ACCL was equally vocal in condemning *Gilbert*. The ACCL suggested that *Gilbert* encouraged abortion and also denied “protection and economic equality to pregnant women.”⁵⁵ *Gilbert* was also said to violate fetal rights in part because it deprived women of the ability to make important reproductive decisions: faced with the choice of a loss of her job, a woman’s willingness to seek abortion could “not be said to be the product of free choice but rather of coercion.”⁵⁶

An earlier press release made the point even more clearly. The statement described *Gilbert* as “intolerable to people who value human life and want to protect it.”⁵⁷ However, as the ACCL put it, the decision was equally offensive because it failed to “protect the right of the woman to give birth without suffering discrimination.”⁵⁸ As it had in the context of adolescent pregnancy prevention, the ACCL positioned itself as a reasonable antiabortion organization with which a variety of abortion advocacy groups could work.

In the 1970s, some antiabortion groups did find the ACCL’s position to be controversial. Other antiabortion groups took the position that many family-planning methods were tantamount to abortion.⁵⁹ By 1978, Judie Brown, then-Executive Director of the NRLC, opposed the Carter plan on adolescent pregnancy, arguing that sex education and contraception led to teenage pregnancies instead of preventing them.⁶⁰ Nonetheless, in the 1970s, the efforts of the ACCL reflected interest among a significant segment of the antiabortion community in protecting both the rights of women and the rights of fetuses.

FFL charted a similar course in the 1970s. Between 1972 and 1974, new members from forty states joined the organization.⁶¹ By

54. See, e.g., *Feminist Leaders Plan Coalition for Law Aiding Pregnant Women*, N.Y. TIMES, Dec. 15, 1976, at 40.

55. See Press Release, ACCL (Apr. 29, 1977), in *The American Citizens Concerned for Life Papers* (Box 17, Gerald Ford Memorial Library, University of Michigan).

56. *Id.*

57. Press Release, Judy Fink, Pro-Life Group Says General Electric Corp. ‘Encourages Abortions’ in *Gilbert* Case (Mar. 15, 1977), in *The American Citizens Concerned for Life Papers* (Box 17, Gerald Ford Memorial Library, University of Michigan).

58. See *id.*

59. As early as 1973, Nellie Gray, leader of March for Life, took the position that a mandatory human life amendment would have to ban any form of “abortifacient” contraception. See Nellie Gray, *A Mandatory “Human Life Amendment”*, (Sept. 24, 1973), in *The American Citizens Concerned for Life Papers* (Box 4, Gerald Ford Memorial Library, University of Michigan).

60. Susan Fraker, *Abortion Under Attack*, NEWSWEEK, June 5, 1978, at 36, 47.

61. See *Abortion—Part III: Hearing on S.J. Res. 199 and S.J. Res. 130 Before the Subcommittee on Constitutional Amendments of the S. Comm. on the Judiciary 93d Cong. 107* (1974) (statement of Pat Goltz).

contrast to the ACCL, Feminists for Life presented its mission not as an effort to balance the rights of women and fetuses, but rather as an attempt to redeem and fulfill the promise of second-wave feminism. In 1973, in an anthology of antiabortion feminist writings, Goltz attacked antifeminists and abortion opponents who had criticized the Equal Rights Amendment.⁶² There, Goltz argued that the Amendment would not expand access to abortion because abortion did not at all promote sex equality.⁶³

In 1974, in testifying before Congress, Goltz elaborated on this argument. First, she contended that abortion was not consistent with feminist ideology: "We are demanding an end to class stereotyping for women; we cannot and dare not introduce a new class stereotype based on age, mental and physical condition or degree of unwantedness."⁶⁴ Abortion, as Goltz saw it, was a concession that women did not demand "the right to be treated as equals and to be mothers at the same time."⁶⁵

The experience of Goltz and other leaders of FFL in the late 1970s was emblematic of the increasing isolation and rejection encountered by antiabortion moderates in the late 1970s. In the mid-1970s, Goltz almost obsessively chronicled the rejection of pro-life women from feminist groups.⁶⁶

By 1977, the antiabortion movement had done much to isolate Goltz and her supporters. That year, the heads of most mainstream national antiabortion organizations attended an event held by Phyllis Schlafly, the head of the nation's leading anti-feminist and anti-ERA organization. Since 1975, Schlafly had been the key proponent of arguments that the ERA would promote abortion, a claim that Goltz had fought desperately to refute.⁶⁷ Yet at an anti-feminist rally in 1977, Goltz watched as virtually every leading mainstream antiabortion woman took the stage and denounced both feminism and the ERA.⁶⁸

The 1981 NRLC Convention made apparent that the antiabortion movement had left groups like FFL and the ACCL behind. Jerry Falwell,

62. See Pat Goltz, *Equal Rights*, in *PRO-LIFE FEMINISM: YESTERDAY AND TODAY* 224, 224–27 (Mary Krane Derr et al. eds., *Feminism & Nonviolence Studies Ass'n*, 2005) (1995).

63. See *id.*

64. *Abortion—Part III*, *supra* note 61, at 108.

65. *Id.*

66. *Id.* at 116.

67. For a study of Schlafly, see generally CRITCHLOW, *supra* note 3.

68. See, e.g., Phyllis Schlafly, *ERA's Assist to Abortion*, THE PHYLLIS SCHLAFLY REPORT (Oct. 1977), in *The Phyllis Schlafly Report Collection* (on file with the Schlesinger Library, Harvard University).

a well-known televangelist, social conservative, and the head of the Moral Majority, had a prominent place at the event.⁶⁹ Moderates felt considerably more marginalized. Rosemary Bottcher of FFL stated that, when dealing with the new leadership of the antiabortion movement, her group would have to “hold [their] noses.”⁷⁰ Part III next considers why activists found themselves sidelined by the end of the decade.

III. MARGINALIZING THE MODERATES, 1975–1980

There were several reasons for the marginalization of antiabortion moderates. One was the increased involvement of antifeminist groups in the abortion debate. The leading antifeminist group in the 1970s, Phyllis Schlafly’s STOP ERA, began in 1972, when Schlafly, a former congressional candidate and long-term conservative activist, called a meeting of supporters at the O’Hare Airport Inn.⁷¹ The same year, STOP ERA held its first national meeting in St. Louis, operating thereafter as a loose collection of organizations opposed to the Amendment.⁷²

In the early 1970s, STOP ERA differed considerably from groups like FFL and the ACCL. STOP ERA members argued that feminists intended to destroy all the privileges women enjoyed and all of the traits that made women valuable and different from men.⁷³ By contrast, members of FFL and the ACCL viewed women as victims of discrimination at work, at school, and in abortion clinics.⁷⁴ Members of both FFL and the ACCL saw some aspects of the second-wave feminist agenda as valuable, pro-woman, and compatible with opposition to abortion.⁷⁵ To be pro-woman, as these groups argued, was to acknowledge that abortion entrenched rather than alleviated discrimination.

These differences were not entirely apparent in 1973–1975, since Schlafly had not yet addressed the relationship between abortion and the ERA. Schlafly had several reasons for ignoring the abortion question. First, most of Schlafly’s supporters were evangelical Protestants,

69. *Id.*

70. *Id.*

71. CRITCHLOW, *supra* note 3, at 219.

72. *Id.*

73. *Id.* at 221–23.

74. The ACCL’s support for bans on pregnancy discrimination reflected this point of view. See *supra* notes 55, 57, and text accompanying. Feminists for Life, under Pat Goltz, attributed the need for abortion to sex discrimination. See *Abortion—Part III*, *supra* note 61, at 108.

75. See Goltz, *supra* note 62, at 224–28 (describing Goltz’s support for the ERA); *Abortion Hearings—Part IV*, *supra* note 8 at 647 (presenting the support of the ACCL for publicly-funded daycare).

and in the early 1970s, abortion was viewed as a Catholic issue.⁷⁶ Many of Schlafly's supporters might have been expected to oppose Catholicism as much as abortion.⁷⁷

As importantly, the issue of abortion did not as obviously fit in with Schlafly's core argument: that feminists and the ERA would harm traditional homemakers.⁷⁸ Over time, it would become clear that Schlafly's core supporters—often young, evangelical women—opposed abortion for the same reasons they opposed the ERA.⁷⁹

In the early 1970s, antiabortion groups were willing to support or at least live with the Amendment for different reasons. Some, like Goltz, supported the ERA.⁸⁰ Others believed strongly that the antiabortion movement should focus on only one issue.⁸¹ However, by the mid-1970s, Schlafly and STOP ERA began publicizing abortion-based arguments against the ERA. In 1977, for example, she asserted: "The women's libbers expect ERA to be the constitutional means to assure and make permanent their goal of unlimited abortion on demand."⁸² She suggested that the ERA would require the public funding of abortion, teaching and counseling about it in public schools, and the denial of tax exemptions to churches that opposed it.⁸³ She stressed that "[t]he women's libbers believe[d that] the greatest 'inequality' between men and women" was the fact that "women get pregnant and men do not."⁸⁴

As abortion opponents became convinced that both the ERA and feminism were pro-abortion, groups like the NRLC began to condemn both in equal measure. This shift began to be apparent 1975. Part of this was due to the celebration of International Women's Year (IWY),

76. See CRITCHLOW, *supra* note 3, at 220.

77. At least as recently as 1960, anti-Catholic sentiment was believed to have cost John F. Kennedy the Evangelical vote. See MARK A. NOLL, *RELIGION AND AMERICAN POLITICS: FROM THE COLONIAL PERIOD TO THE 1980s* 375 (1990). Evangelical-Catholic relations improved in 1970. See RIGHTWARD BOUND: MAKING AMERICA CONSERVATIVE IN THE 1970s 37 (Bruce Shulman & Julian Zelizer eds., 2008). In 1974, even antiabortion activists were worried that abortion was still viewed as a sectarian Catholic issue. See, e.g., Letter from Warren Schaller to the NRLC (Oct. 1974), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan) ("Last week, Arlie Schardt of the Washington ACLU was stating that [the] NRLC is Catholic dominated . . . This kind of press will be hard to counteract.").

78. Phyllis Schlafly, *The Fraud Called the ERA*, THE PHYLLIS SCHLAFLY REPORT 1 (May 1972), in *The Phyllis Schlafly Report Collection* (on file with the Schlesinger Library, Harvard University).

79. See CRITCHLOW, *supra* note 3, at 221.

80. See GOLTZ, *supra* note 62, at 224–28.

81. See Carol A. Stabile, *The Traffick in Fetuses*, in *FETAL SUBJECTS, FEMINIST POSITIONS* 133, 143 (Lynn M. Morgan & Meredith W. Michaels eds., 1999).

82. See Schlafly, *supra* note 68.

83. *Id.*

84. *Id.*

an event scheduled for 1977. The IWY Conference promised to be a major event, attracting a significant media presence, drawing thousands of delegates and protesters, and proposing to offer a definitive political account of "what women wanted."⁸⁵ The National Commission on the IWY Conference made clear that the Conference would likely result in an endorsement of reproductive rights and of the ERA.⁸⁶ Ray White, the new Executive Director of the NRLC reacted with outrage, urging members to protest Congress's decision to fund IWY.⁸⁷

The effects of IWY on the antiabortion movement were striking. Elizabeth Moore, an antiabortion correspondent, reported that antiabortion delegates had been denied admission to all of the major meetings at the conference.⁸⁸ In response, Nellie Gray of March for Life and Mildred Jefferson of the NRLC took a prominent part in a pro-family rally protesting the Conference and the ERA. Jefferson's speech was particularly telling. As late as 1975, Jefferson, a surgeon, had praised and expressed sympathy for women "striving for identity and recognition," arguing simply that abortion was not a solution for women's problems.⁸⁹ By 1977, by contrast, she explained to *Ebony* magazine of *Roe* and the women's movement: "We're at odds with everything they represent There isn't anything they talk about that I can support in any way."⁹⁰

A second reason for the marginalization of pro-life moderates came with the emergence of the New Right and Religious Right in the late 1970s. Although the Religious Right of the 1970s is primarily associated with evangelical Protestantism, the movement attracted conservative Catholics, Mormons, and Jews.⁹¹ The Religious Right also unified a variety of Protestant groups that had previously disagreed on

85. For a contemporary take on the IWY and the proposals emerging from it, see Caroline Bird, *National Commission on the Observance of International Women's Year*, in *WHAT WOMEN WANT: FROM THE OFFICIAL REPORT TO THE PRESIDENT, THE CONGRESS AND THE PEOPLE OF THE UNITED STATES* 43, 60 (1979).

86. See DONALD CRITCHLOW, *THE CONSERVATIVE ASCENDANCY: HOW THE GOP RIGHT MADE POLITICAL HISTORY* 161 (2007).

87. See Letter from Ray White to Board of Directors (Dec. 10, 1975), in *The American Citizens Concerned for Life Papers* (Box 8, Gerald Ford Memorial Library, University of Michigan).

88. Elizabeth Moore, *Footnotes from the Nation's Capitol* (1976), in *The American Citizens Concerned for Life Papers* (Box 10, Gerald Ford Memorial Library, University of Michigan).

89. See Kathleen Hendrix, *Impassioned Argument for Right to Life*, *L.A. TIMES*, Sept. 26, 1975, at F1.

90. See, e.g., *A Fighter for the Right to Life*, *EBONY MAG.*, Apr. 1978, at 78, 92.

91. Jerry Falwell, the head of the Moral Majority, a leading Religious Right organization, stressed the diversity of his own organization and of social conservatives more generally. See Joel Kotkin, *Ready on the Right: Christian Soldiers Are on the March*, *WASH. POST*, Aug. 25, 1979, at A10.

issues ranging from abortion to the civil rights movement.⁹² Historians point to a number of long- and short-term trends that contributed to the rise of this form of social conservatism: for example, the end of the civil rights movement, the rapid demographic growth of populations naturally attracted to evangelical Christianity, and the migration of a significant number of Americans to states in the Sunbelt.⁹³

Members of the Religious Right themselves claimed to have been inspired by important cultural, social, and economic changes that took place in the 1960s and 1970s. A list offered in the promotional materials put out in 1980 by one organization, the Moral Majority, may be representative: the Supreme Court had banned school prayer and had legalized abortion; the women's movement had won influential allies in criticizing some aspects of the traditional family, and gays and lesbians had become more visible and more vocal in demanding equal treatment.⁹⁴

By the mid-to-late 1970s, the Religious Right had become a political force. One influential group, Christian Voice, was founded in 1978 as part of the Heritage Foundation, a conservative think tank.⁹⁵ By 1979, the organization had 100,000 members and a governing board that included fourteen members of Congress.⁹⁶ Headquartered in Pasadena, California, Christian Voice had raised as much as \$3 million for the 1980 presidential campaign by the end of summer 1979.⁹⁷

Described by Falwell as a "coalition capable of steering America away from liberal, humanist, and secular tendencies," the Moral Majority was also quickly establishing its political influence.⁹⁸ By December

92. See DANIEL K. WILLIAMS, *GOD'S OWN PARTY: THE MAKING OF THE CHRISTIAN RIGHT* 5–6 (2010). There were also differences of opinion on abortion. For example, as early as 1973, both fundamentalist groups and the National Association of Evangelicals opposed *Roe v. Wade*. By contrast, between 1971 and 1976, the position of the Southern Baptist Conference was that abortion should be permitted when there was evidence of rape, incest, severe fetal deformity, or a "likelihood of damage to the emotional, mental, [or] physical health of the mother." See *id.* at 115–16.

93. On the history and origins of the Christian Right, see, e.g., CLYDE WILCOX & CARIN ROBINSON, *ONWARD CHRISTIAN SOLDIERS? THE RELIGIOUS RIGHT IN AMERICAN POLITICS* (4th ed. 2011); SARA DIAMOND, *NOT BY POLITICS ALONE: THE ENDURING INFLUENCE OF THE CHRISTIAN RIGHT* (1998); DARREN DOCHUK, *FROM BIBLE BELT TO SUNBELT: PLAIN-FOLK RELIGION, GRASSROOTS POLITICS, AND THE RISE OF EVANGELICAL CONSERVATISM* (2011).

94. See *What Is the Moral Majority?*, in *The Moral Majority General Materials Collection* (Record Group 1, Subgroup 1, Series 1, Liberty University); see also *The Moral Majority*, (Aug. 1979), in *The Moral Majority General Materials Collection*, (Record Group 1, Subgroup 1, Series 1, Liberty University).

95. See Kotkin, *supra* note 91, at A10.

96. See *id.*

97. See *id.*

98. *Id.*

1979, Falwell was reaching an audience of 2.5 million and was raising \$1 million a week in mail contributions.⁹⁹

Founded in 1979 by former Colgate Palmolive salesman Ed McAteer, and James Robison, a thirty-six-year-old Southern Baptist preacher, a third organization, the Religious Roundtable, was focused on encouraging conservative Christians to become politically involved.¹⁰⁰ The group came to include many of the best-known televangelists, including Falwell and Pat Robertson. During the Reagan Administration, when Christian conservatives angrily protested the nomination of Sandra Day O'Connor to the Court, Ronald Reagan's White House was obliged to assuage the concerns of Roundtable members.¹⁰¹

Allied with the Religious Right in the later 1970s was another group sympathetic to the antiabortion movement, the nascent "New Right," which began as a tight-knit circle of social conservatives in Washington, D.C. As they described it, leaders of the New Right rose from the ashes of the Watergate scandal: the result of "impatience with the shambles of the Nixon-Ford Administration."¹⁰² One of the orchestrators of this movement was long-time political activist Paul Weyrich, a co-founder of the Heritage Foundation, as well as the Committee for the Survival of a Free Congress (CSFC).¹⁰³ Weyrich's organizations provided valuable training and money to fledgling New Right causes: by 1978, the CSFC had raised \$400,000 and contributed to the elections of thirty-one members of Congress.¹⁰⁴ While Weyrich provided political strategy for these groups, Richard Viguerie and his direct-mail organization offered lobbying and fundraising services. By March 1977, Viguerie employed a staff of 250 and sent an average of 250 million pieces of mail to over 10 million Americans.¹⁰⁵

Another potent new potential ally tied to the Religious Right and the New Right was Beverly LaHaye's Concerned Women for America, a group founded in 1979 as an alternative to NOW for women who were

99. Glen, *supra* note 45, at 2142.

100. See CRITCHLOW, *supra* note 86, at 130, 175-76.

101. See, e.g., Steven V. Roberts, *Foes of Abortion Meet with Reagan*, N.Y. TIMES, Jan. 23, 1982, at 1.

102. See Barry Sussman, 'New Right' in U.S. Politics May Be Only an Expression of Discontent, Not Ideology, WASH. POST, Mar. 5, 1978, at C3.

103. *Id.*

104. CRITCHLOW, *supra* note 86, at 129.

105. See *id.* at 131.

opposed to abortion and the ERA.¹⁰⁶ In the early 1980s, the CWA became the leading pro-life women's group. Beginning at its first national convention in 1984, the CWA described itself as an alternative to the women's movement, which in turn was framed as "one of the evils besetting America."¹⁰⁷ In the mid-1980s, the CWA argued that feminism did not address the needs of modern women and was, by extension, irrelevant to American politics. As LaHaye stated in 1986: "NOW's ideas are no more popular than the Susan B. Anthony dollar The feminist coin came out of circulation because nobody liked it. Well, nobody likes their unisex, lesbian, radical philosophy, either."¹⁰⁸ The CWA's message in the period made apparent that there was no room for anti-abortion feminists like those in groups like the ACCL or FFL.

The antiabortion movement appeared much more likely to be adequately funded and politically influential if it united with social conservatives. Partly for this reason, antiabortion activists began endorsing a number of conservative reforms largely unrelated to *Roe* itself. For example, by October 1977, the NRLC had passed a resolution describing the organization as a religious one, asserting that the "Right to Life Movement is founded on a belief that God creates life."¹⁰⁹ The same month, the organization passed a resolution condemning the ERA and stating that the true victims of discrimination in the United States were "preborn children who were denied their right to live."¹¹⁰ As the Religious Right had become more politically savvy, the NRLC had redefined itself as being both more conservative and more religious.

CONCLUSION

Conventionally, *Roe v. Wade* is seen to have marginalized moderates on either side of the abortion debate and, in so doing, to have undone the kinds of state-level compromise that had been unfolding at the state level. Because of the dominance of this polarization narrative, important actors and arguments have largely been lost in contemporary abortion scholarship. Antiabortion moderates were more influential than is conventionally thought, both in the mainstream movement

106. See BEVERLY LAHAYE, *THE NEW SPIRIT-CONTROLLED WOMAN* 6 (2005) (describing the founding of Concerned Women for America).

107. See *CWA Fights for Conservative Causes*, SAN DIEGO UNION TRIB., Sept. 18, 1984, at D1.

108. See Beverly LaHaye, *Why Feminism No Longer Sells*, in *THE HERITAGE LECTURES* (Mar. 10, 1987).

109. See Resolution (Oct. 7, 1977), in *The American Citizens Concerned for Life Papers* (Box 10, Gerald Ford Memorial Library, University of Michigan).

110. See *id.*

and in separate organizations. Because of the impact of these activists, important compromises remained viable in the years immediately after *Roe*, solutions involving contraception, daycare, or pregnancy discrimination rather than abortion itself. Ultimately, by the early 1980s, these antiabortion moderates were marginalized. However, the reasons these groups lost influence went far beyond the decision of *Roe* itself.

The history of pro-life moderates raises important questions about leading criticisms of *Roe*. Scholars criticize the sweep of *Roe*, the privacy rationale for the opinion, or the Court's interference with an unfolding democratic process in part by pointing to the polarization produced by the opinion. However, at least insofar as antiabortion moderates were concerned, *Roe* did not radicalize discussion. To the extent that the history here offers an example, the history on which *Roe*'s critics rely is problematic.

As importantly, the history considered here adds new depth to important scholarship on women of the Right. The richest studies of this kind tend to focus on women who reject everything associated with the women's movement and the political left. The stories gathered here offer a more complete understanding of what it meant in the 1970s to be "pro-woman and pro-life."