

Introduction

Abortion is a complex and controversial terrain for most contemporary societies. Throughout the world, women's economic and social roles are changing as they increasingly enter the paid labor force, pursue education, and raise children on their own. As they take on these new roles, women seek greater control over their reproductive lives. Such control can help them protect their livelihoods, their health, their relationships, and their dreams—for themselves and for their loved ones. Moreover, because women bear children and still provide most of the care for them, many see reproductive control as a prerequisite for full and equal participation in society, in other words, for citizenship.¹ Contraception provides one avenue for reproductive control, but it is imperfect. The annual risk of pregnancy for women using contraceptives is quite low, but the lifetime risk is much higher. Women who use reversible methods of contraception during their entire reproductive lives will experience, on average, two contraceptive failures. Approximately half of American women who have abortions report using contraceptives during the month in which they became pregnant. Even with the best contraception, women cannot achieve full reproductive control without access to abortion.²

In response to women's changing roles and feminist demands for reproductive control, most rich democracies liberalized their abortion laws in the 1960s and 1970s. Other countries are doing so now. Almost all of these reforms produced intense conflict. Many religious traditions are deeply

opposed to abortion. Some groups oppose changes in gender roles and see abortion as a key symbol of those changes. An additional source of conflict involves the question of who will perform abortions and in what circumstances they will do so. In many times and places, nonmedical actors provided abortions, but the modern medical profession has insisted on a monopoly over abortion provision. Moreover, in many countries, the state has delegated the regulation of abortion to medical professionals; they are charged with limiting abortions to particular circumstances such as the protection of the pregnant woman's health. But medical control often produces arbitrary and unequal care as doctors impose their personal beliefs on their patients and as abortion approvals vary by class and region. In other countries, the state has allowed women to access abortion without medical gatekeeping or legally defined grounds, but the medical profession often resists such arrangements because it does not want patients to make their own diagnoses and choose their own procedures. For all of these actors, the stakes of abortion policy are high and compromise is often difficult to find.³

During the late 1960s and early 1970s, Britain, Canada, and the United States, like other rich democracies, liberalized abortion laws dating from the nineteenth century. Although these countries have many political, economic, and cultural similarities (more about this later), they established very different abortion policies. Britain and Canada held onto a piece of the nineteenth century by allowing abortions only if doctors or hospital committees certified that pregnant women met requirements of medical or, in Britain, economic necessity. The United States abandoned such requirements. A pregnant woman could obtain an early abortion for her own reasons so long as a doctor agreed to provide it. The United States, with its history of Puritanism and backwards social and sexuality policies, had established the most liberal abortion reform in the West. The countries also differed in the way that abortions were provided and funded: In Canada, abortion services were located in public or nonprofit hospitals and paid for by the state; in the United States, the vast majority of abortions were provided in single-purpose clinics divorced from mainstream medicine where women paid for their own abortions; and in Britain, approximately half of abortions were provided in the Canadian style and half in the American style.

In all three countries, pro-life movements tried to roll back the reforms of the "Long 1960s" (the late 1950s to the early 1970s).⁴ In Britain and Canada, they failed miserably. Prime ministers, members of Parliament (MPs), and political candidates ran away from the abortion issue. Pro-life movements in those countries not only failed to reduce the quality

and availability of abortion services but also saw them expand through increased public funding and the loosening or elimination of medical gatekeeping requirements. In the United States, by contrast, the pro-life movement was more successful—moving abortion to the center of politics. Presidents, governors, state and federal legislators, judges, and political candidates spent thousands of hours debating the issue each year. The pro-life movement reduced the quality and availability of abortion services, mainly through reductions in public funding, requirements that minors obtain parental consent, and laws mandating that women of any age endure waiting periods and antiabortion propaganda. Brief vignettes from the end of the 1980s illustrate the differences in the abortion politics of the three countries.

United States

In 1989, the U.S. Supreme Court considered the constitutionality of Missouri's new restrictions on abortion.⁵ Republican President Ronald Reagan asked the court to use the case to overturn the 1973 *Roe v. Wade* decision that had first established a limited right to abortion. Activists on both sides of the issue marched on Washington, and the pro-choice march was the largest protest in American history. The American Medical Association (AMA) filed a legal brief urging the court to retain *Roe* but did little else. The court did not overturn *Roe*; instead, it upheld the Missouri restrictions and said it would allow similar restrictions in the future. The author of *Roe*, Justice Harry Blackmun, complained that the court had cast "into darkness the hopes and visions of every woman in this country who had come to believe that the Constitution guaranteed her the right to exercise some control over her unique ability to bear children."⁶

Britain

In 1988, David Alton, an MP from Britain's Liberal Party, introduced a bill to reduce the upper time limit for abortions from twenty-eight to eighteen weeks. Activists on both sides of the issue lobbied Parliament and protested on the streets of London. The medical profession vigorously opposed the bill. Both the Conservative and the Labour parties remained officially neutral, though most Conservative MPs supported the proposal and most Labour MPs opposed it. Because the bill was introduced by an individual MP rather than by the Conservative Government, it was allotted only a short time for debate. When Alton asked for more time, the Government refused, and the bill died before coming to a final vote.⁷

Canada

In 1988, the Canadian Supreme Court struck down the country's 1969 abortion law, finding that strict medical gatekeeping arbitrarily denied abortions to eligible women. The court did not establish a right to abortion but instead left it to Parliament to design a new law. Progressive Conservative Prime Minister Brian Mulroney thought that abortion should be regulated in some way but, because his party was deeply divided over the issue, was reluctant to take it up. After some delay, he tried to find an approach that would not offend either side—his bill required medical gatekeeping, but gave doctors broad discretion. Typically, MPs from the ruling party were required to vote for Government bills, ensuring their passage, but Mulroney let most members of his party vote as they pleased. The bill barely passed the House of Commons and moved on to the Senate. Protestors from both sides squared off on Ottawa's Parliament Hill, and the medical profession threatened to stop performing abortions. Mulroney again let party members vote as they pleased, and the bill was narrowly defeated. Mulroney refused to offer new abortion legislation, and subsequent Governments refused as well—leaving Canada with no abortion law.⁸ Said one pro-choice activist, “our government's decision to leave things alone was not based on a passionate belief in a woman's right to choose. It was simply based on distaste for having to deal with anything controversial. I guess we're lucky to have a do-nothing government on *our* side for a change.”⁹

As these vignettes reveal, pro-choice and pro-life movements faced off in all three countries. But the involvement of other key actors—political parties and medical associations—varied across the countries. In the American case, political parties engaged heavily with the issue, while the medical profession stayed out of the fray. In the British and Canadian cases, political parties avoided the issue while medical associations defended abortion services.

Differences in the abortion policies and politics of the three countries provoke many questions:

- Why did three countries with strong social, cultural, and political commonalities establish different gatekeeping arrangements for abortion, and in particular, why did the United States establish the most liberal one?
- What accounts for differences in the public/private mix of abortion funding and provision?

- Why is abortion so much more controversial and politicized in the United States?
- What accounts for change in abortion policy over time?
- How and under what conditions do social movements affect policy?

This book attempts to answer these questions by filling a key gap in the abortion politics literature. Most books on abortion policy and politics explain differences between countries in terms of social movements or national values (and especially religious beliefs).¹⁰ This book shows that *political institutions* go a long way toward explaining these differences. Moreover, of the studies that claim that institutions matter for abortion politics, few have convincingly demonstrated this through close historical analysis within and across cases. Finally, this study considers institutional factors that have previously received little attention, in particular, the construction of interest group priorities and the openness of political parties to social movements.¹¹

Institutions and Abortion Policy

Roughly speaking, institutions are the “rules of the game.” They are rules, norms, roles, and meanings that form the context for individual and group actions.¹² Some examples of *political institutions* include rules that establish multiple jurisdictions in a country and the relations between them (federalism), rules for electing presidents or members of legislatures (electoral institutions), and rules for determining whether laws are consistent with the constitution (judicial review). Many scholars, including myself, also consider existing government policies such as old-age pensions or medical care programs to be political institutions (policy legacies).

By focusing on political institutions, I offer a rereading of conventional accounts of abortion policy and politics. Students of abortion politics seldom highlight political institutions; instead, they take them for granted and treat them as almost natural occurrences. This book seeks to denaturalize institutions and expose the ways in which they bias politics and policy. As Alexis de Tocqueville demonstrated when he visited the United States in the early nineteenth century, a fruitful method for understanding the institutions of one country is to examine those of another. This book examines the institutions of three. And as historical sociologists such as Karl Marx, Max Weber, and Michel Foucault have shown, a useful method for interrogating the institutions of the present is to examine those of the past. This book compares numerous episodes of policy making over the last fifty years. During this time, some institutions

have changed—providing an opportunity to examine policy making before and after those changes.

The book focuses not just on institutions, but on interactions between actors in civil society and the political institutions that enable and constrain their actions. I analyze the effects of macro-level political institutions such as health-care policies, electoral and party systems, and policy venues on meso-level collective actors such as medical interest groups, political parties, and social movement organizations. I show that political institutions helped determine when, where, and how actors involved themselves in abortion policy making. Political institutions affected the interests and priorities that these actors constructed and shaped the meaning and salience that they attached to the abortion issue. Though political institutions powerfully shaped abortion policies, they did not determine them. Plenty of room remained for maneuver and choice by individual and collective actors as they faced strategic dilemmas and trade-offs. And chance played a role as well.¹³

In addition to explaining differences in the abortion policies and politics of three countries, I also use the case of abortion policy to assess and improve on existing theories of social policy development. In the last century, states, and especially richer ones, have established a wide range of social policies that attempt to protect citizens against various risks to their economic well-being such as unemployment, low skills, disability, poor health, and old age. Some social policies have also sought to promote greater equality among classes, genders, or racial and ethnic groups.¹⁴ Reproductive policies can be considered social policies—first, because they insure women against unwanted pregnancies that threaten their economic, social, and physical well-being, second, because they promote the equal participation of women in society, and third, because many states fund or provide contraceptive and abortion services.¹⁵

The first generation of theories seeking to explain differences in health and welfare policies focused either on national values (political culture) or levels of industrialization.¹⁶ A second generation focused on the differential strength of social classes—labor and capital—and the political parties that represented them.¹⁷ A third generation emphasized institutional factors: decision points where minority interests could veto policy proposals, and policy legacies that shaped later political struggles.¹⁸ In this study, I use the abortion case to demonstrate the centrality of three additional institutional factors. First, social groups do not have predetermined interests. Those interests are shaped by specific political-institutional environments—and sometimes in quite surprising ways. Second, the pol-

icy impacts of social movements are not just a function of members and money, but of the openness of political parties to pressure from newly organized groups. Third, the venues in which policies are made can have durable consequences for later policy making by increasing controversy and mobilizing opposition.

Although abortion policy is a form of social policy, it also involves social and moral regulation. At different times and in different places, abortion has been “about” population control, the value of life, the regulation of sexuality, the place of women in society, and parental authority, to name just a few dimensions.¹⁹ By examining a relatively understudied case of social provision that is also a case of social and moral regulation, this book offers a unique opportunity to assess and advance theories of social policy. Institutional arguments about American social provision are always subject to dispute by those who emphasize the relative strength of social classes. They argue that American business is especially strong and American labor is especially weak, and perhaps that is all one needs to explain the relative tardiness and stinginess of American social policy. By examining a case with a different set of actors—medical professionals and abortion movements—I avoid such objections. And when we compare abortion reform struggles across countries, the importance of institutions becomes quite clear.

Explaining cross-national differences in abortion politics and policies is no easy task. Abortion politics involved thousands of actors with varying motivations and strategies, and these actors interacted with hundreds of organizations and institutions over a fifty-year period. Abortion policies resulted from interactions between pro-choice and pro-life activists, feminists, family planners, lawyers, doctors, religious leaders and their flocks, political party officials, judges, legislators, government bureaucrats, reporters, and voters. Many of these people pursued their own visions of the good and the right; others pursued wealth, status, power, peace and quiet, or all of the above. Many banded together in groups to pursue their goals collectively. Most of the time, these actors behaved in conventional ways and followed well-worn scripts; at other times, they acted in new, creative, and unpredictable ways. And sometimes these actors were surprised by the consequences of their own actions. As I will show, those actions were both enabled and constrained by institutions that shaped the very interests, identities, discourses, and practices of these actors.

My arguments combine political, historical, and sociological institutionalism. As Edwin Amenta points out, political institutionalism shares commonalities with historical institutionalism in political science.²⁰

Both focus on institutions and both argue that institutions can affect the identities, interests, and organizational forms of individual and collective actors as well as the meso-level contexts in which they interact.²¹ But the two approaches differ in three main respects. First, political institutionalists argue for the primacy of *political* institutions, such as party and electoral systems, processes of state and party building, federalism, and judicial review, while historical institutionalists often focus on economic or social institutions as well. Second, historical institutionalists see causation as multiple, conjunctural, and path dependent, and emphasize the contingencies of history. Political institutionalists recognize the complexity of historical causation, but focus on identifying broad patterns that can explain *most*, but probably not all, of a given phenomenon or set of events. Finally, historical institutionalists often emphasize that their causal arguments are limited to particular contexts, while political institutionalists are more likely to develop causal theories that they view as transportable to other cases and contexts. I also draw on the new institutionalism in the sociology of organizations—a broadly cultural approach to organizations that includes state organizations.²² The new institutionalism argues that actors' choices depend heavily on interpretation of the situation rather than on pure calculation. Institutions and organizations shape action by providing templates, scripts, routines, and symbols that filter actors' interpretations of both themselves and the situations in which they find themselves. In addition, limits of time and information cause actors to rely on processing rules and logics of appropriateness that create bounded rationality.

My approach lies closest to political institutionalism but borrows elements of the other approaches as well. Like historical institutionalists, I pay close attention to the timing and sequence of historical events and leave plenty of room for contingency. Because actors are creative and the world is complex, it is often impossible to predict what will happen. I also embrace historical institutionalism's agnosticism about whether actions are driven mainly by rational calculation, or by the interpretation and enactment of cultural norms and scripts. Like political institutionalists, I try to develop parsimonious, transportable theories that explain *most* of a given phenomena, but I also try to develop more complete explanations of the policies and politics in the countries that I have chosen to study. As a result, some of the arguments in this book are transportable to other cases, but some are unique to the cases at hand. Finally, my approach borrows heavily from sociological institutionalism's focus on the ways that actors construct and interpret their interests in specific institutional and cultural contexts.

Many of the political institutions that I highlight have been the subject of previous political-institutionalist work, but I identify new effects of these institutions and new mechanisms by which they occur. Previous analysts have shown that “policy legacies” shape actors’ understandings and interests but have not attended to the ways that such legacies shape actors’ *priorities*.²³ Previous analysts have noted that some political systems are more “open” to social movements than others but have paid less attention to the openness of political *parties*.²⁴ And analysts who do attend to parties have focused on such factors as the number of parties, party discipline, whether electoral systems are proportional or majoritarian, and whether parties are programmatic or patronage oriented.²⁵ Political institutionalists have not paid close attention to the ways that campaign finance systems, intraparty democracy, and low-turnout elections affect the openness of parties to new movements. Finally, previous analysts have shown that policy-making venues shape policies in particular ways but have not systematically compared the unique properties of policies made through courts, state or provincial legislatures, and nonpartisan legislative processes.²⁶

In the remainder of the chapter, I lay out my political institutional arguments. But before doing so, I situate the abortion policies and politics of the United States, Britain, and Canada among those of other rich democracies.

Abortion Policy and Politics in Rich Democracies

Comparing abortion policies across countries requires judgments about which aspects of abortion policy are most important. In my view, the key dimension of abortion policy is abortion gatekeeping—the degree to which state officials or deputized doctors, as opposed to women, control abortion decisions. I base this judgment on several feminist theories of reproductive freedom. Liberal feminist theories argue that abortion gatekeeping violates the right of property in one’s own person. Biological/material theories argue that women should control pregnancy because it affects them physically—through pregnancy and birth, the capacity to enjoy sexuality, and the preservation of health. Theories based in the gendered division of labor argue that women should decide whether pregnancies continue because they are the primary caregivers for the children that result.²⁷ Finally, Ann Orloff argues that gender-specific threats to bodily integrity in the form of violence, sexual harassment, rape, and state control of reproduction hinder women’s ability to exercise civil and

political rights, and thus undermine their ability to participate in the polity as “independent individuals” and thus citizens.²⁸

Table 1.1 locates twenty-eight rich democracies from the Organisation for Economic Co-operation and Development (OECD) among four policy types.²⁹ The types rest on three distinctions. First, I distinguish between countries in which women may obtain early abortions (before twelve to fourteen weeks’ gestation) without gatekeeping (that is, “on request”) and countries in which gatekeepers must approve abortions.³⁰ Second, among countries where women may obtain abortions on request, I distinguish between those in which they may do so for their “own reasons” and those in which they must first declare a state of “distress” or “emergency” and, in most cases, submit to mandatory counseling and/or reflection periods.³¹ Proponents of the “distress” model argue that it expresses the moral gravity of abortion decisions even when it does not actually reduce the number of abortions.³² The goals of such counseling vary across countries—from protecting fetal life to providing neutral information about the procedure and alternatives to it.³³ Third, among countries with abortion gatekeeping, I distinguish between those with liberal or strict gatekeeping (in practice rather than in law).³⁴ In countries with liberal gatekeeping, the legal reasons for which gatekeepers may approve abortions vary widely; some are broad and some are narrow, but in practice, gatekeepers approve more than 95 percent of early abortions.³⁵ The gatekeepers are typically doctors, though hospital abortion committees have played this role in the past.³⁶ Most countries with liberal gatekeeping started out with strict gatekeeping, and many countries of the “own reasons” type abandoned earlier gatekeeping policies after they became perfunctory.³⁷ This suggests that strict gatekeeping may not be sustainable over time. The British case, which I outline in chapter 4, bears this out.³⁸

As the table shows, thirteen countries fit the *own reasons* type, seven fit the *distress* type, seven fit the *liberal gatekeeping* type, and three fit the *strict gatekeeping* type.³⁹ The types are “ideal types,” so some countries may only approximate their type.⁴⁰ For example, the United States and Austria allow women to obtain abortions for their own reasons, but there are regional access disparities and the state refuses to fund most abortions. In addition, three-fifths of American states require counseling (often with mandated antiabortion messages) and half require waiting periods.⁴¹ As such, these two countries fall somewhere between the own reasons and distress models.⁴²

The typology of abortion policies helps to situate the policies of Britain, Canada, and the United States among the rich democracies and over

Table 1.1 Abortion Policy Types in OECD Countries

	Reasons	
Gatekeeping	Own	Legally specified
None (on request)	<p>Own Reasons</p> <p>Austria (1937, 1945, 1974)</p> <p>Denmark (1937, 1973)</p> <p>Sweden (1938, 1946, 1974)</p> <p>Greece (1950, 1978, 1986)</p> <p>Czech Republic (1957, 1986)</p> <p>Slovakia (1957, 1986)</p> <p>United States (1967, 1971, 1973, 1988,* 1992*)</p> <p>Australia (1969, 1998, 2002, 2008)</p> <p>Canada (1969, 1988)</p> <p>Spain (1983, 1985,* 2010)</p> <p>Turkey (1983)</p> <p>Portugal (1984, 2007)</p> <p>Mexico Federal District (2007)</p>	<p>Distress</p> <p>Switzerland (1942, 2002)</p> <p>Norway (1964, 1975, 1978)</p> <p>Germany (1973, 1974, 1975,* 1992, 1993,* 1995)</p> <p>France (1974)</p> <p>Italy (1975, 1978)</p> <p>Netherlands (1981)</p> <p>Belgium (1990)</p>
Liberal		<p>Liberal Gatekeeping</p> <p>Japan (1948)</p> <p>Finland (1950, 1970)</p> <p>Hungary (1956, 1973, 1989, 1993)</p> <p>Korea (1962, 1973)</p> <p>Britain (1967)</p> <p>Australia (1969, 1971)</p> <p>New Zealand (1977)</p>
Strict		<p>Strict Gatekeeping</p> <p>Poland (1956, 1969, 1993,* 1997*)</p> <p>Ireland (1974,* 1983,* 1992)</p> <p>Mexico</p>

Sources: R. Boland and L. Katzive, "Developments in Laws on Induced Abortion: 1998–2007," *International Family Planning Perspectives* 34 (2008): 110–20; H. P. David, "Abortion in Europe, 1920–91: A Public Health Perspective," *Studies in Family Planning* 23 (1992):1–22; A. Eser, "Abortion Law Reform in Germany in International Comparative Perspective," *European Journal of Health Law* 1 (1994):15; Albin Eser and H. G. Koch, *Abortion and the Law: From International Comparison to Legal Policy* (The Hague: Asser Press, 2005); A. Goto, C. Fujiyama-Koriyama, A. Fukao, and M. R. Reich, "Abortion Trends in Japan, 1975–95," *Studies in Family Planning* 31 (2000): 301–8; M. Minkenberg, "Religion and Public Policy: Institutional, Cultural, and Political Impact on the Shaping of Abortion Policies in Western Democracies," *Comparative Political Studies* 35 (2002): 221; A. Rahman, L. Katzive, and S. K. Henshaw, "A Global Review of Laws on Induced Abortion, 1985–1997," *International Family Planning Perspectives* 24 (1998): 56–64; Dorothy McBride Stetson, *Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism* (Oxford: Oxford University Press, 2001); F. M. Tedesco, "Rites for the Unborn Dead: Abortion and Buddhism in Contemporary Korea," *Korea Journal* 36 (1996): 61–74; United Nations Population Division, *Abortion Policies: A Global Review* (New York: United Nations, 2002).

Notes: Iceland and Luxembourg are excluded. Dates indicate major abortion policy changes. All were liberalizations except those with asterisks. Where more than one date is listed, the earliest date was a gatekeeping reform (except for the own reasons reforms of East Germany and West Germany in 1973 and 1974, respectively). Abortion law or access varies by region in Australia, Austria, Canada, Germany, Italy, Mexico, Portugal, Spain, and the United States. Three Australian states have recently allowed women to obtain abortions for their own reasons—West Australia (1998), the Australian Capital Territory (2002), and Victoria (2008). In the other states, abortions are subject to liberal gatekeeping. Parental consent is required in the Czech Republic, Denmark, Greece, Italy, Norway, Slovakia, Turkey, and the United States (some states). Spousal consent is required in Japan and Turkey. Most abortions are funded privately in Austria, Germany, Greece, Ireland, Japan, Korea, Mexico, Poland, Spain, Turkey, and the United States.

time. The three countries began the 1960s with strict gatekeeping, but immediately after the abortion reforms of the Long 1960s, the United States moved to the own reasons type, Canada stuck with strict gatekeeping, and Britain combined strict gatekeeping in the public sector with liberal gatekeeping in the private sector. In the contemporary period, Britain has moved to liberal gatekeeping in both the public and private sectors, Canada fits the own reasons type, and the United States combines the own reasons type with elements of the distress type (mandatory counseling and waiting periods).

Gatekeeping is not the only criterion for distinguishing abortion policies. In chapter 4, I also attend to the organization, funding, and quality of abortion services.⁴³ Most OECD countries publicly fund almost all abortions. In twelve countries, however, the majority of abortions are paid out-of-pocket (see notes in table 1.1). Three main paths lead to this out-of-pocket funding. In the first, abortions are legal but government funding is restricted.⁴⁴ Another path is when private doctors interpret the law more liberally than public doctors or when doctors are reluctant to submit claims to public or private insurers because the abortions the doctors provide may not fully comply with the law.⁴⁵ A final path is when abortion laws are restrictive and most abortions are performed illegally or in other countries, and are thus paid out-of-pocket.⁴⁶

The organization and funding of abortion services in Britain, Canada, and the United States has changed over time. Immediately after the reforms of the Long 1960s, most Canadian abortions were provided in hospitals (clinics were illegal) and funded by the state; however, many women obtained abortions in the United States and paid for them out-of-pocket. Although American abortions were available in both hospitals and freestanding, single-purpose clinics, most were provided in clinics. Furthermore, while some poor women could obtain publicly funded abortions, most women in the United States paid for abortions themselves. Britain combined the Canadian and American models: Half of abortions were provided for free and with relatively strict gatekeeping in the hospitals of the National Health Service (NHS), but the other half were provided in private clinics where gatekeeping was liberal and women paid for abortions themselves. Later, provision and funding in the three countries converged in some ways and diverged in others. All of the countries provided more abortions in clinics over time. Britain and Canada liberalized or eliminated medical gatekeeping—moving closer to the American model. In Britain, more abortions were provided in the private sector where gatekeeping was liberal, and gatekeeping liberalized

in the public sector as well. In Canada, the Supreme Court struck down the 1969 abortion law and Parliament failed to replace it, leaving a legal vacuum with no gatekeeping requirements. But the countries moved apart on funding. The United States eliminated public funding for poor women's abortions in most states, while Britain expanded public funding to include abortions provided in private clinics. Canada had always provided public funding for legal abortions, but with the elimination of medical gatekeeping there were now more of these.

It is also useful to situate not only the abortion *policies* but the abortion *politics* of the three countries among the other rich democracies. As table 1.2 indicates, there are four main types of abortion politics—social democratic, negotiated, new democracy, and secular majoritarian.⁴⁷ The table assigns national abortion liberalizations to these types and also indicates the types of policies enacted—own reasons, distress, or gatekeeping (I do not distinguish between liberal and strict gatekeeping here because it is a matter of implementation rather than law). As with the policy typology, the types of abortion politics are “ideal”—some countries fit them better than others. The cases are assigned to their types based on the partisan alignments at the time that each reform was made.⁴⁸

In the *social democratic* type, powerful left-wing parties controlled government and enacted abortion reforms of the “own reasons” variety (frequently after internal pressure from feminists). These countries were often the first to enact abortion liberalizations. Many Nordic countries fit this type. In most of these reforms, MPs were given a free vote, but most voted with their parties.⁴⁹ In the *negotiated* type, left parties (again after pressure from feminists) pushed for broad reforms, but Christian democratic parties opposed those reforms or tried to narrow them and liberal (free market) parties supported more moderate reforms than the social democrats. In these multiparty systems, coalition governments were common, and as a result reforms usually involved negotiation and compromise. The result was “distress” type reforms that allowed women to obtain abortions without gatekeeping but only for “serious” reasons and with counseling and waiting periods. These liberalizations tended to come later than those in the social democratic countries. Most of the Catholic countries of northern Europe fit this type. Most of these reforms were enacted by left-liberal or Christian democrat-liberal coalitions.⁵⁰ In the *new democracy* type, newly democratized Catholic countries with late feminist mobilization and women's suffrage produced late and narrow reforms. Many of these reforms were made by left-wing parties, but feminists were less powerful in these parties than in their counterparts in

Table 1.2 Abortion Liberalizations in Western Europe, North America, and Australasia after 1960

	Own reasons	Distress	Gatekeeping
Social Democratic	E. Germany (1973) Denmark (1973) Austria (1974) Sweden (1974) Greece (1986) Portugal (2007) Spain (2010)	Norway (1978)	Finland (1970) Norway (1975)
Negotiated	W. Germany (1974)	France (1974) Italy (1975,* 1978) Netherlands (1981) Belgium (1990) Germany (1992) Germany (1995) Switzerland (2002) United States (some states, 1988, 1992)	
New Democracy			Greece (1978) Spain (1983) Portugal (1984)
Secular Majoritarian	United States (1973)* Canada (1988)* West Australia (1998) Australian Capital Territory (2002) Victoria, Australia (2008)		United States (1967) Britain (1967) Canada (1969) South Australia (1969) Victoria, Australia (1969)* New South Wales, Australia (1971)* New Zealand (1977) Tasmania, Australia (2001) Northern Territory, Australia (2003)

Notes: Iceland and Luxembourg are excluded. Ireland, which never produced a substantial abortion liberalization and allows abortions only when pregnancy threatens the mother's life, is also excluded.

* Court decisions: All other liberalizations occurred through legislation.

other countries. The postdictatorship Mediterranean countries (Greece, Spain, and Portugal) fit this type.

The *secular majoritarian* type includes most English-speaking countries, including those that are the focus of this book. This suggests that the theoretical approach that I develop in this book will be most applicable to other countries in this type. Countries in this type have two major parties, weak or moderate labor movements, and no Christian democratic party.⁵¹ Party polarization is moderate, and parties are more

oriented to winning elections than to ideological programs.⁵² In this type of politics, parties tried to keep abortion off the policy agenda and were reluctant to take strong positions on the issue. Because left-leaning parties were vote maximizers, they were less likely to take abortion positions than their policy-maximizing counterparts in other countries. Abortion also did not match the dominant left-right cleavage on which parties in the secular majoritarian type were based, so parties typically had supporters on both sides of the issue—center-left parties in particular often counted both feminists and working-class Catholics as supporters. Religiously affiliated parties, which often polarized debates on abortion policy in other countries, were not present to oppose abortion. Finally, parties also avoided strong abortion positions because most voters were located in the middle and not particularly concerned about the issue, and parties worried that action on abortion might mobilize intense minorities against them. If governments did act on abortion, they often used policy mechanisms that helped them avoid blame; where possible, they pawned off the abortion issue on the medical profession. As national parties avoided the issue, the policy vacuum was often filled by courts, states, or provinces. For example, courts produced own reasons reforms in the United States and Canada that were more liberal than those desired by the political parties.⁵³ I explain in chapters 2 and 6 how this happened. From the 1960s to the 1980s, countries of the secular majoritarian type typically produced gatekeeping policies that delegated responsibility for abortion to the medical profession. But later, these countries produced both gatekeeping and own reasons reforms. And many of these own reasons reforms were merely legal acknowledgments that gatekeeping had become *pro forma*.

Each of the four types also had distinctive *post-reform* politics. In the *social democratic* type, left dominance and low levels of Catholicism produced only modest pro-life mobilization and stable reforms. In the *negotiated* type, sizable pro-life movements tried to roll back initial reforms but were often disappointed by Christian democratic parties who had opposed or weakened initial reforms, but were often unwilling to reopen the issue. Some needed to govern in coalition with parties that supported abortion rights, and many were responsive to growing public support for abortion, including support among Catholics.⁵⁴ Pro-life groups tried to work around these parties by forcing referendums through petition drives, convincing individual legislators to introduce antiabortion bills or seeking rulings from constitutional courts.⁵⁵ In the *new democracy* type, some countries moved toward the social democratic or negotiated types as they consolidated their democracies, women's power increased, and

the power of the Catholic Church declined; Spain, for example, moved to an own reasons model in 2010. Finally, parties in the *secular majoritarian* type continued to avoid the abortion issue and were mainly successful in doing so. The one exception was the United States, where abortion eventually became a partisan issue and American policy moved in the direction of the negotiated type. I explain this change in chapter 5.

Interactions between Political Institutions and Groups in Civil Society

In the remainder of this chapter, I lay out my institutional approach and discuss ways in which it builds on existing theories of policy making that focus on interest groups, political parties, social movements, and policy venues. (See table 1.3.)

Interest Groups Construct Preferences and Priorities

Interest group theories of policy making argue that powerful groups have special access to and influence over political officials, and, as a result, policies routinely reflect their preferences. Because the power of interest groups varies by time and country, policies should vary as well. For example, when and where business groups are strong, taxes should be low, and when and where they are weak, taxes should be high.⁵⁶ Following historical and political institutionalists, as well as new institutionalists in the sociology of organizations, I modify interest group theories by showing that the “interests” and identities of groups cannot be assumed *a priori* from their social positions.⁵⁷ Similar groups often perceive and articulate their “interests” differently. Business groups may oppose welfare state policies in some times or places, but support them in others.⁵⁸ Groups *construct* their perceived interests in specific historical and institutional contexts, and these constructions leave legacies for future political struggles.

I also modify interest group theories in a second way by focusing on the multitude of “interests” or goals held by social actors and the ways in which they *prioritize* among those goals in particular institutional and strategic contexts. As James Jasper puts it,

Every player will have many *goals* jostling for attention, each more or less explicitly recognized. . . . These cannot easily be compared or rank-ordered, in part because the salience of each changes according to circumstances. To make matters more complex,

Table 1.3 Political Institutional Modifications of Meso-level Actor Theories

Actor	Theory	Institutional Modification
Interest groups	Powerful interest groups have special access to and influence over political officials.	Groups construct “interests” and prioritize among them in specific historical and institutional contexts.
	Differences in policies result from differences in strength of interest groups.	Differences in policies can result from differences in constructed interests or priorities.
Political parties	Left-wing parties promote social spending and women’s autonomy; right-wing parties oppose social spending; Christian democratic parties oppose women’s autonomy; center parties sometimes promote modest social spending.	For issues that do not fit left-right, economic cleavages, party positions must be constructed. Party and electoral systems aid or hinder “new” movements (movements that want to join party coalitions).
	In negative political contexts, movements are most successful when they target hostile elected officials or state bureaucrats for assertive action.	Political officials are more likely to be supportive when political institutions help them avoid blame. In negative political contexts, evasive action (venue change) may be as useful as assertive action.
Social movements (framing and meaning construction)	Movements are more successful when they clearly articulate a problem and solution.	Political institutions help determine which actors participate in meaning construction.
	Struggles over meaning are more heated when they affect the status of social groups.	Political institutions, such as federalism, affect the scope, pace, and duration of policy making, and thus, the potential for policy learning and experimentation.
	Limiting frames are more successful.	
	Frames can promote some goals while hindering others.	

that salience depends partly on the strategic games meant to attain them: a goal may become more salient as the chance of attaining it seems to increase (or fade in adverse circumstances). The goals of [collective] actors are especially unstable, as individuals and factions battle to substitute their own favored goals (which may be either selfish or altruistic) for those of the team. Most actions are taken to address a number of non-comparable goals at the same time (contrary to game theory).

Most work on the construction of group interests asks: What did this group want, and why? I ask that question too, but I also ask: Of the many things that this group wants, which are most important, and why?⁵⁹ How

does the group decide which things to pursue and which things to let go? What trade-offs is the group willing to make between its many desires? And how do institutions and strategic contexts affect these choices?

This modification of interest group theory helps explain abortion policy in Britain, Canada, and the United States. (See figure 1.1.) Medical associations powerfully influenced abortion policy in all three countries, but they did so in the pursuit of differing interests and priorities. Initially, medical associations in all three countries wanted to maximize clinical autonomy and medical paternalism by maintaining their roles as abortion gatekeepers. Though the medical professions were powerful in all three countries, scholars considered the American medical profession to be especially powerful given its success at warding off national health insurance. According to the interest group approach, if doctors managed to preserve abortion gatekeeping anywhere, they would do so in the United States. Instead, it was the American reform that abolished medical gatekeeping.

I show that political institutions—specifically, health-care policies that institutionalized relationships between the state and medicine—influenced the priority that different medical associations gave to their common interest in preserving abortion gatekeeping. Clinical autonomy over abortion decisions was a lower priority for American medical organizations because they were mainly concerned with preserving the private, fee-for-service medical system that had made American doctors the wealthiest and most powerful in the world. By contrast, British and Canadian medical organizations had already failed to prevent national health insurance but, in the process, received state guarantees of clinical autonomy, which they guarded jealously. As a result, they sought to preserve this autonomy in the context of abortion reform. Later, they continued to play a key role in abortion politics—defending abortion rights and advocating the expansion of abortion services. But in the United States, medical associations continued to avoid the issue.

Political Parties Embrace or Repel New Movements

Partisanship theories of welfare state development argue that left-wing parties tend to promote social spending and policies favoring women's autonomy and access to employment, right-wing parties tend to inhibit social spending, and Christian democratic parties tend to inhibit policies that promote women's autonomy.⁶⁰ Finally, some scholars argue that center parties, such as the American Democratic Party, can promote moderate expansions of the welfare state.⁶¹

Reforms of the Long 1960s

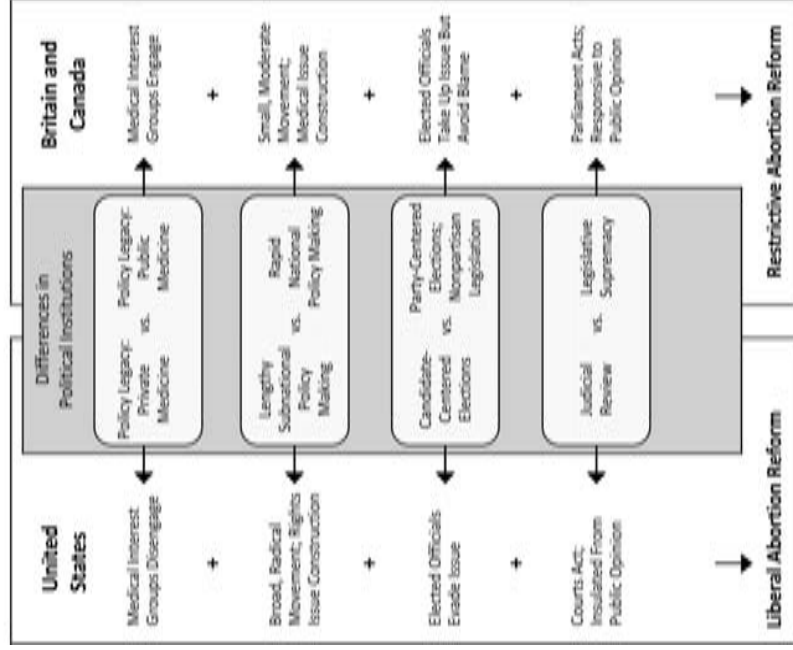
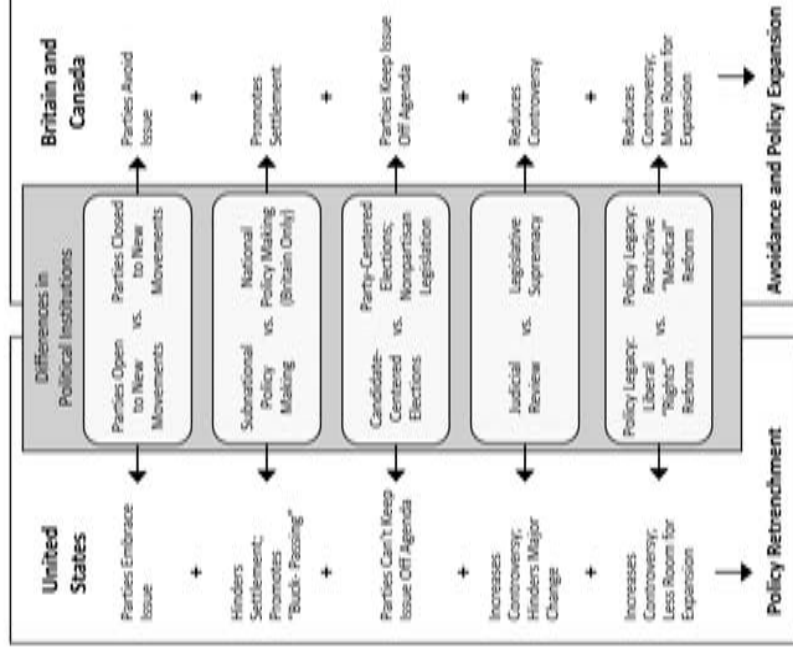


Figure 1.1 Institutional Effects on Abortion Politics and Policy Making in the United States, Britain, and Canada.

Post-Reform



As with interest groups, there is danger in assuming the positions of parties from their similar social positions or constituencies. This is especially the case for issues such as abortion that have many possible meanings and have moral or religious dimensions that do not match the economic cleavages on which many party systems, and especially those in the English-speaking countries, are based. Proponents of the partisanship approach to explaining social policy usually focus on parties that are dominated by economic groups such as business or labor rather than parties that are a coalition of many different groups, and they usually focus on issues that clearly fit a left-right continuum. As a result, they treat movement-party alliances as givens. Left parties have supported abortion access in Nordic and central European countries, but they have been less supportive in southern Europe and in English-speaking countries. Party positions on abortion are not automatic but must be constructed. Partisanship theories typically do not examine the processes by which social movements persuade or pressure parties to take up their issues or form alliances, nor do they examine the institutional factors that facilitate or hinder that process.

I modify partisanship theories to focus on the degree to which party and electoral systems aid or hinder attempts by new movements to gain power and influence within parties. By “new movements,” I mean movements that are not part of existing party coalitions but wish to join them.⁶² Movements have various resources for influencing parties. They can appeal to sympathetic party leaders or try to replace them. They can offer money, campaign workers, publicity, policy ideas, expertise, and voters. They can also attempt to win spots on nomination and policy committees.⁶³ Numerous institutional factors affect the openness of parties to social movement influence. Decentralized parties give movements more points of access and potential influence. Parties with open and democratic systems of selecting candidates, party leaders and policy goals provide movements with more opportunities to affect the personnel and direction of the party. Open, but low-turnout, elections and meetings allow intense minorities to wield disproportionate power, since they are often better at turning out their members than other groups. Resource-intensive campaigns increase the reliance of parties and candidates on the labor and money of movements. And parties without mass memberships are especially dependent on movements for such resources. Candidate-centered elections and legislative processes give movements more opportunities to provide resources and influence policy. They can target any legislator rather than just the few that hold party leadership positions. Finally,

coalitional parties increase the influence of movements because they respond to the needs of their multiple constituencies, rather than to one or two dominant interests such as business or labor, and movements can attempt to form or join new dominant coalitions.⁶⁴ I do not mean to suggest that all new movements will successfully infiltrate parties that are open to movements. This will depend on their numbers, resources, organization, strategies, and political contexts. My point instead is that movements will need less of these things to infiltrate open parties than closed ones.

As I show in chapter 5, American political parties are wide open to new movements while British and Canadian parties are largely closed, and this is reflected in the post-reform abortion politics of each country. All three countries developed sizable pro-choice and pro-life movements, but those movements made inroads only in American parties. In the late 1970s, pro-life activists, the New Right, and later the Christian Right gained power in the Republican Party while feminists did the same in the Democratic Party. The New Right and Christian Right gained control of key party positions and provided labor and money to electoral campaigns. They helped convince Republican Party leaders that abortion would be a winning wedge issue within the electorate.⁶⁵ The abortion issue eventually became a litmus test for the selection of candidates for both parties, and voters used it as an indicator of a candidate's positions on a host of other issues. In Britain and Canada, by contrast, abortion movements had little influence in parties. Parties sought to avoid the issue—refusing to introduce legislation or take an official position.

Social Movements Seek Venues and Define Issues

Social movement theories have paid more attention to the emergence and development of movements than to their impact on public policy.⁶⁶ But scholars who do study such impacts argue that they are determined by movements' levels of membership, resources, and protest activity; the degree to which they disrupt public order and threaten authorities; their persuasion of allies and bystanders; their organization and professionalization; and their participation in formal political processes.⁶⁷ Political opportunity theories argue that movement impacts are mainly determined by the political context of contention, including such factors as the openness of the political system, the stability of elite alignments, alliances with elites, and the repressive capacities of the state.⁶⁸

In exciting new work, scholars have examined relationships between

the internal characteristics of movements and their external environments. Kenneth Andrews argues that movements are most successful when they combine multiple tactics and strategies that provide flexibility in the face of changing political contexts. This is most likely when movements have multiple organizations, diverse leaders, extensive and cross-cutting informal networks, and labor and money from their own members rather than from outsiders. Edwin Amenta's political mediation theory argues that some movement tactics work better in some contexts than others; in particular, he finds an interaction effect (a conditional relationship) between the assertiveness of movement tactics and short-term political contexts.⁶⁹ When elected officials and state bureaucrats are supportive, minimally assertive tactics (such as public education) will do, but when both are hostile, highly assertive tactics (such as electoral challenges) are necessary. Moreover, if elected officials are supportive but bureaucrats are hostile or vice versa, movement organizations must assertively target the hostile parties rather than the favorable ones.⁷⁰

Amenta's theory focuses on the conditional effect of assertive movement tactics and supportive political officials on movement impacts. I add to the theory in two ways. First, I argue that it is easier for political officials to offer support to movements when they can avoid blame for doing so—and political institutions can help with this. Second, I argue that when movements face hostile or evasive political officials, assertive action may well be useful, but venue change may be equally useful. Instead of fighting hostile officials, movements can move the fight to venues where political elites are more favorable. I show that, as Amenta would expect, the British abortion reform movement of the 1960s succeeded through minimally assertive actions because it faced a supportive Labour Government. But I argue that the Government had an easier time offering its support because nonpartisan parliamentary processes allowed it to avoid blame. I also show that American political officials were initially supportive of abortion reforms, but backed away once the issue became associated with the feminist movement and strong Catholic opposition.⁷¹ Faced with political officials who wanted to avoid the issue, pro-choice activists succeeded not through assertive action but through *evasive* action. They changed policy venues and meanings—moving the issue from state legislatures to state and federal courts and developing constitutional definitions of the issue that found favor there.⁷²

Some social movement theories have focused on the constructed meanings of issues (that is, issue definitions, policy images, frames). These meanings affect whether a social condition is viewed as a problem, who

gets blamed, what solutions are offered, which actors become involved, the size of movements, and the policy venues in which the issue is addressed. Social movements strive to produce meanings that are to their advantage.⁷³ Most scholars of social movement framing have focused on the ways that framing facilitates mobilization, but a few have examined the ways that framing affects movement impacts. Daniel Cress and David Snow argue that movements will be more successful when they clearly identify and articulate a problem and a solution.⁷⁴ And several scholars argue that issue definitions played a key role in American abortion politics. Kristin Luker argues that the abortion issue is so heated in the United States because it is a debate about the social status of motherhood. Gene Burns argues that state-level abortion reforms succeeded when reformers used narrow “limiting” frames but failed when they invoked broader “moral worldviews” such as women’s rights or fetal rights.⁷⁵ And journalist William Saletan argues that the libertarian, antistatist frames of the pro-choice movement contradicted its goals of obtaining welfare state guarantees for abortion access.⁷⁶

I build on issue-meaning theories in two ways. First, I argue that political institutions mediate the construction of issue meanings by affecting which actors participate in such construction. I show that the failure of the AMA to participate in abortion policy making left a definitional vacuum that was filled by nonmedical meanings of abortion such as women’s rights and fetal rights. I also show that the participation of feminists, the U.S. Supreme Court, and political parties in the abortion debate gave the issue new meanings—it became a symbol of judicial overreach, political liberalism, and changing gender roles.

Second, I argue that institutions affect the scope, pace, and duration of policy making, and this, in turn, affects possibilities for policy learning and experimentation, and thus issue definition. I argue that prolonged and dispersed state-level policy making aided the emergence of women’s rights constructions of the abortion issue. First, early activists were radicalized by the disappointing results of early reforms, and second, prolonged policy making provided time for the emerging feminist movement and civil liberties lawyers to join the debate. After reform, the women’s rights definition of abortion contributed to higher levels of controversy because it posed a direct threat to conservative Catholics and evangelicals. By contrast, British and Canadian medical associations participated heavily in abortion politics and supported medical gatekeeping. As a result, the reforms defined abortion as a medical necessity appropriately under the control of doctors, and did not assert the rights of women to privacy or bodily autonomy, and this reduced controversy.

Policy Venues

Institutionalist scholars have shown that every policy venue has its own roster of players, its own decision-making norms, and its own biases. As a result, policy venues shape the policies that emerge from them, often in quite durable ways.⁷⁷ I highlight three key venues—constitutional courts and state-level policy making in the United States, and nonpartisan parliamentary processes in Britain and Canada. (See table 1.4.) My arguments apply mainly to the specific venues that I examine, but some of these effects may be portable to similar venues. The broader point is that scholars of the policy making must pay close attention to the venues in which policies are made.

Constitutional Courts Make Controversial, “Undemocratic,” Winner-Take-All Policies

Constitutional courts produce policies with several unique characteristics. Justices are usually appointed rather than elected, and often for life. As a result, policies made in courts are often less sensitive to public opinion and are often attacked by critics as undemocratic.⁷⁸ Court decisions are also powerful “focusing events” that draw public and media attention.⁷⁹ All of these factors increase the controversy of court decisions. In addition, the media often provide intensive coverage of court decisions, but not court deliberations. As a result, decisions seem to come “out of the blue”—creating shock or “suddenly imposed grievances” that contribute to public outrage and movement mobilization.⁸⁰

Court decisions affect policy discourses too. Courts use limited, arcane, sometimes anachronistic language that makes it difficult for the public to understand their decisions and assess whether their reasoning is sound or fair.⁸¹ Existing legal texts are often inadequate for the complex issues at stake, and courts often fail to deal with issues of practice and

Table 1.4 Effects of Policy Venues

Policy Venue	Effect
Constitutional courts	Make controversial, winner-take-all policies
Subnational venues	Provide access points, but hinder settlement and promote buck passing
Agenda control and non-partisan legislative processes	Help political parties avoid issues and blame

implementation. Courts also define issues as matters of rights. They must then rank, balance, and often completely trump rights claims. As a result, they do not allow the compromises that might result from bargaining in legislatures.⁸² Finally, court decisions constrain elected officials by establishing requirements for the constitutionality of legislation, but they also provide opportunities for those officials to avoid issues by claiming that they are the proper domain of courts.⁸³

Constitutional courts were stronger in the United States than in Britain and Canada. British courts do not have the power to strike down Acts of Parliament, though they can interpret them so that they are consistent with the courts' own views of constitutional rights.⁸⁴ The powers of Canadian courts were similar to those of British courts until 1982, when a new bill of rights gave the Canadian Supreme Court the power to strike down Acts of Parliament. American courts have had the power to strike down unconstitutional legislation since the Supreme Court's 1803 *Marbury v. Madison* decision. In fact, as Alexis de Tocqueville observed nearly three decades later, "there is almost no political question in the United States that is not resolved sooner or later into a judicial question."⁸⁵ This tendency became even more pronounced in the second half of the twentieth century; weak political parties and state bureaucracies, fragmented political institutions, and a minimal welfare state made it difficult for movements to achieve their aims through legislative and executive action, so many—beginning with the African American civil rights movement—turned to the courts instead.⁸⁶

Political scientist Gerald Rosenberg argues that courts seldom produce significant social change because constitutional rights are limited, courts lack independence from other branches of government, and courts cannot implement their own rulings.⁸⁷ Other scholars, including myself, argue that courts are constrained, but hardly insignificant.⁸⁸ Still others accept Rosenberg's general point but argue that courts wield substantial autonomous power when they take on issues that elected officials wish to avoid.⁸⁹ As we will see, abortion is one such issue. Rosenberg argues that the impact of the *Roe v. Wade* decision has been overstated. In chapter 4, I argue that he is mistaken.

The venue of the American abortion reform gave it some unique characteristics. The insulation of the Supreme Court from voters allowed it to establish a more liberal policy than that supported by public opinion and most state legislatures. The court's decision also rested on shaky precedents and novel legal theories that subjected the decision to intense criticism for substituting its own policy preferences for those of legislatures. The *Roe* decision also strongly restricted the scope of federal and state

policy making; pro-lifers were confined to arduous strategies of constitutional amendment, judicial nominations, and the gradual accumulation of court rulings that chipped away at abortion rights. The decision also increased the controversy of abortion: It stimulated an immediate and massive pro-life mobilization based on “shock”; it defined abortion as right of privacy, a less powerful and more contested right than that of a right to health in Britain and Canada; and finally, “rights talk” polarized abortion discourse, as compromises between the “right of privacy” and the “right to life” were unacceptable to both sides.⁹⁰

Policy Making in States and Provinces: Easy Incrementalism, Unsettled Issues, and Buck Passing

Subnational (state or provincial) abortion policy making was more important in the United States than in Britain or Canada, and policies formed in this way have some unique properties. Many scholars argue that institutions that fragment political power hinder broad policy change because they provide multiple opportunities for narrow minorities to “veto” legislation.⁹¹ But these scholars have not specified which types of fragmentation are most likely to have these effects and under what conditions; they do not distinguish, for example, between the separation of powers among legislative houses, presidents, and courts and the sharing of power between federal and subnational governments.

In the United States, federalism was a strong barrier to federal social policies before the South fully democratized in the 1960s.⁹² In more recent times, it has posed difficulties for policies with a distinct geographic component such as farm or industrial policies. On other types of policy, however, federalism both aids and hinders policy change. It is often easier to enact policies in a few politically hospitable states or provinces than in the whole nation, and once enacted, these policies may be sources of demonstration and learning for activists and policy makers elsewhere. But state and provincial policy making is often slow and prolonged. After an innovator state enacts a new policy, other states may follow suit, but the time between the first and last state enactment might span decades. Frustrated by this slow pace, many movements try to move their issue to the federal level. But this is not always possible because some policy areas are historically or constitutionally reserved to states or provinces. The availability of multiple national and subnational venues can also hinder the settlement of issues. Instead of leaving the battlefield, losers simply seek new ones.⁹³ Finally, multiple levels of jurisdiction can promote buck

The Politicization of Abortion

This chapter and the next examine abortion politics and policy after the reforms of the Long 1960s. This chapter explains differences across the three countries in *abortion politics*—the positions of political parties on abortion and the degree to which abortion has been an issue in elections. The next chapter explains differences across the countries in *abortion policies*—the number and character of abortion regulations established by legislatures, courts, and government bureaucracies. This distinction between politics and policy is an artificial but useful one. It is artificial because parties and candidates typically campaign by touting policies that they have enacted or promise to enact, and because officials typically choose policy goals with an eye to how voters and party activists might respond to them. But the distinction is a useful one because intraparty battles, electoral campaigns, and policy making are driven by differing causal factors. In the next chapter, I argue that the degree to which political parties addressed the abortion issue was one of the main determinants of differences in abortion policies, but there were other determinants as well.

After the reforms of the Long 1960s, large movements faced off on both sides of the abortion issue in all three countries, and, at least initially, most parties and candidates were inclined to avoid the issue. But British and Canadian parties were more successful in doing so than American ones. In the United States, movements with abortion on their agenda—the feminist movement, the New Right, and

the Christian Right—seized opportunities provided by open party and electoral systems to move abortion onto party and campaign agendas and, as I describe in the next chapter, policy agendas. Abortion eventually moved to the center of politics. The two major parties took firm and opposing positions, and abortion was a central issue in campaigns at all levels of government. Parties often imposed abortion litmus tests on potential nominees, and a candidate's position on abortion became a shorthand for whether he or she was a “real” Democrat or Republican or one “in name only.” In Britain and Canada, by contrast, parties were reluctant to take positions on abortion and have successfully kept the issue out of electoral politics. In what follows, I describe abortion movement mobilization in each country. I then discuss the varying openness of party and electoral systems to new movements in each country and the implications of that openness for abortion movements. I close with a discussion of the American Christian Right, examining how it built its influence within the Republican Party and why its power within that party was so durable.

Opposing Movements Mobilize

After reform, pro-life and pro-choice movements faced off in all three countries, and the abortion issue became more visible and controversial. The movements were largest in the United States, followed by Canada and then Britain, but they were sizable in all three countries. In Britain, two formally nondenominational but predominantly Catholic groups, the Society for the Protection of Unborn Children (SPUC) and LIFE, spearheaded attempts to restrict abortion. Each group had more than 200 local affiliates. In the 1990s and 2000s, these groups were joined by several evangelical organizations, most notably Christian Action Research and Education (CARE), which runs more than 150 crisis pregnancy centers. In the 1980s, Rescue UK tried to bring American-style “rescues” to Britain, but this tactic was rejected by SPUC and LIFE.¹ The movement's largest protests occurred in 1971 (10,000) and 1975 (50,000).² The British pro-life movement was also aided by the dominance of the tabloid press, which had a strong appetite for stories of scandal and atrocity that were readily supplied by the movement. On the pro-choice side, the ALRA largely demobilized after the 1967 reform, but in 1970, “abortion on demand” became a primary goal of the British feminist movement. In 1975, feminist organizations formed the National Abortion Campaign (NAC), which eventually had 350 member organizations. NAC was especially successful

at building links with unions—by 1986, more than 20 had pledged to defend abortion rights.³ Beginning in 1978, the Co-ordinating Committee in Defence of the 1967 Act mobilized almost 60 pro-choice professional organizations.⁴ The largest pro-choice rallies occurred in 1975 (20,000) and 1979 (100,000).

In Canada, the main pro-life groups were the Alliance for Life, the more radical Campaign Life, and approximately 200 local groups. These groups were mainly Catholic but were joined by members of churches represented by the Evangelical Fellowship of Canada.⁵ In 1975, the Alliance for Life delivered one million signatures to Parliament—the largest petition in Canadian history. In the mid-1980s, pro-lifers protested at Henry Morgentaler's Toronto clinic, and at least one bombed the clinic. Abortion opponents also shot and wounded three doctors. In the late 1980s, activists mounted American-style clinic "rescues," resulting in hundreds of arrests.⁶ In 1983, 40,000 protested in Toronto, and in 2006, 30,000 attended the annual March for Life. On the other side of the issue, the main groups were the Canadian Association for the Repeal of Abortion Laws (CARAL) and the National Action Committee on the Status of Women.⁷ There were also strong local organizations in the cities where Morgentaler opened clinics, most notably Montreal, Toronto, Vancouver, and Winnipeg. In 1971, thousands protested at Parliament Hill, and in 1983 and 1985, 4,000 and 5,000 respectively protested in Toronto.⁸

In the United States, the largest group was the National Right to Life Committee (NRLC), officially nondenominational but predominantly Catholic.⁹ The NRLC was supported in various ways by the National Conference of Catholic Bishops (NCCB) and developed close ties to the Republican Party leadership. The NRLC claims 3,000 local chapters and affiliates in every state. The next largest group was the explicitly Catholic and more radical American Life League. These mainly Catholic groups were joined by multi-issue evangelical groups such as Concerned Women for America, the Moral Majority, Focus on the Family, and later, the Christian Coalition. In the late 1980s and early 1990s, Operation Rescue mobilized evangelical pastors and their flocks to blockade clinics in several cities, resulting in more than 60,000 arrests.¹⁰ During the 1990s, local and national direct action groups focused on picketing, "sidewalk counseling," and the harassment of providers and their patients. In the 1990s and 2000s, the Center for Bio-ethical Reform and Justice for All presented graphic displays of aborted fetuses on college campuses. Activists also established more than 3,000 crisis pregnancy centers. Beginning in 1997, the Susan B. Anthony List funded pro-life candidates, spending \$6 million in 2010. During the 1980s and 1990s, violent activists

Table 5.1 Membership of Major Pro-Life and Pro-Choice Organizations, c. 1990

	United States	Britain	Canada
Pro-life organizations ²	7,300,000	50,000	250,000
Multi-issue traditional values organizations ³	3,300,000	100,000	264,000
Total	10,600,000	150,000	514,000
Total as % of population ¹	4.3%	0.3%	2.1%
Pro-choice organizations ⁴	400,000	2,000	18,000
Feminist organizations ⁵	310,000	20,000	750,000
Total	710,000	22,000	768,000
Total as % of population ¹	0.3%	0.04%	3.1%

¹The 1990 populations were United States (249 million), Britain (56 million), and Canada (25 million). U.S. Bureau of the Census, International Database, Total Midyear Population, July 1990.

²The U.S. figure includes the National Right to Life Committee (7 million, 1990) and the American Life League (300,000, 1990). Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991). The NRLC figure is likely an exaggeration—the organization sends out only 400,000 newsletters. Richard M. Skinner, *More Than Money: Interest Group Action in Congressional Elections* (Lanham, MD: Rowman and Littlefield, 2007). See also Myra Marx Ferree, William A. Gamson, Jürgen Gerhards, and Dieter Rucht, *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States* (Cambridge: Cambridge University Press, 2002). The British figure includes the Society for the Protection of Unborn Children (SPUC) (30,000, 1984) and LIFE (20,000, 1979). Joni Lovenduski, "Parliament, Pressure Groups, Networks, and the Women's Movement: The Politics of Abortion Law Reform in Britain (1967–1983)," in *The New Politics of Abortion*, ed. Joni Lovenduski and Joyce Outshoorn (London: Sage Publications, 1986); J. Christopher Soper, "Political Structures and Interest Group Activism: A Comparison of the British and American Pro-Life Movements," *Social Science Journal* 31, no. 3 (1994): 319–34. The Canadian figure includes over one hundred pro-life groups. Lorna Kathleen Erwin, "The Politics of Anti-Feminism: The Pro-Family Movement in Canada" (PhD dissertation, York University, 1990).

³The U.S. figure includes the Christian Coalition (400,000, 1994), Christian Action Council (300,000, 1994), Concerned Women of America (600,000, 1992), and Focus on the Family (2 million, 1995). The Christian Coalition, founded in 1989, reported 2.8 million members in 1996, but critics and former employees reported that the Coalition failed to purge inactive members from its rolls and sent out only 400,000 copies of its magazine. I use that figure here. J. Christopher Soper, *Evangelical Christianity in the United States and Great Britain: Religious Beliefs, Political Choices* (New York: New York University Press, 1994); David Von Drehle and Thomas B. Edsall, "Life of the Grand Old Party: Energized Coalition Enters Another Political Phase," *Washington Post*, August 14, 1994, A1; Jeanne Cummings, "Religious Right Reviving Gospel of Political Activism," *Atlanta Journal and Constitution*, September 11, 1992, C1; Duane Murray Oldfield, *The Right and the Righteous: The Christian Right Confronts the Republican Party* (Lanham, MD: Rowman and Littlefield, 1996). The British figure is for Christian Action Research and Education (CARE), which claimed 100,000 supporters on its website. The Canadian figure includes Focus on the Family Canada (150,000, 1997), REAL Women (50,000, 1997), Renaissance Canada (50,000, 1983), and Evangelical Fellowship Council (EFC) (14,000, 1996). The EFC is an umbrella organization of Canada's evangelical congregations that represented 1.5 million evangelicals in 1991. The organization also had individual members, which is the figure used here. Dennis R. Hoover, "The Christian Right under Old Glory and the Maple Leaf," in *Sojourners in the Wilderness: The Christian Right in Comparative Perspective*, ed. Corwin Smidt and James M. Penning, 171–93 (Lanham, MD: Rowman and Littlefield, 1997); Harvey Shepherd, "Annual Spiritualism Conference Is Coming of Age," *Gazette* (Montreal), May 11, 1996, J4; David Howell, Spare the Rod, Don't Teach Kids Violence, *Toronto Star*, August 10, 1996, L1; George Egerton, "Trudeau, God, and the Canadian Constitution: Religion, Human Rights, and Government Authority in the Making of the 1982 Constitution," in *Rethinking Church, State, and Modernity: Canada between Europe and America*, ed. David Lyon and Marguerite Van Die (Toronto: University of Toronto Press, 2000).

bombed or burned more than 100 clinics and vandalized more than 400. They also killed seven clinic staff, including several doctors. The latest victim, in 2009, was Dr. George Tiller, the nation's leading provider of late-term abortions. The annual March for Life drew its largest crowds in 1976 (65,000), 1985 (71,000), 1990 (200,000), 1993 (75,000) and 1999 (100,000).¹¹

On the pro-choice side, the main organizations were NARAL, the National Organization for Women (NOW), Planned Parenthood, and the ACLU.¹² EMILY's List PAC funded pro-choice women candidates—raising more than \$200 million since its founding in 1984—and had close ties to the Democratic Party leadership. The largest pro-choice protests occurred in 1989 (300,000), 1992 (500,000), and 2004 (1 million)—the last two protests ranked as the largest in American history.¹³ Table 5.1 shows membership figures for the leading movement organizations in each country. These figures should be taken with a grain of salt because most are self-reported and movement organizations have a tendency to exaggerate the size of their membership, but they do provide a rough indicator of the sizes of the movements in the three countries. As a

¹¹The U.S. figure includes the National Abortion Rights Action League (NARAL). Gerald N. Rosenberg, *Hollow Hope*; Suzanne Staggenborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (New York: Oxford University Press, 1991). The British figure includes the National Abortion Campaign (NAC) and the Abortion Law Reform Association (ALRA). Soper estimates that no pro-choice organization had more than 1,000 members in 1985. I estimate a combined figure of 2,000 for these two groups. Soper, *Evangelical Christianity in the United States and Great Britain*. The Canadian figure includes the Canadian Abortion Rights Action League (CARAL), which had 18,000 individual members and 300 member groups in 1990. Melissa Hausman, "Gendering as a Variable and Process in Canadian Federal Abortion Policy Changes, 1969–1991" (Biennial Meeting of the Association for Canadian Studies in the United States, Pittsburgh, PA, 1999); "REAL Women Doing Favor for Feminists," *Toronto Star*, January 15, 1987, A23; Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997), 125.

¹²The U.S. figure includes the National Women's Political Caucus (35,000, 1992) and the National Organization for Women (270,000, 1992). Catherine S. Manegold, "Women Advance in Politics by Evolution, Not Revolution," *New York Times*, October 21, 1992, A1. The British women's movement is quite decentralized. Most groups are small, local, and single-issue. Bouchier estimates that one-tenth of 1 percent of British women (20,000) are involved in feminist activities. Despite this small size, women have been organized and influential as pressure groups within trade unions and political parties. David Bouchier, *The Feminist Challenge: The Movement for Women's Liberation in Britain and the USA* (New York: Schocken Books, 1984), 178. See also Joyce Gelb, "Social Movement 'Success': A Comparative Analysis of Feminism in the United States and the United Kingdom," in *The Women's Movements of the United States and Western Europe: Consciousness, Political Opportunity, and Public Policy*, ed. Mary Fainsod Katzenstein and Carol McClurg Mueller (Philadelphia: Temple University Press, 1987). The Canadian figure is for 1993 and includes the 750,000 individual members of the National Action Committee on the Status of Women. NAC also has 573 organizational members representing 3 million women, but many of these affiliated organizations cannot be considered feminist. Hausman, "Gendering as a Variable and Process in Canadian Federal Abortion Policy Changes, 1969–1991"; Sylvia Bashevkin, *Women on the Defensive: Living through Conservative Times* (Toronto: University of Toronto Press, 1998).

percentage of the population, the pro-life (and pro-family) movement was largest in the United States, followed by Canada and then Britain. And the pro-choice (and feminist) movement was largest in Canada, followed by the United States and then Britain. A resource mobilization approach to social movement impacts suggests that abortion should be most controversial where movements are larger and richer, but the implications of this approach for policy change are not as clear. Large, rich movements should promote policy change, but when movements mobilize on both sides of an issue they might cancel each other out and produce gridlock. The large American movements help to explain the greater controversy and politicization of abortion in the United States, but they are not the end of the story. Pro-life movements were large and vocal in all of the countries, yet there was not just *less* party politicization of the abortion issue in Britain and Canada, but virtually none. As I show below, even if British and Canadian movements had been larger, it is unlikely that they would have influenced parties to the extent that American movements did.

Moreover, part of the reason that the American abortion movements were so large was because the issue was defined in a way that directly challenged moral traditionalists. Abortion was a “woman’s right” rather than a “medical necessity.” Kristin Luker argues that the abortion debate was so heated in the 1970s and 1980s because it was “a referendum on the place and meaning of motherhood,” and pro-life activists were mainly homemakers who viewed *Roe* as a personal attack on their identities. Similarly, Gene Burns argues that the meaning of abortion shifted around 1970 from a limited medical-humanitarian frame to a contest between competing moral worldviews—women’s rights and fetal rights. After this shift, abortion became highly controversial, and policy makers shied away.¹⁴ In Britain and Canada, by contrast, abortion was defined as a medical necessity under the control of doctors and was not a similar threat to moral traditionalists.¹⁵ The unique meaning of the American reform was facilitated in several ways by political institutions. As I showed in chapter 3, American medical organizations were more concerned about preserving fee-for-service medicine than abortion gatekeeping. They abandoned the field of abortion policy and left a definitional vacuum to be filled by alternative meanings. In Britain and Canada, by contrast, medical associations were heavily involved in the abortion issue, and medical meanings were central to the abortion debate. In addition, some of the controversy of American policy making sprang from the venue in which the initial reform was made. The abortion decisions of the American Supreme Court focused attention on the issue, went beyond public opinion,

framed the issue in terms of competing “rights,” and drew accusations of democratic illegitimacy. The abortion issue was also kept alive by the numerous venues available for contesting it. Settlement of the issue was impossible because losers could always move to a new arena. Finally, the ability of abortion movements to inject the abortion issue into parties and electoral politics only increased controversy and movement mobilization.

Parties and Politicians Avoid Abortion

In the face of large movements, frequent protests, and heated rhetoric, many parties and politicians in all three countries tried to avoid the abortion issue. They did so for many reasons. To begin, the parties were mainly organized around economic rather than religious cleavages and typically had members on both sides of the issue. This was especially true of the left-leaning parties—the American Democrats, the Canadian Liberals, and the British Labour Party—who all included both feminists and working-class Catholics among their ranks. For parties with members on both sides of the abortion issue, it was difficult to develop a position on abortion; and once they did, it was hard to impose that position on dissenting members since they usually held their positions with fervor. Party leaders preferred to focus on the economic issues that held their parties together rather than the social issues that divided them.¹⁶ Some politicians were personally uncomfortable with an issue that provoked such strong emotions, and others wished to avoid confrontations with irate protestors. Finally, R. Kent Weaver argues that policy makers have weak incentives to enact policies on symbolic, winner-take-all issues. For this type of issue, every policy change creates both winners and losers, but voters are more sensitive to losses than gains. As a result, a new policy may please winners but will displease losers even more. And the incentives are even weaker when an issue involves strong opposing movements that mobilize the outrage of their supporters after every policy change, no matter how small.¹⁷

In all three countries, many politicians sought to avoid abortion. In Britain, Cabinets insisted that abortion was an “issue of conscience” that required private member’s legislation and Government neutrality. The Canadian Government repeatedly tried to pass the buck—arguing that there was nothing wrong with abortion law, and if there was, it was the fault of the medical profession, hospitals, and the provinces. British and Canadian Governments also tried to defuse the issue by commissioning

formal inquiries by nonpartisan experts with narrow mandates. In the United States of the 1970s, Presidents Ford and Carter sought to leave the issue with the courts or return it to the states. In the Democratic Congress, party leaders declined to take positions on abortion and committee chairs killed abortion bills before they came to the floor. State legislators ran from the issue as well. An Ohio legislator reported that his chamber included “ten strong pro-choice people, ten strong pro-life and 79 legislators who would rather the issue would go away.”¹⁸

Of course, not all policy makers avoided abortion. Some took it on for personal or religious reasons, others for political ones. Those in the latter group were more likely to address the issue when they represented homogeneous constituencies that shared a common position on abortion, and this was more common in smaller districts. In the United States, state legislators and members of the House of Representatives, with their smaller districts, were more willing to address the issue than senators, governors, and presidents with statewide or national constituencies.¹⁹ Politicians were also more willing to take up the issue during periods when the intensity of the two sides was asymmetric. During the 1970s and 1980s, abortion was more salient for pro-lifers than pro-choicers. The first group was freshly outraged by *Roe*, while the latter group felt reasonably well protected by the decision.²⁰ As a result, politicians worried more about offending pro-lifers than pro-choicers. After the 1989 *Webster* decision allowed greater restrictions on abortion, however, the issue became more salient for pro-choicers, and politicians’ calculations changed.²¹

Why Are Some Parties More Open to New Movements than Others?

If parties and policy makers were initially inclined to avoid the abortion issue, why did they eventually embrace it in the United States? Mainly because American parties were more open to new movements than parties in the other countries. By new movements, I mean movements that are not currently members of the party coalition but wish to become one. This openness to new movements had three main dimensions: (1) broadly participatory systems for selecting candidates, party leaders, and policy goals; (2) expensive, low-turnout, candidate-centered elections; and (3) decentralized, coalitional parties.²²

American party leaders and activists have much less control over who will represent them in elections than do their counterparts in Britain and Canada—and this makes it easier for candidates supported by

new movements to win nominations. American candidates are chosen through state and local primaries and caucuses that allow extensive public participation, including participation by people who do not consider themselves members of the party.²³ In Britain, public participation in the nominating process is much narrower. Labour candidates are chosen by dues-paying members of the local party, most of whom are highly committed to the party and have been members for a long time. They reward those same characteristics in the candidates they select, making it almost impossible for newcomers to win nominations. Tory candidates are chosen by an even narrower group—a small committee of local party members. In Canada, candidates are also chosen by local party members, but the process is more open than in Britain because the memberships of the major parties swell at election time. As a result, new movements can sometimes win nominations by recruiting new party members.²⁴

The parties in each country also vary in how they choose their leaders (i.e., their candidates for prime minister or president). Again, American party leaders and activists have less control over who will lead their party than do their British and Canadian counterparts, and this advantages new movements. In Britain's Conservative Party, the parliamentary party chooses the party leader. Until 1981, the Labour Party chose its leader the same way; afterwards, the parliamentary party, the local parties and the labor unions chose the leader jointly. In both British parties, party leaders must be sitting MPs—a significant barrier to newcomers. In Canada for most of the twentieth century, delegates to national conventions chose the leaders of both parties. Since the late 1990s, the major parties have begun holding a vote of the entire party membership—candidates need not be sitting MPs.²⁵ In the United States, the party is led by the president or presidential nominee, but during periods when there is no such person, the party is led by its top-ranking members of Congress. Congressional leaders are elected by their fellow members. Presidential nominees are chosen by the primary and caucus processes outlined above, and presidential candidates do not need to be sitting members of Congress. Leaders of new movements can and do campaign for the presidential nomination of their party—though few have won.²⁶

Party goal setting is also more open to new movements in the United States than in the other countries. In the United States, delegates to state and national party conventions write and vote on party platforms. And in both parties, there are often large numbers of convention delegates who do not share the policy preferences of the nominee. This is especially a problem in the Republican Party where supporters of losing candidates may actually outnumber those of the nominee.²⁷ Convention delegates

often adopt platform positions that the nominee does not share. The nominee may attempt to distance his- or herself from the platform or some of its planks, but this is easier said than done since the media report extensively on both the platform and any conflicts between the nominee and party factions. In Britain, parties campaign on “party manifestos” written by party leaders rather than party activists. The Labour Party holds annual conventions of the party membership that pass policy resolutions, but these are not campaign documents and are not binding on the PLP. The Tories do not allow members to pass resolutions but merely “listen” to their concerns. In Canada, the Liberals and Tories occasionally hold policy conventions of their members, but their resolutions are not binding on the parliamentary party and often do not make it into campaign platforms.²⁸

New movements are also aided by the many low-turnout elections in the United States. Highly organized, intense minorities are more likely to vote than the average citizen, and when turnout is low, they start to become majorities. Intense minorities are also better at mobilizing their troops for events such as caucuses and conventions, which require both more time and interaction than voting. And church-based organizations are especially adept at eliciting high-commitment political action because they are cohesive communities central to their members’ lives.²⁹ The United States has lower turnout for its most important elections than most other countries.³⁰ But more important, the United States has many more minor elections and meetings than other countries, and these typically have very low turnout. In the 2006 midterm election, average turnout was 37 percent, but in many states it was below 30 percent. Presidential primary turnout is lower still—in 2000 when both parties had contested primaries, most states had turnout rates between 10 and 20 percent, and caucus participation was often as low as 3 percent.³¹

American new movements also have a better chance of influencing individual candidates and legislators than do their counterparts in Britain and Canada. The key issues here are whether individual candidates need movement resources and whether individual legislators wield enough power to make them worth influencing. In the United States, elections are candidate centered. Voters often pay as much attention to the character and issue positions of candidates as they do to those candidates’ party affiliations. In addition, individual candidates, rather than parties, fund and staff their campaigns. Candidates are typically more dependent on resources provided by movements and interest groups than those provided by parties.³² In Britain and Canada, by contrast, campaigns are party centered. Voters choose a candidate mainly because he or she rep-

resents a particular party, and elections are funded and staffed mainly by the party and its members. This leaves little opportunity for new movements to contribute to the success of individual candidates.

There is also more value in influencing individual American legislators than British or Canadian ones. American legislators have a great deal of power—they can introduce legislation without party approval and usually vote against their party without penalty. If they are committee chairs, they can kill legislation. By contrast, in the Westminster parliamentary systems of Britain, and especially Canada, the principle of responsible government requires that the Government obtain support from the House of Commons for all major legislation. If it fails to do so, it must disband or call a new election. Consequently, party discipline is strict. The party leadership initiates most legislation and legislators are required to toe the party line.³³ As a result, there is usually little point in influencing legislators who are not members of the party leadership.³⁴ This difference gives American new movements more access points than their counterparts in Britain and Canada. They can attempt to influence any of hundreds of individual legislators rather than focusing on a small group of party leaders.

American new movements also have more influence because parties and candidates depend heavily on them for money and volunteers. American campaigns are longer, more expensive, more decentralized, more candidate centered, and use more paid media than those in Britain and Canada. American elections last a year or more while British and Canadian ones last one to two months. American electoral districts, especially for senators, are much larger in population and area. Voter registration requirements and low turnout make get-out-the-vote activities especially important. There is little public financing available and few restrictions on expenditures. At the same time, parties face restrictions on how much they can contribute to candidates' campaigns.³⁵ The resource intensity of American campaigns increases demand for campaign workers but, unlike their counterparts in Britain and Canada, American parties have no pool of dues-paying party members from which to draw this labor.³⁶ Instead, they rely on labor unions or movement organizations.

In Britain and Canada, on the other hand, movements have few opportunities to provide resources to parties or candidates. In Britain, there are no restrictions on national-level campaign contributions or expenditures and no public financing of campaigns, but campaigns are inexpensive because parties cannot buy television time and campaigns are short. Moreover, economic groups and large individual contributors provide ample funds, and there are no restrictions on how much money parties

can provide to candidates.³⁷ Canadian campaigns are also short and inexpensive. The major parties get free time on television and radio. There are also strong restrictions on contributions and expenditures. Public campaign financing is extensive, and the major parties draw most of their campaign funding from business.³⁸ Parties in both Britain and Canada can draw on party members for campaign work.

Movements also have more access points in the decentralized and coalitional parties of the United States. The parties are divided between a presidentially oriented national committee and the congressional and senatorial legislative caucuses and campaign committees. In Congress, party leadership is broadly dispersed among committee and subcommittee chairs; state and local parties are similarly divided.³⁹ By contrast, parliamentary government in Britain and Canada translates into centralized parties without separate organizations for the legislative and executive branches. Britain is a unitary polity while Canada is a federal one.⁴⁰ But Canadian parties (with the exception of the New Democratic Party [NDP]) are not federations. Federal and provincial parties with the same name are in fact distinct entities with their own personnel, candidates, and issue positions, and only limited coordination. Thus, a movement that gains influence in a provincial party is not necessarily able to translate this into power within the national party.

Finally, movements have more influence in the coalitional parties of the United States and Canada. In Britain, the demands of large economic groups, such as unions, businesses, and farmers' associations, tend to drown out those of smaller noneconomic groups—though British parties have become more coalitional in recent years. In the United States and Canada, by contrast, where parties are coalitions of many groups, small groups have opportunities to ally with other party factions.⁴¹

Does the openness of American parties mean that all issues will be more politicized in the United States than in other countries? Not necessarily. Instead, it is easier for movements to bring *new* issues into politics in the United States than in the other countries. In all three countries, the left-right, labor-capital cleavage has been central, but this cleavage is stronger in Britain than in the United States. As a result, labor-capital issues are more important in British elections than American ones. And closed British parties have an easier time resisting new issues and movements that do not match this cleavage. Whether new movements are able to influence parties also depends on their size, resources, and strategies. Not all movements have the wherewithal to influence American parties, nor do all wish to do so. Below, I show how the strong abortion move-

ments of all three countries fared when they encountered differing party and electoral systems.

Closed British Parties Avoid Abortion

In the face of daunting institutional obstacles, abortion activists never attained much power or influence in British parties. Labour and Liberal MPs tended to support abortion rights while Tories opposed them, but all three parties contained members on both sides of the issue and generally tried to avoid it. The Labour Party was in a particularly difficult position because it contained both feminists and working-class Catholics. As I detailed in chapter 2, the 1967 abortion reform occurred through a private member's bill with assistance from the Labour Government. This allowed the Government to avoid blame for the reform and responsibility for the issue. After reform, and the increased controversy that it brought, leaders of both parties maintained that abortion was an "issue of conscience" and thus a subject for private member's legislation. But in contrast to the initial reform, Governments no longer offered assistance to abortion bills.

Abortion activists had the most success in the Labour Party, but this was still quite limited. They had some influence with the party's rank-and-file membership and with labor unions, but little influence with the parliamentary party and its leaders. In 1975, the party conference passed a resolution calling for abortion on request, but it was not binding on the parliamentary party. In 1976, pro-choice activists formed the Labour Abortion Rights Campaign (LARC) to remind MPs of the party conference resolution, pressure MPs who voted against abortion rights, and raise the issue when the party reselected candidates. There is no evidence, however, that LARC ever succeeded in deselecting candidates. LARC also unsuccessfully lobbied the parliamentary party to establish a policy on abortion and firmly whip MPs on the issue.⁴² In 1977, the party conference passed another resolution supporting abortion on request, but rejected a resolution requiring a firm whip on parliamentary abortion votes.⁴³ In 1985, the party conference finally passed a resolution requiring a firm whip on abortion, but party leaders would not enforce it. Party leaders rarely mentioned abortion in their campaign manifestos.⁴⁴

Abortion activists had even less success in the other parties. The Liberal Party conference (the party joined with the Social Democratic Party to become the Liberal Democrats in 1988) passed resolutions supporting

abortion rights in 1975, 1979, and 1992, but the parliamentary party would not discuss the issue. Conservative party conferences do not pass resolutions, and the parliamentary party considered abortion an “issue of conscience” on which the party should remain neutral.⁴⁵ Party leaders mentioned abortion in their 1974 campaign manifesto, pledging to introduce an abortion bill after the Lane Committee finished its deliberations, but never actually did so.

The British parliamentary parties have avoided initiating legislation or taking a position on abortion, instead confining the issue to private member’s bills and free voting. Since the 1967 reform, MPs have initiated more than a dozen private member’s bills on abortion, and none have passed. Since the 1967 reform, no Government has initiated a bill or taken a position on abortion. In 1990 and 2008, the Conservative and Labour Governments respectively, provided time for free votes on measures to reduce the upper time limit for abortions, but neither Government took a position on these measures and they both failed.

Because Catholics were a traditional Labour constituency, the Catholic hierarchy occasionally clashed with the party on abortion. For several years in the early 1990s, Labour for Life operated an information booth at the Scottish Labour conference, but in 1994 national party officials banned it. Cardinal Thomas Winning criticized the decision and demanded that Labour leader Tony Blair intervene. Blair passed the buck—arguing that party conventions were the responsibility of the party’s general secretary.⁴⁶

Blair, who converted to Catholicism after leaving office, said that he was personally opposed to abortion but supported a woman’s right to decide for herself. He occasionally suggested that he would support a reduction in the upper time limit. At all times, however, he was clear that this was his personal opinion and that the abortion issue should be left to the individual consciences of MPs and kept out of electoral politics. Blair assured voters that he would not mix religion and politics, and cited the United States as a negative example: “I do not want to end up with an American-style of politics with us all going out there beating our chest about our faith.”⁴⁷

In 1996 and again in 1997, Cardinal Winning and Cardinal Basil Hume criticized Blair for “washing his hands” of abortion even though he personally opposed it.⁴⁸ But pro-choice activists, and many commentators, criticized the cardinals, arguing that abortion “has no place on the hustings [the stump].”⁴⁹ Blair agreed: “I intend to do everything in my power to keep abortion out of party politics.”⁵⁰

It appeared that abortion might finally become an election issue in 2005 when comments by Tory leader Michael Howard caused a week-long media flap over abortion. A few weeks before Labour called an election, *Cosmopolitan* magazine asked the party leaders for their positions on abortion; Howard complained about “abortion on demand” and said that he would support a reduction in the upper time limit for abortion, while Blair said that he disliked “the idea of abortion” but would support the status quo.⁵¹ Howard declared that if the Tories won the election, they would provide extra time to a private member’s bill seeking to lower the limit. This was the first time that a party leader had ever offered extra time for a private member’s bill during an election campaign. Cardinal Cormac Murphy-O’Connor hailed Howard’s statement and warned Labour that it could no longer count on the support of Catholics. The middle-market tabloid the *Daily Mail* declared that abortion had become “a burning election issue.”

Commentators were mixed on whether this was actually true and whether it was a good or bad thing. A columnist in the *Times* warned of “single-issue politics” dominated by “extremists” and of “threats and moral blackmail which have infected political campaigning in America.”⁵² Blair had no interest in debating the issue: “It would be a pity if this did become a party-political issue, or indeed a general election issue.” Howard and his senior advisors denied that they were trying to campaign on abortion—Howard had simply responded honestly to a reporter’s question. But journalists and Labour officials accused the Tories of waging an American-style campaign that focused on hot-button issues.⁵³ The abortion flap lasted only a week as the Tories turned to another hot-button issue—gypsy and traveler camps—and opposition to immigration soon became the centerpiece of the Tories’ losing campaign.⁵⁴

In the 2010 campaign, the Conservative Party revisited the abortion issue. In one of the first interviews of the campaign, party leader David Cameron told the *Catholic Herald* that he supported reducing the upper time limit for abortion, opposed assisted suicide, and thought that religious schools should be free to decide how they taught sex education. But Cameron stressed that “what’s really important here is that members of Parliament are always allowed a free vote on this issue. This is an issue of conscience, so it would be wrong to put pressure on parliamentary colleagues when it comes to voting on this.”⁵⁵

A possible objection to my arguments about the ways that Britain’s closed parties have handled the abortion issue is that some issues are just inherently “issues of conscience,” and neither party could change that if

it wanted to. In this view, parties avoided abortion not because they are closed to new movements, but because there was a social consensus that abortion was not a matter for party politics. The discussion above suggests that there is something to this, but it also suggests that the degree to which abortion should be a partisan issue is a matter of dispute. It is certainly the case that once an issue gets established as an “issue of conscience,” as abortion was during the 1967 reform, it is difficult to change that definition. Politicians who wish to avoid the issue are glad of that, but there are no inherent “issues of conscience”; various issues, including capital punishment, gay rights, and Sunday commerce, have been whipped at some times and treated as “issues of conscience” at others.⁵⁶

Closed Canadian Parties Avoid Abortion

As in Britain, Canadian abortion activists faced relatively closed parties and never gained much power or influence within them, and the parties avoided the abortion issue during the 1970s and 1980s. The Liberal Party enacted the 1969 abortion reform, but did so through an omnibus bill and a free vote on its abortion clauses; and after reform, Liberal Governments studiously avoided the issue. Liberal MPs were more likely to vote for abortion rights than Tories, but both parties had members on the other side, and the Liberals were heavily reliant on Catholic votes.⁵⁷ The year after the 1969 reform, a Liberal policy conference passed a resolution calling for increased abortion provision and the removal of abortion from the criminal code; and the next year, the party’s task force on the status of women made a similar proposal, and this was approved by party activists; but the Liberal Government repeatedly refused to act.⁵⁸ As Henry Morgentaler was prosecuted and imprisoned by Quebec’s Liberal Government in the early 1970s, the federal Liberal Government did nothing to aid him, and when the Parti Québécois announced that it would no longer enforce the federal abortion law in the province, the federal Government looked the other way. CMA president Bette Stephenson complained that the association’s proposals to eliminate hospital abortion committees had been met by “the usual Ottawa activity—masterful inactivity.”⁵⁹ In 1975, the Government appointed the Badgley Committee mainly to defuse the issue and get the CMA off its back, and in 1983, the Liberal Government began a review of the criminal code, but refused requests to include the abortion law in this review.⁶⁰

The Progressive Conservatives (Tories) also avoided the issue during the 1970s and 1980s. Although there were more pro-lifers among the

Progressive Conservatives than among the Liberals, the Tories still did not have the strong antifeminist bent of the American Republicans. At a debate on women's issues during the 1984 election, the three parties barely differed. The Tory candidate said that the party would continue to allow a free vote on abortion and expressed support for the law as it stood. After the Supreme Court struck down the federal abortion law in January 1988, abortion was barely mentioned in that year's election. According to *MacLean's*:

Both [Progressive Conservative] Mulroney and [Liberal] Turner—their parties divided—have dodged the question, clearly loath to attract unwelcome attention from anti-abortion and pro-choice groups. Last August, Mulroney said that abortion should be allowed in cases of rape and incest and “certain personal situations.” . . . Meanwhile, Turner last week refused to reveal how he would counsel his own daughter on abortion, arguing that it was “such a personal question.”⁶¹

As I detail in the next chapter, when the Tory Government finally introduced an abortion bill in 1988, it did so only because the Supreme Court had struck down the abortion law, and the Government mainly tried to avoid offending either side. After the bill failed, the Government refused to introduce new legislation.⁶²

Canada's main third party during the 1970s and 1980s, the NDP, was more supportive of abortion rights. The federal NDP adopted a resolution supporting the removal of abortion from the criminal code in 1971. NDP Governments in Ontario and British Columbia (1990–95 and 1991–2001, respectively) also supported abortion rights. But Manitoba's NDP Government (1981–88), which combined social democracy with conservative positions on social issues, opposed Morgentaler's 1983 attempt to open an abortion clinic there.⁶³

After the failure of the Mulroney bill in 1990, abortion was occasionally a minor issue in Canadian elections.⁶⁴ In 1993, Liberals for Life sought party nominations in about 20 percent of ridings (districts). The campaign director of the Ontario Liberals privately urged Liberal leader Jean Chretien to disavow them, saying, “These Liberals for Life are nasty single-issue people who are prepared to try every trick in the book. They couldn't care less about the impact of adverse publicity on the Liberal party. In fact, they seek it out.”⁶⁵ Chretien did not take this advice, instead simply saying that although he did not intend to introduce abortion legislation, the party had promised more power to backbench MPs and, as a result, Parliament would eventually vote on the issue. NDP leader Audrey McLaughlin called the Liberals “policy challenged” on abortion and criticized

Tory leader Kim Campbell for supporting the recriminalization of abortion when she was Mulroney's justice minister.⁶⁶ Chretien mocked McLaughlin's attempt to bring abortion into the campaign, saying, "This is not an issue." But after Liberal MPs criticized Chretien's vague statements, he clarified that "the position of the Liberal party is not to introduce a bill on abortion." Campbell insisted that she was pro-choice and that her preference was "not to legislate."⁶⁷

After the 1993 election decimated the Progressive Conservatives, and the recently formed Reform Party made impressive gains, abortion became more prominent in Canadian politics. Reform and its successor, the Canadian Alliance, were populist Conservative parties originating in western Canada that had strong links with pro-life, pro-family, and antifeminist groups. During the 1997 campaign, Reform leader Preston Manning, an evangelical Christian, said that his party would hold a national referendum on abortion, but would not say whether he planned to recriminalize abortion. "All we're saying is in the future we will be forced to define the rights of the unborn."⁶⁸ In 2000, two candidates for the leadership of the Canadian Alliance, Preston Manning and Stockwell Day, both said that they were personally opposed to abortion and would support a referendum on the issue. Other candidates opposed such a referendum. Keith Martin said the party should avoid the perception "that we are going to legislate people's personal or moral values. . . . [W]e should stay away from these issues."⁶⁹ Once Day won the leadership with the support of pro-life activists, he assured the general electorate that he would not make abortion a top priority, but an Alliance campaign briefing said that signatures from a mere 3 percent of the electorate would trigger a referendum—this amounted to about 400,000 people, and the pro-life movement had already delivered a petition with one million signatures to the Government during the 1970s. Day disavowed the figure, but his opponents pounced. Tory leader Joe Clark claimed that Day had a "hidden agenda," and Liberal leader Jean Chretien said that "Canadians don't want a party that threatens a woman's right to choose."⁷⁰ Though the Liberal Party had never taken an official position on abortion, Chretien's statements certainly gave the impression that the party now supported abortion rights.⁷¹

In 2003, the Canadian Alliance merged with the Progressive Conservative Party to form the Conservative Party. Party members fought internally over abortion, but did not establish an official position. During the 2004 campaign, party leader Stephen Harper was repeatedly asked about abortion, but he insisted that the only social issue he would pursue would be a ban on same-sex marriage and he would give MPs a free vote.⁷² Still,

the Liberals attacked Harper for his refusal to say that he would discourage party MPs from introducing private member's bills on abortion.⁷³ Liberal leader Paul Martin boasted, "I will never infringe on a woman's right to choose. I will never infringe on the *Charter of Rights*."⁷⁴ He also claimed that he would discourage Liberal MPs from introducing abortion private member's bills and would whip any vote that sought to use the *Charter's* "notwithstanding clause" to trump the Supreme Court's abortion decision.⁷⁵

In March 2005, the Conservative Party held its first policy convention since its founding. Party leaders first tried to suppress debates on abortion, same-sex marriage, and euthanasia, but eventually allowed them,⁷⁶ and by a vote of 55 to 45, the convention declared that "a Conservative Government will not initiate or support any legislation to regulate abortion." But during the 2006 campaign, the Liberals still claimed that Harper was a threat to abortion rights; during one debate, Martin pledged to abolish the "notwithstanding clause" and criticized Harper for refusing to do the same. He asked why Harper would not "stand up for a stronger *Charter of Rights and Freedoms*?" and said the answer was "obvious"—Conservatives had promised "right-wing conservative groups that if they are elected, they will ensure parliamentary votes on a woman's right to choose, on same-sex marriage and other social issues, and that these votes will not matter unless Mr. Harper retains the power to override the *Charter*. That is the hammer he wants to keep."⁷⁷ Martin also accused Harper of a secret plan to "pack" the Supreme Court with justices that would overturn rights to abortion and same-sex marriage. "Are we going to find ourselves in the same situation that they are in the United States, where in fact it is not only the competence of a judge that governs, but in fact it is a judge's social views?"⁷⁸ Once elected, the Harper Government, as promised, introduced an unsuccessful motion to reopen the debate on same-sex marriage but did not offer abortion legislation.

In 2010, the abortion issue heated up once again in advance of elections expected either at the end of the year or early in the next. Interestingly, both parties accused one another of reopening the abortion issue. In January, Harper announced that he would make maternal and child health in poor countries the main focus of his upcoming presidency of the Group of Eight (G8). But later that month, journalists and pro-life activists asked why the coalition supporting Harper's initiative included a pro-choice group. Liberal leader Michael Ignatieff seized on the issue, urging the Government to include abortion funding in his plan and bemoaning the George W. Bush administration's "global gag rule" that refused foreign aid to organizations that performed or promoted abortions.

(The policy was reversed by President Obama.) The Harper Government immediately accused Ignatieff of making abortion a “political football” but would not say whether it planned to fund abortions under the plan. In March, the Liberals upped the ante by sponsoring a parliamentary motion urging the Government to include “the full range of family planning, sexual and reproductive health options” in its plan. The motion did not mention abortion but implied it by decrying the “failed right-wing ideology” of the George W. Bush administration’s “global gag rule.” Ignatieff first claimed that the Liberal MPs would have a free vote on the motion, but eventually whipped them. The Liberals should have had enough votes to pass the motion (with the assistance of the NDP and the Bloc Quebecois) but fell embarrassingly short after fourteen Liberal MPs failed to show up for the vote and three voted nay. Ignatieff said that the MPs would be subject to “internal discipline.” Conservatives whipped their members against the motion, decrying it as “a transparent attempt to reopen the abortion debate.”⁷⁹

Abortion remained on the front pages throughout the spring and summer. In late March, U.S. Secretary of State Hillary Clinton visited Canada and urged the Government to include abortion in the maternal health initiative,⁸⁰ and in April, Harper announced that the maternal health initiative would not fund abortions. “Canadians want to see their foreign aid money used for things that will help save the lives of women and children in ways that unite the Canadian people rather than divide them.”⁸¹

In May, an unusually large number of demonstrators (15,000) attended the annual March for Life on Parliament Hill and hailed Harper’s recent actions. Both pro-life and pro-choice activists claimed that a parliamentary debate on abortion was imminent and that Harper had signaled his intention to reopen the issue, but pundits could not decide whether Harper or Ignatieff had reopened the debate and whether Harper was avoiding it or embracing it; some said he had avoided it and then embraced it.⁸² Ignatieff claimed that he knew who started it: “Recently, the Conservatives have accused us of trying to start a culture war, but let’s be clear: we didn’t end the 25-year consensus on a woman’s right to choose. They did.”⁸³

Open American Parties Avoid and Then Embrace Abortion

The American story of political parties and the abortion issue is longer and more complicated than the British and Canadian ones. During the

1960s and early 1970s, the two parties mainly avoided the abortion issue, but during the seventies they gradually polarized on abortion, and by 1980, they had firmly embraced opposing positions. Catholics were the original abortion opponents, but they were joined by the New Right (with many Catholic leaders) in the mid-1970s and evangelical Christians at the end of the decade. With the rise of Ronald Reagan, social conservatives became key partners in the Republican coalition. At the same time, feminists gained influence in the Democratic Party.⁸⁴ American candidates and parties began to take firm positions on abortion in state and national party platforms, campaign speeches, and political advertising (see table 5.2 and appendix 1).⁸⁵

Polarization on abortion was part of a broader party polarization on a wide range of issues. This was mainly the result of rightward movement by Republicans rather than leftward movement by Democrats, and it mainly involved legislators and activists rather than voters.⁸⁶ This polarization had several causes: The two parties became more purely ideological as southern conservatives started moving from the Democrats to the Republicans after the Civil Rights Act of 1964; gerrymandering increased the number of safe seats in Congress and caused legislators to pay more attention to primary voters than the general electorate; ideologically conservative activist groups, including the Christian Right, became an important source of campaign funding and voter mobilization, and they were willing to support primary challenges to moderate Republicans; and finally, increased campaign spending by the Republican Party and the personal campaign committees of its leaders provided another tool for disciplining moderates.⁸⁷

In 1970, it was not obvious that either party would embrace the abortion issue or which side the parties might take. Most Catholics were Democrats, while well-to-do mainline Protestants, who generally supported contraception and abortion, formed the backbone of the Republican Party. Many Republicans supported family planning to defuse the “population bomb” and as a method of reducing crime and welfare spending. Republican President Richard Nixon, Vice President Gerald Ford, and National Security Advisor Henry Kissinger were all strong proponents of population control.⁸⁸ Finally, many Republicans supported women’s rights—the party was the first to support the Equal Rights Amendment (ERA). A June 1972 Gallup poll that asked whether “the decision to have an abortion should be made solely by a woman and her doctor” found 68 percent of Republicans and 59 percent of Democrats in support.⁸⁹

But there were also reasons to predict the partisan alignment on abortion that eventually emerged. Many feminist activists were veterans of

the civil rights and antiwar movements that were building a home in the Democratic Party, and the party's support for African American rights suggested that it might support women's rights as well. In addition, Nixon aide Kevin Phillips had argued in 1970 that the party could steal white southerners and ethnic Catholics from the Democratic New Deal coalition by mobilizing a backlash against the racial, gender, and sexual changes of the 1960s—with abortion as a key symbol.⁹⁰ The racial backlash expressed in the campaigns of Barry Goldwater in 1964 and George Wallace in 1964 and 1968 is well known, but the Wallace campaign also include an incipient gender and sexual backlash.⁹¹

Throughout the 1970s, the parties gradually polarized on abortion. In October 1970, Jerry Brown, the Democratic candidate for attorney general in California, reported that the state Republican Party had recently sent representatives to half of the Catholic churches in Orange County to sign up new members by informing parishioners that the California Democratic Party had adopted a platform plank supporting “abortion on demand.” Brown claimed that the national Republican Party was watching this experiment closely.⁹²

That seemed to be true. At the advice of his conservative Catholic aide, Patrick (Pat) Buchanan, Nixon began to express opposition to abortion. In April 1971, he revoked a policy in which military hospitals provided therapeutic abortions regardless of state law, arguing that abortion was an “unacceptable form of population control” and announcing that “abortion on demand, I cannot square with my personal belief in the sanctity of human life—including the life of the yet unborn.”⁹³ In March 1972, he distanced himself from the Rockefeller Commission on population control, which he had himself commissioned and which endorsed abortion reform. And in May 1972, he sent a letter to the archbishop of New York, Cardinal Terence Cooke, supporting his attempts to roll back New York's 1970 abortion repeal.⁹⁴

In the 1972 general election, Nixon painted his Democratic opponent George McGovern as a supporter of “abortion on demand,” though McGovern denied it. As the Democratic primaries were beginning in January, McGovern said, “in my judgment, abortion is a private matter which should be decided by a pregnant woman and her own doctor. Once the decision has been made, I do not feel the laws should stand in the way of its implementation. I do believe, however, that abortion is a matter to be left to state governments.”⁹⁵ But in April, the *Washington Post* quoted an anonymous Democratic senator doubting McGovern's chances in the remaining primaries. “The people don't know McGovern is for amnesty, abortion and legalization of pot. Once middle America—Catholic middle

America, in particular—finds this out, he's dead."⁹⁶ Senate Republican leader Hugh Scott transformed this anonymous quote into a taunt—"the triple-A candidate—abortion, amnesty and acid"—and this was picked up by other Democratic candidates as well as by pro-life activists.⁹⁷

Buchanan's "Assault Book" for the general election laid out the issues on which Nixon would campaign against McGovern. It began with "Social Issues—Catholic/Ethnic Concerns. 1. Abortion/ZPG [Zero Population Growth]/Contraceptives 2. Amnesty 3. Marijuana 4. Aid to Nonpublic Schools." He recommended that a flyer contrasting the abortion positions of the two candidates be distributed at the Right to Life Convention in June, that antiabortion groups include the flyer in their mailings, and that an October "position flyer" lay out "major issues of concern to Catholics—i.e., parochial schools, abortion, pornography, etc."⁹⁸ As Phillips put it, Republicans tried to portray McGovern as "a radical whose election could jeopardize the fabric and stability of American society."⁹⁹

In May, McGovern tried to distance himself from his earlier abortion position: "I have proposed no action in this field. As president, I would propose no action. This is an issue in which the state has sole jurisdiction. I don't propose to enter this area."¹⁰⁰ But syndicated columnist Louis Cas-sels wasn't buying McGovern's line: "Catholics know—and Republicans won't let them forget it—that McGovern was saying only a few months ago that 'abortion is a private matter which should be decided by a pregnant woman and her own doctor.' In other words, he favored abortion-on-demand with no legal restrictions."¹⁰¹

As Nixon maneuvered on abortion, his party was still quite supportive of women's rights. In 1971 and 1972, bipartisan majorities enacted more women's rights legislation in a single Congress than in all previous ones combined, including the ERA, which then needed to be ratified by the states. At the 1972 conventions, neither party adopted a platform plank on abortion—though both included statements supporting family planning (see appendix 1). Reforms within the Democratic Party had increased women's representation at the convention from 13 percent of delegates in 1968 to 40 percent in 1972. Many of these new delegates were associated with NOW or the National Women's Political Caucus (NWPC).¹⁰² These organizations had strong links to McGovern's campaign, and the platform addressed most of their key issues—the ERA, comparable worth, and tax deductions for child care. But McGovern balked at the inclusion of an abortion plank. Feminists forced a floor vote, but McGovern successfully whipped his delegates against it.¹⁰³

Women were also better represented at the Republican convention.¹⁰⁴

As Republican feminist Tanya Melich put it, Nixon “was in bed with the new conservatives, but was flirting with us.”¹⁰⁵ The Republican platform expressed support for a range of feminist initiatives including the ERA, equal pay, and women’s full participation in politics. Feminists also managed to secure a plank supporting federally assisted child care, even though Nixon had just vetoed such a bill.¹⁰⁶ On abortion, feminists had enough votes to force a floor fight but decided against it; some did not want to embarrass Nixon; others worried that it might hurt the state repeals; still others heard rumors that Nixon wanted a floor fight because the sight of his party voting down an abortion plank on national television would help him in the general election.¹⁰⁷

At the 1976 conventions, the two parties took their first formal, and opposing, positions on abortion—though these did not completely reflect the views of the presidential nominees.¹⁰⁸ During the primaries, Carter announced that he was personally opposed to abortion but would not seek a constitutional amendment banning it, and he opposed public funding. Some have suggested that his position was an unsuccessful attempt to appeal to both sides of the debate, while others convincingly argue that both his opposition to abortion and his commitment to the separation of church and state were based in his Southern Baptist faith.¹⁰⁹ The Democratic platform plank on abortion was mild, it acknowledged “religious and ethical” concerns about abortion, and said that it was “undesirable” to amend the Constitution to prohibit abortion.¹¹⁰

In the Republican Party, the New Right was on the rise behind its standard bearer Ronald Reagan, and abortion was becoming one of its key issues. After Congress passed the ERA in 1972 and the Supreme Court handed down *Roe* in 1973, long-time conservative activist Phyllis Schlafly launched a grassroots, antifeminist, pro-family movement. She mobilized many fellow Catholics as well as evangelical Christians, paving the way for later alliances between the New Right and the Christian Right. Schlafly repeatedly claimed that the ERA would liberalize abortion laws.¹¹¹ She framed abortion as an abandonment of motherhood rather than as murder, complaining that “women’s libbers are promoting free sex instead of the ‘slavery’ of marriage. They are promoting Federal ‘day-care centers’ for babies instead of homes. They are promoting abortions instead of families.”¹¹²

The nomination contest between Ford and Reagan had not been decided by the time of the convention. Though Reagan had signed the 1967 California abortion reform, he now said he would support a constitutional amendment to ban abortion. Ford’s aides and his wife Betty, who was pro-choice, urged him to support abortion rights, but instead he took

Political Institutions and Abortion Policy

This book examined the abortion policies of Britain, Canada, and the United States: three countries that shared “secular majoritarian” abortion politics and “gatekeeping” policies during the 1960s but eventually diverged as the United States moved to an “own reasons” policy and “negotiated” abortion politics. During the Long 1960s, Britain, Canada, and the United States all reformed their abortion laws, but the American national reform was more liberal than those in the other countries—allowing abortion on request for women’s own reasons. The British reform allowed abortions only for reasons of health, fetal abnormality, or limited social grounds and only with the approval of two doctors. The Canadian reform was the most restrictive, allowing abortions only for reasons of health and only with the approval of a hospital abortion committee. After the reforms of the Long 1960s, abortion sparked controversy and movement mobilization in all three countries, but only the American movements succeeded in moving abortion to the center of politics and only the United States experienced frequent policy changes that reduced the quality and availability of abortion services. In Britain and Canada, Governments and political parties successfully avoided the abortion issue. Abortion policies changed infrequently and usually outside of partisan politics, and most of these changes expanded abortion services. These differences among the countries prompted me to pose several questions at the beginning of the book: How did the United States, founded by Puritans,

with high levels of religious belief and observance, and typically backward in social and sexuality policies, end up with one of the most liberal abortion policies in the West? Why did abortion become a party political issue in the United States but not in the other countries? And why was the American pro-life movement more successful than its counterparts in the other countries?

My answers to these questions focused on the ways in which macro-level political institutions mediated the actions of meso-level actors. I showed that political institutions such as health-care policies, electoral and party systems, and policy venues strongly influenced the understandings and actions of medical interest groups, political parties, and social movements. My institutional approach suggests several modifications of theories meant to explain the actions of these groups. For example, interest group theories argue that powerful interest groups routinely translate their preferences into policy and that similarly situated groups typically have similar preferences. But I showed that the preferences, and especially the priorities, of similar groups can vary because they are constructed within differing political institutions. Medical associations in all three countries shared common interests on abortion. They opposed “abortion on demand” because it threatened their clinical autonomy. Instead, they wanted to maintain their role as abortion gatekeepers—“diagnosing” the “medical necessity” of abortions. They agreed that abortions should be available only in legally defined circumstances such as health or fetal abnormality rather than for a woman’s own reasons and that doctors should determine when women meet these circumstances. But though the medical associations shared these common preferences, they did not pursue them with equal vigor or persistence. American doctors were located in a system of private, fee-for-service medicine that gave them great wealth and power. Preserving that system was their highest priority, and, as a result, they were more concerned with protecting their economic power than their clinical autonomy, in part because they believed that the former was their best guarantee of the latter. In addition, at the very moment that abortion reforms hit the political agenda, the AMA faced an imminent threat to fee-for-service medicine—an alliance of powerful actors pushing for national health insurance that seemed likely to win. Moreover, by observing developments in a few states that had repealed their abortion laws, American doctors realized that even if abortion laws were repealed, they could easily avoid unpleasant abortion work and “demanding” patients by simply refusing to provide abortions. Women seeking abortion would have to find them in single-purpose clinics rather than in the hospitals and offices of mainstream medicine.

For all of these reasons, American doctors eventually ceded their role as abortion gatekeepers. In 1970, the AMA passed a policy resolution that said abortion should be provided when it was “in the best interests” of patients, but unlike earlier resolutions, this one did not specify legally defined grounds for which doctors should approve abortions—a policy of *de facto* abortion on request.

By contrast, British and Canadian doctors were located in medical systems in which the government funded, and in Britain provided, medical care. Doctors had fought but failed to prevent these systems of health care. In the process, they reached accommodations with the state in which they were compensated for reduced control over the economics and organization of medical care through a guarantee of extensive clinical autonomy. As a result, they guarded their clinical prerogatives jealously including when they were threatened by abortion reforms. During consideration of abortion reforms, the BMA, the RCOG, and the CMA lobbied Parliament to ensure that abortion reforms maintained doctors’ gatekeeping authority over abortions. They sought to ensure that abortions were allowed only for reasons of health or fetal abnormality and only with the approval of multiple doctors. In sum, doctors were similarly situated with regard to abortion and shared some common interests, but their priorities differed in the context of differing health-care systems.

Theories of social movement impacts suggest that movements will be more successful when they are large and rich, when they match their tactics to the contexts in which they contend, and when they develop meanings that resonate with policy makers and the public. I showed that political institutions mediated each of these factors. The American pro-choice movement was the largest and most radical of the three, but this was largely a result of the pace and timing of the reforms in the three countries. For many years, American states made abortion reforms one by one. This slow, state-level policy making provided opportunities for policy learning and the development of new coalitions and claims. Early reformers were disappointed with the implementation of the first state reforms because they did not markedly increase the availability of abortions. They began to call for the complete repeal of abortion laws and were joined in these calls by civil liberties lawyers and an emerging second-wave feminist movement. In Britain and Canada, by contrast, policy making was quick and reforms were early. There was no similar opportunity for early reformers to revise their claims after policies were implemented, and the reforms occurred well before second-wave feminism had gained strength. The relative success of the American pro-choice movement was not just a function of its greater numbers, however. Abortion became

more controversial around 1970 as feminists and pro-lifers faced off. As a result, policy makers shied away and state-level reforms stalled. If state legislatures had been the only venue available, pro-choice activists probably would have been best off taking assertive actions against them. But there were other, more favorable, venues available—the courts. The pro-choice movement moved contention to them and developed new “privacy rights” meanings for abortion that resonated there. This meaning construction was aided by the failure of the AMA to defend more medical understandings of abortion.

Partisanship theories suggest that left-wing governments will establish the most liberal abortion policies (usually after internal party pressure from feminists) and that Christian democratic parties will establish more conservative policies. As I showed in chapter 1, partisanship seems to explain differences in the abortion policies of OECD countries pretty well. But in the case of Britain, Canada, and the United States, the governments in the three countries were broadly centrist, and none was especially committed to feminism; but they still varied in their support for abortion reform. The British and Canadian center-left governments were mildly supportive of reform while the American state and federal governments sought to avoid the issue after it became polarized around women’s rights and fetal rights. This difference among the governments is best explained by the combination of timing and policy venues. As I mentioned above, the campaigns for abortion reform in Britain and Canada preceded the emergence of second-wave feminism in those countries, and thus did not include controversial claims for abortion on request. The British and Canadian governments, like state governments in the United States, approved gatekeeping reforms that delegated the issue to the medical profession rather than reforms that allowed abortion on request for women’s own reasons. In addition, any reticence that the British and Canadian Governments might have felt about legislating in such a controversial policy area was ameliorated by the availability of nonpartisan parliamentary processes that helped them avoid blame.

Another crucial difference between the abortion reforms in the three countries was the policy venues in which they were made—the Supreme Court in the United States and Parliament in Britain and Canada. The American justices delivered a reform that was more liberal than the public and elected policy makers probably wanted—though neither was exactly sure what they wanted. This occurred for a few reasons. The justices noted that the AMA no longer favored the specification of legal grounds by which doctors should approve abortions. Moreover, because the justices were appointed rather than elected and did not regularly interact

with constituents, they underestimated the breadth and depth of opposition to abortion on request. And they were supposed to rely mainly on the law rather than public opinion to guide their decisions anyway. In Britain and Canada, members of Parliament were both more attuned to mass and elite opinion and more constrained by it. They deferred to medical elites who urged caution, and they used nonpartisan parliamentary processes that helped them avoid blame for the reforms.

The abortion reforms left several questions of implementation unresolved. Who would provide and pay for abortions? And how would doctors interpret legal grounds? By the end of the 1970s, the three countries had answered these questions. American women could obtain abortions without the approval of medical gatekeepers and for their own reasons, but usually had to pay for those abortions themselves, even when they could not afford to do so. The vast majority of abortions were provided in specialized clinics segregated from hospitals and other mainstream medical institutions. Canadian women could obtain abortions only with medical approval for reasons of medical necessity, but abortions were paid for by the state. The vast majority of abortions were provided in hospitals. Specialized clinics were illegal in Canada, but about 20 percent of abortions were provided in American clinics and paid for by patients. British women needed medical approval for abortions, but the grounds were broader than in Canada and doctors interpreted them more liberally, especially in private clinics. The state paid for the half of abortions provided in NHS hospitals, but patients paid for the half provided in specialized clinics.

These differences in implementation sprang from the differing medical-care systems and meanings of abortion reform in the three countries. Britain and Canada had national health insurance systems, and their abortion reforms constructed abortion as a medical necessity. As such, few suggested that the state should refuse to pay for abortions. Still, many doctors and hospitals resisted providing them. In Britain, the law allowed for private provision outside hospitals, which gave women an alternative source of provision, but they had to pay for those “private” abortions themselves. Canadian women had no domestic alternative to hospital gatekeeping, but many women sought clinic abortions in the United States. The United States had national health insurance only for the poor and elderly. Abortion on request allowed pro-lifers to construct abortions as “elective,” and thus made it easier for them to deny coverage to the poor. In many years, Congress denied coverage to the poor even for “medically necessary” abortions. This provoked little outrage in

a country where health rights were less entrenched and where the main victims of the policy lacked political power.

After the abortion reforms, pro-life movements tried to roll them back in all three countries, but only the American movement succeeded in moving abortion to the center of politics and bringing about reductions in the quality and availability of abortion services through public funding bans, spousal and parental consent requirements, waiting periods, and mandatory counseling. British and Canadian parties and governments avoided the issue and kept it out of politics and off Parliament's agenda. Changes in abortion policy in these countries were rare and mainly expanded abortion services through increased public funding and reduced gatekeeping. These differences are best explained by party and electoral systems, and in particular, the relative openness of American political parties to social movements. In the United States, large movements concerned about abortion—such as the New Right, the Christian Right, and the feminist movement—took advantage of party openness to gain power within the Republican and Democratic parties. The parties took increasingly polarized positions on abortion. Low-turnout, expensive, candidate-centered elections gave abortion movements influence disproportionate to their numbers. Decentralized, coalitional parties provided them with multiple points of access. And party democracy welcomed their input when parties chose candidates, leaders, and policy goals. The closed parties of Britain and Canada denied such influence to similar movements; and party discipline, agenda control, and nonpartisan parliamentary processes helped parties to keep the issue out of elections and policy making. In the United States, once abortion movements became attached to parties, the pro-life movement benefited from the electoral successes of the Republican Party.

The relative success of the pro-life movement was also shaped by the policy venues of both the initial reforms and later policy making. The American reform occurred through a Supreme Court decision that was especially controversial. The court went farther than the public and most elected policy makers desired, justified its decision in arcane and unusual terms, focused attention on the issue, and inspired claims of judicial overreach and the usurpation of democracy. The court's decision did not settle the issue but instead kicked off a never-ending back and forth with state and federal legislatures. The decentralized American polity offered numerous access points for movement activists to press for advantage. By contrast, the British and Canadian reforms occurred in a Parliament that was more responsive to public opinion, and especially elite opinion. The

British and Canadian reforms were narrower, less visible, and made by elected officials. After reform, successive Governments kept abortion out of politics and policy making through party discipline, agenda control, and the use of private member's bills and free voting. Finally, the patterns of medical involvement established during reform continued after it: American medicine continued to avoid the abortion issue. It failed to vigorously defend the abortion reforms or fight for abortion access, and its absence from the debate cleared the field for nonmedical constructions of the issue relating to fetal and women's rights, increasing controversy and promoting the mobilization of pro-choice and pro-life movements. By contrast, British and Canadian medical associations remained heavily involved in abortion policy; they defended abortion services, sought their expansion, and gradually came to support abortion on request for women's own reasons. Their continued involvement helped ensure that abortion was constructed largely as an issue of health, and this reduced controversy.

At several points in this book, I contrasted my institutional explanations for differences among the three countries with the most prominent alternative explanation: national values. I found explanations based on the classical liberalism of the United States unpersuasive. All three countries have strong traditions of classical liberalism, and there were strong similarities between American state-level reforms of the late 1960s and the national reforms of Britain and Canada. The United States did not suddenly become more classically liberal in the three years between the last state-level reform and the national reform. The liberalism argument also suggests that the *Roe* decision was foreordained by values enshrined in American law by Oliver Wendell Holmes, but as my discussion of the *Roe* decision in chapter 3 showed, its outcome was actually highly contingent and depended on a complex intersection of political institutions, strategy, and biography.

Another national values argument suggests that abortion is so controversial and politicized in the United States because so many Americans belong to antiabortion faiths and because Americans are, in general, more religious than Britons or Canadians. As a percentage of the population, the United States has more evangelical Protestants than either of the other countries while Canada has more Catholics, but the United States has the most of the two groups combined. Proponents of this argument must first deal with the fact that the United States, counter to this religiosity thesis, enacted the most liberal abortion reform of the three countries during the Long 1960s. Religious differences also did not lead to substantially different public opinion on abortion. In all three countries,

majorities supported abortion for health grounds but opposed abortion for social ones. The religious differences probably did contribute to the higher levels of pro-life mobilization in the United States and Canada, but this is not enough to explain the high levels of politicization in the United States. All of the countries had substantial pro-life movements, but these movements made inroads only within American political parties. A difference in degree, the size of the movements, cannot explain the virtual absence of abortion party politicization in Britain and Canada. Finally, the mere presence of evangelicals or Catholics in a country should not be taken to mean that those groups will automatically mobilize on abortion. Religious mobilization on abortion had to be constructed, and it varied over time and across countries. Finally, I argued that the liberal American reform and its construction of abortion as a woman's right, as opposed to Britain's and Canada's medical construction of the issue, contributed to the heavy mobilization on abortion in the United States.

Rethinking American Abortion Politics

This account of differences between the abortion policies and politics of Britain, Canada, and the United States challenges conventional understandings of American abortion policy and politics in several ways. In particular, it highlights the unusual breadth, controversy, and politicization of the American reform of the Long 1960s and the relative absence of the medical profession from the American abortion debate. My comparative approach highlights how liberal the 1973 American reform was in comparison with the reforms in Britain and Canada. In the United States, abortions were available on request for women's own reasons while the other countries required medical or social necessity and the approval of gatekeepers. Single-country studies, and even some comparative ones, often ignore this crucial difference, perhaps because the three countries have converged on abortion gatekeeping in recent years. But this initial difference should not be forgotten because it helps explain the controversy and fragility of the American reform. I explained the relative breadth of the American reform through the differing positions of medical associations, policy making through courts versus legislatures, and the timing of the reforms. Lengthy state-level policy making allowed American reformers to learn from earlier reforms, radicalize their claims, and ally with civil liberties lawyers and an emerging second-wave feminist movement. In the other countries, reforms preceded second-wave feminism and demands for abortion on request.

In addition, many observers do not recognize that high levels of post-reform controversy and politicization in the United States are unique. Many abortion reforms in rich countries during the 1970s and 1980s were highly controversial, but after these reforms, controversy died down and abortion became a marginal issue. Many observers explain the politicization and controversy of the abortion issue in the United States through what they view as the intrinsic characteristics of the issue (its relationship to life and death and its bearing on the social status of motherhood) or through the high religiosity of Americans. These factors are certainly important, but the first two are common to all three countries, and, as I mentioned above, religiosity cannot explain American politicization on its own. Instead, I argued for the importance of two factors—a policy venue, the Supreme Court, that produced a broad reform and heightened controversy; and political parties that were unusually open to newly organized social movements. Britain and Canada established moderate reforms through Parliament, and their closed, disciplined parties kept abortion off political and policy agendas afterward.

Finally, few have noticed the glaring absence of mainstream medicine from the American abortion debate.¹ I showed that the disengagement of American doctors from the abortion issue had its roots in the AMA's priority construction during the late 1960s. But it was accentuated and legitimated by the establishment of an "own reasons" reform, by the social construction of abortion as an "elective" procedure, and by the refusal of the federal government to fund abortions. After reform, the medical profession continued to avoid the issue and organized abortion out of hospitals and the mainstream practice of obstetrics and gynecology. This has forced women to receive abortions from practitioners other than their usual ob/gyn, in segregated clinics where they are more likely to encounter harassment. The medical profession has only grudgingly defended abortion services from political attacks. Things were different in Britain and Canada. Medical organizations were heavily involved in abortion reforms and remained involved after reform as well. As in the United States, many mainstream hospitals and doctors resisted providing abortions, but the level of mainstream provision was always much higher than in the United States. The abortion reforms constructed abortion as "medical necessity" to be diagnosed by doctors and justified abortion services in terms of a right to health. Over time, medical organizations liberalized their positions on abortion. They defended abortion laws against attacks by pro-life activists and even lobbied for the expansion of abortion services. Gradually, they came to support abortion on request.

It seems possible that if the Supreme Court had established a gatekeeping reform instead of an “own reasons” reform, this might have reduced some of the controversy of abortion while eventually leading to abortion on request or something approaching it.² A reform that retained medical control over abortion might have encouraged the medical profession to engage with abortion services rather than segregating them from mainstream medicine. If the profession had been more involved in abortion provision, it might have defended it against its opponents. A “medical necessity” framing of abortion might have increased public support for abortion services and reduced pro-life mobilization. Though such a reform would have initially produced worse abortion access than the “own reasons” one in *Roe*, the British experience suggests that access might have improved over time as doctors broadened their interpretations of abortion grounds. Of course, the medical paternalism of such a reform would not have satisfied feminist activists, and perhaps, as Gene Burns argues, it was already too late by 1973 to retain a medical construction of the issue as fetal and women’s rights ones became prominent. And as I showed, the American medical profession was never particularly eager to involve itself in abortion anyway.³

Rethinking Politics

This study also challenges some conventional understandings of politics. I argued not only that institutions *matter*, but that they matter in three particular ways. First, the goals of social groups are not pre-given but are constructed in particular political-institutional contexts, and part of this construction involves *prioritizing* among multiple goals. Second, the policy impacts of movements depend not just on their resources and strategies, but on the openness of political parties to newly organized groups. Third, policy venues leave distinct marks on the policies that emerge from them.

Many theorists of politics (Marx is the most obvious example) treat the “interests” of groups as naturally occurring and self-evident. But like many historical and political institutionalists, I argued that group interests and identities are constructed in specific historical and institutional contexts and that these constructions leave legacies for future political struggles. As a result, similar groups often perceive and articulate their interests differently. I also focused on the multiple, often cross-cutting, goals of social actors and the ways in which they *prioritize* among these

goals in particular institutional and strategic contexts. Rational choice theorists speak of actors' "rank-ordered preferences" but treat these rankings as fixed for the period of contention. I focused on the ways in which priorities change along with facts on the ground. I also argued that party and electoral systems strongly affect the success of newly organized social movements within political parties. Decentralized parties, candidate-centered elections, and weak party discipline provide more points of access. Intraparty democracy means that movements can help choose party candidates, leaders, and policies. Low-turnout elections and meetings are easier to capture; expensive campaigns offer opportunities to provide money and labor; and coalitional parties give movements a chance to join the dominant coalition. My arguments here resemble "political opportunity" theory in the social movements literature. But the political opportunity literature typically focuses on a large number of potential political opportunities such as the openness of the political system, the stability of elite alignments, alliances with elites, and the repressive capacities of the state. My argument is much more specific than this. I focus only on the openness of the political system and on one particular dimension of that openness—the receptivity of *parties* to movements.

Finally, I argued that policy venues strongly shape the policies that emerge from them. I focused on three specific venues: constitutional courts, state-level policy making, and nonpartisan parliamentary processes. Constitutional courts tend to produce winner-take-all policies articulated through "rights talk" and arcane language. Such policies are often insensitive to public opinion, provoke accusations of non-democracy, and strongly focus the attention of the media and the public. As a result, court decisions are often more controversial than legislative ones. Subnational policy making provides access points for policy change and demonstration, but it also produces gradual national reforms that give the public and opponents more time to take notice and mobilize. The availability of multiple venues hinders the settlement of issues because losers simply move to new battlegrounds. Finally, parliamentary governments are able to use agenda control and nonpartisan parliamentary processes such as private member's bills and free voting to avoid difficult issues and blame for their actions.

Scope Conditions

Many of the arguments in this book are applicable to countries, policies, and social actors other than those examined here, but some have

more limited scope. The arguments rely on contrasts between national and subnational policy making, candidate- and party-centered elections, judicial review and parliamentary supremacy, private and public medical systems, strong and weak agenda control, and partisan and nonpartisan legislative processes; and thus they will be most useful for comparing countries that vary along these dimensions. In addition, arguments about the relative openness of political parties to new movements are mainly relevant to issues and movements of a certain type: issues that are not already organized into the party system, and movements that are large enough to take advantage of open parties. Arguments about nonpartisan legislative processes are mainly applicable to issues that could be defined as “issues of conscience.” My argument about the construction of interest group preferences and priorities is a general one, but the specific application to the medical profession is limited to issues affecting the economic, organizational, or clinical autonomy of doctors (e.g., contraception, preventive medicine, and evidence-based medicine). The argument that radical policies framed in expansive ways tend to be more controversial than moderate policies framed in narrow ways is a general one, but my distinction between medical and women’s rights framings of the abortion issue is limited to the case at hand. My arguments about venue shopping and evasive action by social movements are mainly applicable to polities where this is possible. As I discuss below, the arguments in this book should be especially applicable to abortion policy and politics in other rich democracies, to policies of moral regulation, and to other American movements.

Abortion Policy and Politics in Rich Democracies

My arguments are useful, with some key limitations, for explaining abortion policies and politics in other rich countries. In most of these countries, partisanship (itself related to social cleavages and cultural differences) probably offers the best explanation for the timing and form of abortion policies. Left-wing parties tended to support abortion liberalization (often after lobbying by party feminists), liberal (free-market) parties also supported abortion liberalization (though in a more moderate form), and Christian Democratic parties tended to oppose such liberalization. In countries where left-wing parties dominated, abortion reforms came earlier, often allowed abortion on request for women’s own reasons, and were fairly stable afterward. In countries where there was greater balance between parties, and especially where multiparty coalitions were common,

reforms came later, were usually of the “distress” type, and were followed by more pro-life mobilization and post-reform controversy than in the countries where left-wing parties dominated. Abortion reforms also came later and were more moderate in countries with late democratization and women’s suffrage—though these policies often became more liberal over time.

But partisanship is a less useful guide to abortion policy in majoritarian, two-party systems with weak left-wing parties and no religious party—in other words, in most of the rich, English-speaking countries. Here, relationships between abortion positions and particular political parties were not automatic and political institutional factors were central. The openness of political parties, the priorities of the medical profession, and the venues of policy making helped color abortion policies. In these countries, most parties sought to avoid the abortion issue and were usually able to do so by pawning it off on the medical profession or the courts. When party leaders did act, they tended to do so through non-partisan legislative mechanisms such as free voting and private member’s bills. The one exception, of course, is the United States, where permeable political parties and the many access points provided by federalism and the separation of powers helped strong pro-life and pro-choice movements to politicize the abortion issue.

Even in countries where political partisanship explains much of the timing and form of abortion policies, political institutional factors are still relevant. In particular, they help to explain the low level of controversy over abortion in most rich countries. Most of these countries have national systems of health insurance or health-care provision, and, as a result, abortion has usually been defined as a medical necessity rather than as a moral issue involving competition between women’s rights and fetal rights. Moreover, in such countries, mainstream medicine is typically heavily involved in abortion provision—abortion is not segregated from mainstream medicine as in the United States, and, as a result, medical associations often defend (a medicalized form of) abortion rights. In addition, most rich countries, not just the secular-majoritarian ones, combined free voting on abortion with party-centered elections, and this reduced controversy by helping parties and individual legislators to avoid blame for their actions and remove the abortion issue from electoral politics. Finally, most countries enacted abortion policies through legislatures rather than courts, and this reduced controversy by promoting compromise policies that carried more democratic legitimacy than court-made policies. Countries, such as Germany, where courts weighed in on abortion, experienced more post-reform controversy.

Moral Regulation

Most political institutionalist work to date has focused on policies of social provision such as pensions, health care, and aid to the poor. This book examines legal regulation and especially moral regulation and should be useful for examining other issues of that type—contraception, assisted suicide, pornography, gay rights, divorce, gun control, and capital punishment, to name just a few. These are issues which usually do not line up with the dominant economic cleavages on which many party systems are based, and as such, party positions on these issues must be constructed and the permeability of parties to new movements becomes quite important. In many countries, elected officials seek to avoid these types of issues and are able to keep them out of party and electoral politics through agenda control and the use of nonpartisan legislative mechanisms such as free voting and private member's bills. Sometimes judges fill the policy void, and often produce controversial, winner-take-all policies. Whether made through nonpartisan legislative processes or judicial review, these policies are subject to limited democratic accountability, and, as a result, the views of political and professional elites often prevail: In many European countries and in Canada, for example, public opinion is quite supportive of the death penalty, and yet none of these countries allow it because political elites are opposed.⁴

Other American Movements

This book suggests that American political parties are especially permeable to upstart and outsider movements. But this raises the question of why more movements have not achieved the influence within political parties that the Christian Right and feminists have within the Republican and Democratic parties respectively. One answer is that such influence requires strong sustained mobilization. It is possible that groups with symbolic goals might be better able to sustain this level of commitment than groups with material goals: Given the many veto points in American political system, groups with material goals may become discouraged after they fail to achieve their goals. Groups with symbolic goals may experience more victories and thus stay motivated and persistent. In the case of feminists, and the abortion rights movement in particular, gains have been few, but defensive mobilization against the pro-life movement has helped to sustain, and periodically renew, pro-choice mobilization.

My arguments also suggest that American movements may last longer than those in other countries because the American political system has difficulty settling issues: Given multiple access points, policy gains are frequent, but limited and unsatisfying; and losers can always move the fight to new venues.

The Future of Abortion Policy

In his provocative book, Mark Graber argues that the party politicization of abortion in the United States makes abortion rights less secure. When abortion is a party political issue, abortion policies and judicial nominations depend on which party controls the government. When Democrats take office, abortion rights are secure, but when Republicans do so, abortion rights are threatened. And economic conditions rather than abortion politics mainly determine which party holds office. Graber argues that removing abortion from party politics would preserve the abortion status quo—elected officials would avoid the issue, and judges would protect abortion rights because the vast majority of legal elites, like other American elites, support abortion rights. Graber argues that judges oppose abortion rights only when they are selected for that reason, a practice that would end if abortion was no longer central to party politics. To accomplish this, Graber argues that pro-choice activists should give more support to their allies in the Republican Party than those in the Democratic Party, and focus on defeating those who strongly oppose abortion rights rather than electing those who strongly support them.⁵ Graber's arguments are certainly interesting, but the question becomes, as one reviewer puts it, "how to get the toothpaste back in the tube."⁶ My arguments about the openness of American parties suggest that parties probably cannot keep abortion out of politics even if they want to. And though the pro-choice movement may have an incentive to depoliticize abortion, the pro-life movement does not.

Barack Obama has sought a truce in the abortion wars. This seemed to work during the 2008 elections, but not once Obama took office: The abortion issue almost derailed his central domestic policy initiative, health-care reform. Abortion remains a central issue for the Christian Right. Some observers have recently noted the emergence of young "liberal" evangelicals, but despite their liberal positions on the environment and poverty, they remain strongly opposed to abortion. The Christian Right remains a key member of the Republican Party's conservative coalition, and the party remains dependent on its grassroots mobilization. Party polariza-

tion on abortion will likely continue, despite Obama's calls for a new politics. The permeability of American political parties and the many access points in the American polity mean that abortion will be a central political issue for as long as movements continue to mobilize over it—in other words, for a very long time. Mobilization against same-sex marriage could reduce the resources available to the pro-life movement and displace some attention to the abortion issue. Alternatively, such mobilization could actually increase attention to “moral” issues in general. And even if the same-sex marriage issue crowds out the abortion issue to some degree, it is unlikely that it will displace it completely: Abortion will remain a key issue for Christian conservatives and thus for the Republican Party. Obama's Supreme Court appointees, Sonia Sotomayor and Elena Kagan, followed the recent practice of declining to state their abortion positions during their confirmation hearings, but they will likely protect the *Roe* and *Casey* decisions, especially as these are considered “super-precedents” by many. The real battle will be fought over which burdens are “undue.” The medical profession will probably not be much help to pro-choice activists as it continues to segregate abortion services and stay out of abortion politics.

In Britain and Canada, abortion will likely remain out of politics and policy will change little. In Britain, Parliament will periodically take free votes on the upper time limit for abortion. When Conservatives again gain a majority in Parliament, the limit will probably be reduced from twenty-four to twenty-two weeks, but neither the Conservative Party nor its individual MPs will be held accountable for this change. Pro-choice activists will continue to advocate for the elimination of abortion gatekeeping. They now have the support of the medical associations for this change, but they should be careful what they wish for. The medicalization of abortion in Britain has been a valuable protection for abortion services. On the other hand, there are already so many protections for the status quo in Britain that perhaps they need not worry. Pro-choicers will not be able to eliminate gatekeeping through a private member's bill since neither Labour nor the Tories are willing to provide extra time. Instead, they will need to change the law through a free vote on an amendment to a Government bill, perhaps the next revision of the embryology laws in about ten years time. By then, maybe public and elite opinion may have changed enough, and the Labour Government may believe that it is in a strong-enough position to allow such a vote. The elimination of formal gatekeeping requirements will have little effect on abortion provision since so much gatekeeping is already pro forma, but it will be a victory for women's claims to equal citizenship.

In Canada, the Liberals will likely remain committed to their “pro-choice” “position” of avoiding the abortion issue. They may continue to accuse the Conservatives of a “secret agenda” on abortion, but those claims will become less credible the longer that the Conservatives avoid the issue, and they do not seem inclined to take it up. As this book has shown, the pro-life movement has little capacity to force them to do so. Attempts to limit public funding of abortion have mainly failed, though the Maritime provinces will continue to resist funding and providing abortions. The increased provision of abortions in clinics will likely continue. As in the United States, many hospitals are reluctant to provide abortion services, and single-purpose clinics do offer some real advantages to patients. Importantly, however, these clinic abortions, in contrast to those in the United States, will be funded by national health insurance.

Things may play out differently, of course. Much about politics is unpredictable: Actors creatively build new understandings, discourses, and strategies, and respond to changing contexts and random events. But one thing is certain: Abortion politics will continue to be enabled and constrained by political institutions.

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The archival data for this study are from the following sources: in the United States, the American Medical Association, the National Organization for Women, the National Religious Coalition for Abortion Rights, the Women's Collection at Northwestern University, Planned Parenthood of California, the California History Library, and the State of California Government Documents Archive. In Britain, the Royal College of Obstetricians and Gynaecologists, the National Archives, the Wellcome Institute for the History of Medicine, the Birth Control Trust, and the National Abortion Campaign. In Canada, the National Archives, the Canadian Abortion Rights Action League, the Archives of the Canadian Medical Association, and Planned Parenthood of Canada.

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Statements on Abortion in American Party Platforms, 1972–2008

Year	Democratic Party	Republican Party
1972	Family planning services, including the education, comprehensive medical and social services necessary to permit individuals freely to determine and achieve the number and spacing of their children, should be available to all, regardless of sex, age, marital status, economic group or ethnic origin, and should be administered in a non-coercive and non-discriminatory manner.	Since 1969, we have increased the Federal support for family planning threefold. We will continue to support expanded family planning programs and will foster research in this area so that more parents will be better able to plan the number and spacing of their children should they wish to do so. Under no circumstances will we allow any of these programs to become compulsory or infringe upon the religious conviction or personal freedom of any individual.
1976	We fully recognize the religious and ethical nature of the concerns which many Americans have on the subject of abortion. We feel, however, that it is undesirable to attempt to amend the U.S. Constitution to overturn the Supreme Court decision in this area.	The question of abortion is one of the most difficult and controversial of our time. It is undoubtedly a moral and personal issue but it also involves complex questions relating to medical science and criminal justice. There are those in our Party who favor complete support for the Supreme Court decision which permits abortion on demand. There are others who share sincere convictions that the Supreme Court's decision must be changed by a constitutional amendment prohibiting all abortions. Others have yet to take a position, or they have assumed a stance somewhere in between polar positions.

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Year	Democratic Party	Republican Party
1980	<p>Reproductive Rights—We fully recognize the religious and ethical concerns which many Americans have about abortion. We also recognize the belief of many Americans that a woman has a right to choose whether and when to have a child.</p> <p>The Democratic Party supports the 1973 Supreme Court decision on abortion rights as the law of the land and opposes any constitutional amendment to restrict or overturn that decision.</p> <p>The Democratic Party recognizes reproductive freedom as a fundamental human right. We therefore oppose government interference in the reproductive decisions of Americans, especially those government programs or legislative restrictions that deny poor Americans their right to privacy by funding or advocating one or a limited number of reproductive choices only.</p> <p>Specifically, the Democratic Party opposes . . . restrictions on funding for health services for the poor that deny poor women especially the right to exercise a constitutionally-guaranteed right to privacy.</p>	<p>The Republican Party favors a continuance of the public dialogue on abortion and supports the efforts of those who seek enactment of a constitutional amendment to restore protection of the right to life for unborn children.</p> <p>There can be no doubt that the question of abortion, despite the complex nature of its various issues, is ultimately concerned with equality of rights under the law. While we recognize differing views on this question among Americans in general—and in our own Party—we affirm our support of a constitutional amendment to restore protection of the right to life for unborn children. We also support the Congressional efforts to restrict the use of taxpayers' dollars for abortion.</p> <p>We will work for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life.</p>
1984	<p>There can be little doubt that a Supreme Court chosen by Ronald Reagan would radically restrict constitutional rights and drastically reinterpret existing laws. Today, the fundamental right of a woman to reproductive freedom rests on the votes of six members of the Supreme Court—five of whom are over 75. That right could easily disappear during a second Reagan term.</p> <p>The Democratic Party recognizes reproductive freedom as a fundamental human right. We therefore oppose government interference in the reproductive decisions of Americans, especially government interference which denies poor Americans their right to privacy by funding or advocating one or a limited number of reproductive choices only. We fully recognize the religious and ethical concerns which many Americans have about abortion. But we also recognize the belief of many Americans that a woman has a right to choose whether and when to have a child.</p>	<p>The unborn child has a fundamental individual right to life which cannot be infringed. We therefore reaffirm our support for a human life amendment to the Constitution, and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. We oppose the use of public revenues for abortion and will eliminate funding for organizations which advocate or support abortion. We commend the efforts of those individuals and religious and private organizations that are providing positive alternatives to abortion by meeting the physical, emotional, and financial needs of pregnant women and offering adoption services where needed.</p> <p>We applaud President Reagan's fine record of judicial appointments, and we reaffirm our support for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life.</p>

Year	Democratic Party	Republican Party
1988	<p>We further believe . . . that the fundamental right of reproductive choice should be guaranteed regardless of ability to pay.</p>	<p>We do believe . . . that the unborn child has a fundamental individual right to life which cannot be infringed. We therefore reaffirm our support for a human life amendment to the Constitution, and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. We oppose the use of public revenues for abortion and will eliminate funding for organizations which advocate or support abortion. We commend the efforts of those individuals and religious and private organizations that are providing positive alternatives to abortion by meeting the physical, emotional, and financial needs of pregnant women and offering adoption services where needed.</p> <p>We applaud President Reagan's fine record of judicial appointments, and we reaffirm our support for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life.</p>
1992	<p>Democrats stand behind the right of every woman to choose, consistent with <i>Roe v. Wade</i>, regardless of ability to pay, and support a national law to protect that right.</p> <p>It is a fundamental constitutional liberty that individual Americans—not government—can best take responsibility for making the most difficult and intensely personal decisions regarding reproduction. The goal of our nation must be to make abortion less necessary, not more difficult or more dangerous. We pledge to support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing and enable parents to care most effectively for their children.</p> <p>We will enact a uniquely American reform of the health care system to control costs and make health care affordable; . . . provide for the full range of reproductive choice—education, counseling, access to contraceptives, and the right to a safe, legal abortion.</p>	<p>We believe the unborn child has a fundamental individual right to life which cannot be infringed. We therefore reaffirm our support for a human life amendment to the Constitution, and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. We oppose using public revenues for abortion and will not fund organizations which advocate it. We commend those who provide alternatives to abortion by meeting the needs of mothers and offering adoption services. We reaffirm our support for appointment of judges who respect traditional family values and the sanctity of innocent human life.</p>
1996	<p>The Democratic Party stands behind the right of every woman to choose, consistent with <i>Roe v. Wade</i>, and regardless of ability to pay. President Clinton took executive action to make sure that the right to make such decisions is protected for all Americans. Over the last four years, we have taken action to end</p>	<p>The unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. Our purpose is to have legislative and judicial protec-</p>

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Year	Democratic Party	Republican Party
	<p>the gag rule and ensure safety at family planning and women's health clinics. We believe it is a fundamental constitutional liberty that individual Americans—not government—can best take responsibility for making the most difficult and intensely personal decisions regarding reproduction.</p> <p>The Democratic Party is a party of inclusion. We respect the individual conscience of each American on this difficult issue, and we welcome all our members to participate at every level of our party.</p> <p>Our goal is to make abortion less necessary and more rare, not more difficult and more dangerous. We support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing. For four years in a row, we have increased support for family planning. The abortion rate is dropping. Now we must continue to support efforts to reduce unintended pregnancies, and we call on all Americans to take personal responsibility to meet this important goal.</p>	<p>tion of that right against those who perform abortions. We oppose using public revenues for abortion and will not fund organizations which advocate it. We support the appointment of judges who respect traditional family values and the sanctity of innocent human life. Our goal is to ensure that women with problem pregnancies have the kind of support, material and otherwise, they need for themselves and for their babies, not to be punitive towards those for whose difficult situation we have only compassion. We oppose abortion, but our pro-life agenda does not include punitive action against women who have an abortion. We salute those who provide alternatives to abortion and offer adoption services. Republicans in Congress took the lead in expanding assistance both for the costs of adoption and for the continuing care of adoptive children with special needs. Bill Clinton vetoed our adoption tax credit the first time around—and opposed our efforts to remove racial barriers to adoption—before joining in this long overdue measure of support for adoptive families.</p> <p>Worse than that, he vetoed the ban on partial-birth abortions, a procedure denounced by a committee of the American Medical Association and rightly branded as four-fifths infanticide. We applaud Bob Dole's commitment to revoke the Clinton executive orders concerning abortion and to sign into law an end to partial-birth abortions.</p>
2000	<p>The Democratic Party stands behind the right of every woman to choose, consistent with <i>Roe v. Wade</i>, and regardless of ability to pay. We believe it is a fundamental constitutional liberty that individual Americans—not government—can best take responsibility for making the most difficult and intensely personal decisions regarding reproduction. This year's Supreme Court rulings show to us all that eliminating a woman's right to choose is only one justice away. That's why the stakes in this election are as high as ever.</p> <p>Our goal is to make abortion less necessary and more rare, not more difficult and more dangerous. We support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing. The abortion rate is dropping. Now we must continue to support efforts to reduce unintended pregnancies,</p>	<p>The Supreme Court's recent decision, prohibiting states from banning partial-birth abortions—a procedure denounced by a committee of the American Medical Association and rightly branded as four-fifths infanticide—shocks the conscience of the nation. As a country, we must keep our pledge to the first guarantee of the Declaration of Independence. That is why we say the unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. Our purpose is to have legislative and judicial protection of that right against those who perform abortions. We oppose using public revenues for abortion and will not fund organizations which advocate it. We support the appointment of judges</p>

Year	Democratic Party	Republican Party
	<p>and we call on all Americans to take personal responsibility to meet this important goal.</p> <p>The Democratic Party is a party of inclusion. We respect the individual conscience of each American on this difficult issue, and we welcome all our members to participate at every level of our party. This is why we are proud to put into our platform the very words which Republicans refused to let Bob Dole put into their 1996 platform and which they refused to even consider putting in their platform in 2000: "While the party remains steadfast in its commitment to advancing its historic principles and ideals, we also recognize that members of our party have deeply held and sometimes differing views on issues of personal conscience like abortion and capital punishment. We view this diversity of views as a source of strength, not as a sign of weakness, and we welcome into our ranks all Americans who may hold differing positions on these and other issues. Recognizing that tolerance is a virtue, we are committed to resolving our differences in a spirit of civility, hope and mutual respect."</p>	<p>who respect traditional family values and the sanctity of innocent human life.</p> <p>Our goal is to ensure that women with problem pregnancies have the kind of support, material and otherwise, they need for themselves and for their babies, not to be punitive towards those for whose difficult situation we have only compassion. We oppose abortion, but our pro-life agenda does not include punitive action against women who have an abortion. We salute those who provide alternatives to abortion and offer adoption services, and we commend congressional Republicans for expanding assistance to adopting families and for removing racial barriers to adoption. The impact of those measures and of our Adoption and Safe Families Act of 1997 has been spectacular. Adoptions out of foster care have jumped forty percent and the incidence of child abuse and neglect has actually declined. We second Governor Bush's call to make permanent the adoption tax credit and expand it to \$7,500.</p>
2004	<p>Because we believe in the privacy and equality of women, we stand proudly for a woman's right to choose, consistent with <i>Roe v. Wade</i>, and regardless of her ability to pay. We stand firmly against Republican efforts to undermine that right. At the same time, we strongly support family planning and adoption incentives. Abortion should be safe, legal, and rare.</p>	<p>As a country, we must keep our pledge to the first guarantee of the Declaration of Independence. That is why we say the unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution and we endorse legislation to make it clear that the Fourteenth Amendment's protections apply to unborn children. Our purpose is to have legislative and judicial protection of that right against those who perform abortions. We oppose using public revenues for abortion and will not fund organizations which advocate it. We support the appointment of judges who respect traditional family values and the sanctity of innocent human life.</p> <p>Our goal is to ensure that women with problem pregnancies have the kind of support, material and otherwise, they need for themselves and for their babies, not to be punitive towards those for whose difficult situation we have only compassion. We oppose abortion, but our pro-life agenda does not include punitive action against women who have an abortion. We salute those who provide alternatives to abortion and offer adoption</p>

(continues)

Year	Democratic Party	Republican Party
2008	<p>The Democratic Party strongly and unequivocally supports <i>Roe v. Wade</i> and a woman's right to choose a safe and legal abortion, regardless of ability to pay, and we oppose any and all efforts to weaken or undermine that right. The Democratic Party also strongly supports access to comprehensive affordable family planning services and age-appropriate sex education which empower people to make informed choices and live healthy lives. We also recognize that such health care and education help reduce the number of unintended pregnancies and thereby also reduce the need for abortions.</p>	<p>services, and we commend Congressional Republicans for expanding assistance to adopting families and for removing racial barriers to adoption. We join the President in supporting crisis pregnancy programs and parental notification laws. And we applaud President Bush for allowing states to extend health care coverage to unborn children.</p> <p>We praise the President for his bold leadership in defense of life. We praise him for signing the Born Alive Infants Protection Act. This important legislation ensures that every infant born alive—including an infant who survives an abortion procedure—is considered a person under federal law.</p> <p>We praise Republicans in Congress for passing, with strong bipartisan support, a ban on the inhumane procedure known as partial-birth abortion. And we applaud President Bush for signing legislation outlawing partial-birth abortion and for vigorously defending it in the courts.</p> <p>In signing the partial-birth abortion ban, President Bush reminded us that “the most basic duty of government is to defend the life of the innocent. Every person, however frail or vulnerable, has a place and a purpose in this world.”</p> <p>We praise President Bush and Republicans in Congress for the measures they have taken to protect pregnant women from violent crime by passing Laci and Conner’s law, which recognizes the common-sense proposition that when a crime of violence against a pregnant woman kills or injures her unborn child, there are two victims and two offenses that should be punished.</p> <p>Faithful to the first guarantee of the Declaration of Independence, we assert the inherent dignity and sanctity of all human life and affirm that the unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution, and we endorse legislation to make clear that the Fourteenth Amendment’s protections apply to unborn children.</p> <p>We oppose using public revenues to promote or perform abortion and will not fund organizations which advocate it. We support the appointment of judges who respect traditional</p>

Year	Democratic Party	Republican Party
	<p>The Democratic Party also strongly supports a woman's decision to have a child by ensuring access to and availability of programs for pre- and post-natal health care, parenting skills, income support, and caring adoption programs.</p>	<p>family values and the sanctity and dignity of innocent human life.</p> <p>We have made progress. The Supreme Court has upheld prohibitions against the barbaric practice of partial-birth abortion. States are now permitted to extend health-care coverage to children before birth. And the Born Alive Infants Protection Act has become law; this law ensures that infants who are born alive during an abortion receive all treatment and care that is provided to all newborn infants and are not neglected and left to die. We must protect girls from exploitation and statutory rape through a parental notification requirement. We all have a moral obligation to assist, not to penalize, women struggling with the challenges of an unplanned pregnancy.</p> <p>At its core, abortion is a fundamental assault on the sanctity of innocent human life. Women deserve better than abortion. Every effort should be made to work with women considering abortion to enable and empower them to choose life. We salute those who provide them alternatives, including pregnancy care centers, and we take pride in the tremendous increase in adoptions that has followed Republican legislative initiatives.</p>

Source: The American Presidency Project, <http://www.presidency.ucsb.edu/platforms.php>.

U.S. Supreme Court Cases on Abortion

Roe v. Wade	410 U.S. 113 (1973)	Prohibited “life” grounds; allowed regulation to protect women’s health after first trimester and regulation to protect potential life after viability
Doe v. Bolton	410 U.S. 179 (1973)	Prohibited “health” grounds, residency, gatekeeping, and hospital requirements
Danforth v. Rodgers	414 U.S. 1035 (1973)	Prohibited abortion ban
Louisiana State Board of Medical Examiners v. Rosen	419 U.S. 1098 (1975)	Prohibited doctor’s license revocation
Bigelow v. Virginia	421 U.S. 809 (1975)	Prohibited advertising ban
Connecticut v. Menillo	423 U.S. 9 (1975)	Allowed physician-only requirement
Planned Parenthood of Central Missouri v. Danforth	428 U.S. 52 (1976)	Prohibited husband consent, parent consent, ban on specific late-term procedure
Singleton v. Wulff	428 U.S. 106 (1976)	Gave doctors standing to challenge funding ban
Bellotti v. Baird	428 U.S. 132 (1976)	Remanded parent consent law to determine if it had a judicial bypass
Gerstein v. Coe	428 U.S. 901 (1976)	Prohibited husband and parent consent
Sendak v. Arnold	429 U.S. 968 (1976)	Prohibited hospital requirement
Guste v. Weeks	429 U.S. 1056 (1977)	Prohibited advertising ban, husband consent, parent consent, gag rule
Bowen v. Gary- Northwest Indiana Women’s Services	429 U.S. 1067 (1977)	Prohibited parent consent

(continues)

Beal v. Doe	432 U.S. 438 (1977)	Allowed state funding ban
Maheer v. Roe	432 U.S. 464 (1977)	Allowed state funding ban
Poelker v. Doe	432 U.S. 519 (1977)	Allowed public hospital ban
Colautti v. Franklin	439 U.S. 379 (1979)	Prohibited viability tests, care standards, and requirement to save fetal life
Ashcroft v. Freiman	440 U.S. 941 (1979)	Prohibited biased counseling requirement
Bellotti v. Baird (<i>Baird II</i>)	443 U.S. 622 (1979)	Allowed parent consent with judicial bypass
Harris v. McRae	448 U.S. 297 (1980)	Allowed federal funding ban
Williams v. Zbaraz	448 U.S. 358 (1980)	Allowed federal funding ban
H. L. v. Matheson	450 U.S. 398 (1981)	Allowed parent notice
Akron v. Akron Center for Reproductive Health	462 U.S. 416 (1983)	Prohibited parent consent, biased counseling, waiting period, second-trimester hospital requirement, and fetal disposal requirement
Planned Parenthood Association of Kansas City, Missouri v. Ashcroft	462 U.S. 476 (1983)	Prohibited hospital requirement, allowed parent consent with judicial bypass, second doctor after viability to care for surviving child
Simopoulos v. Virginia	462 U.S. 506 (1983)	Allowed clinic licensing for second trimester
Thornburgh v. American College of Obstetricians & Gynecologists	476 U.S. 747 (1986)	Prohibited biased counseling, reporting, preservation of viable fetal life, second-doctor requirement; reaffirmed <i>Roe</i>
Babbitt v. Planned Parenthood of Central and Northern Arizona	479 U.S. 925 (1986)	Prohibited gag rule
Hartigan v. Zbaraz	484 U.S. 171 (1987)	Prohibited waiting period for minors
Webster v. Reproductive Health Services	492 U.S. 490 (1989)	Allowed fetal viability test, public employee/facility ban; did not apply <i>Roe</i> , but did not explicitly overturn it
Hodgson v. Minnesota	497 U.S. 417 (1990)	Allowed parent notice with judicial bypass, minor waiting period
Ohio v. Akron Center for Reproductive Health	497 U.S. 502 (1990)	Allowed parent notice with bypass
Rust v. Sullivan	500 U.S. 171 (1991)	Allowed ban on public funds for counseling organizations
Planned Parenthood of South-eastern Pennsylvania v. Casey	505 U.S. 833 (1992)	Allowed biased counseling, waiting period, reporting, parent consent; prohibited husband notice; abandoned trimester framework; replaced “compelling state interest” standard with “undue burden” standard; reaffirmed “central” holding of <i>Roe</i>
Bray v. Alexandria Women’s Health Clinic	506 U.S. 263 (1993)	Clinic blockades not a conspiracy to deprive women of equal protection of the law
Madsen v. Women’s Health Center	512 U.S. 753 (1994)	Allowed buffer zone around clinic entrances
Schenck v. Pro-Choice Network of Western New York	519 U.S. 357 (1997)	Prohibited “floating” buffer zone
Lambert v. Wicklund	520 U.S. 292 (1997)	Allowed parent notice with bypass
Mazurek v. Armstrong	520 U.S. 968 (1997)	Allowed physician-only requirement

APPENDIX 2

Hill v. Colorado	530 U.S. 703 (2000)	Allowed eight-foot floating buffer zone near clinic entrance
Stenberg v. Carhart	530 U.S. 914 (2000)	Prohibited state ban on partial-birth procedure
Scheidler v. National Organization for Women	537 U.S. 393 (2003)	Racketeering laws do not apply to clinic blockades
Ayotte v. Planned Parenthood of Northern New England	546 U.S. 320 (2006)	Allowed parent notice
Schiedler v. National Organization for Women (<i>NOW II</i>)	547 U.S. 9 (2006)	Racketeering laws do not apply to clinic violence
Gonzales v. Carhart	550 U.S. 124 (2007)	Allowed federal ban on partial-birth procedure

Sources: Arlen Specter, "Supreme Court Decisions Upholding *Roe v. Wade*," 2005; Life Legal Defense Fund, "Senator Specter's 35 Mistakes," October 20, 2005; "What the Supreme Court Has Said About Abortion," *National Right to Life News*, January 2006, 11; Right to Life of Michigan, "Supreme Court Decisions on Abortion Since 1973," 2007, http://www.rtl.org/prolife_issues/overturningroe.html; The Oyez Project, <http://www.Oyez.org>; Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997).

Abortion Attitudes in the United States and Britain

Table 1. Abortion Attitudes in the United States and Britain, Gallup, 1966

Percent approving when asked, "Do you think abortion should or should not be legal in the following cases?"	United States	Britain
Where the health of the mother is in danger?	77	79
Where the child may be born deformed?	54	71
Where the family does not have enough money to support another child?	18	33

Source: Connie de Boer, "The Polls: Abortion," *Public Opinion Quarterly* 41 (1977): 553–64.

Table 2. Abortion Attitudes in the United States, NORC

Percent approving when asked, "Please tell me whether or not you think it should be possible for a pregnant woman to obtain a legal abortion if . . ."	1965	1972
Health: If the woman's health is seriously endangered by the pregnancy	73	87
Defect: If there is a strong chance of serious defect in the baby	57	79
Rape: If she became pregnant as result of rape	60	79
Money: If the family has a very low income and cannot afford more children	22	49
Unmarried: If she is not married and does not want to marry the man	18	44
No more: If she is married and does not want any more children	16	40

Source: M. Evers and J. McGee, "The Trend and Pattern in Attitudes toward Abortion in the United States, 1965–1977," *Social Indicators Research* 7 (1980): 251–67.

Note: Respondents answering "don't know" or "no answer" are excluded from percentages.

Abortion Funding and Provision in the United States, Britain, and Canada, 1970s–2000s

Table 1. Prices of First-Trimester Clinic Abortions as Percent of Median Weekly Income in the United States, Britain, and Canada, 1970s–2000s

	1970s	1980s	1990s	2000s
United States	65 (\$165, 1976)	45 (\$200, 1983)	38 (\$325, 1997)	38 (\$413, 2005)
Britain	176 (£60, 1972)	61 (£140, 1985)	96 (£300, 1997)	115 (£575, 2008)
Canada	73 (\$200, 1976)	52 (\$250, 1983)	48 (\$350, 1998)	56 (\$550, 2008)

Sources: Robin F. Badgley, Denyse Fortin Caron, and Marion G. Powell, *Report of the Committee on the Operation of the Abortion Law* (Ottawa: Minister of Supply and Services Canada, 1977); British Pregnancy Advisory Service, *Price List* (London: British Pregnancy Advisory Service, 2008); Catherine Dunphy, *Morgentaler: A Difficult Hero* (Toronto: Random House of Canada, 1996); R. B. Gold and B. Nestor, "Public Funding of Contraceptive, Sterilization, and Abortion Services, 1983," *Family Planning Perspectives* 17 (1985): 25–30; Great Britain Office for National Statistics, *Abortion Statistics: Legal Abortions Carried Out under the 1967 Abortion Act in England and Wales*, vol. 28 (London: Stationery Office, 2007); S. Henshaw and L. Finer, "The Accessibility of Abortion Services in the United States, 2001," *Perspectives on Sexual and Reproductive Health* 35 (2003): 16–24; J. Frederick S. Jaffe, Barbara L. Lindheim, and Philip R. Lee, *Abortion Politics: Private Morality and Public Policy* (New York: McGraw-Hill, 1981); R. K. Jones, M. R. Zolna, S. K. Henshaw, and L. B. Finer, "Abortion in the United States: Incidence and Access to Services, 2005," *Perspectives on Sexual and Reproductive Health* 40 (2008): 6–16; Elizabeth Kathleen Lane, *Report of the Committee on the Working of the Abortion Act* (London: Her Majesty's Stationery Office, 1974); Barbara L. Lindheim, "Services, Policies, and Costs in U.S. Abortion Facilities," *Family Planning Perspectives* 11 (1979): 283–89; Statistics Canada, "Table 106-9005—Induced Abortions, by Area

of Report and Type of Facility Performing the Abortion, Canada, Provinces, and Territories, Annual (number) (table)," 2008, CANSIM Database.

Notes: In 1976, U.S. hospital abortions were \$300 (outpatient) and \$415 (inpatient). The 1972 British price (£60) is for nonprofit clinics. Abortions in for-profit clinics were £100, and private abortions by NHS consultants were £85. For 1972 and 1985, the British price is a percent of average weekly income rather than median weekly income (median weekly income was not available). The price would be higher as a percent of median weekly income. Canadian prices are for the Morgentaler clinics in Quebec (1976 and 1983) and New Brunswick (1998 and 2008).

Table 2. Abortion Facilities in the United States, 1973–2005

Year	Hospital Providers	Nonhospital Providers ¹	Nonhospital Abortions (%)
1973	1,281	346	48
1974	1,471	557	54
1975	1,629	769	60
1976	1,695	872	65
1977	1,654	1,055	70
1978	1,626	1,127	75
1979	1,526	1,208	77
1980	1,504	1,254	78
1982	1,405	1,503	83
1985	1,191	1,489	87
1988	1,040	1,542	90
1992	855	1,525	93
1996	703	1,339	93
2000	603	1,216	95
2005	604	1,183	95

Sources: *Trends in Abortion in the United States, 1973–2003* (New York: Alan Guttmacher Institute, 2003); L. B. Finer and S. K. Henshaw, "Abortion Incidence and Services in the United States in 2000," *Perspectives on Sexual and Reproductive Health* 35, no. 1 (2003): 6–15; S. K. Henshaw, "Abortion Incidence and Services in the United States, 1995–1996," *Family Planning Perspectives* 30, no. 6 (1998): 263–87; R. K. Jones, M. R. Zolna, S. K. Henshaw, and L. B. Finer, "Abortion in the United States: Incidence and Access to Services, 2005," *Perspectives on Sexual and Reproductive Health* 40 (2008): 6–16; Gerald N. Rosenberg, "The Real World of Constitutional Rights: The Supreme Court and the Implementation of the Abortion Decisions," in *Contemplating Courts*, ed. by Lee Epstein (Washington, DC: Congressional Quarterly Press, 1995).

¹ Includes single-purpose abortion clinics, multiservice clinics, and doctor's offices. Only a small percentage (2–4%) of abortions were provided in doctors' offices.

Abortion Attitudes in the United States, Britain, and Canada, 1975–2004

Table 1. Abortion Attitudes in the United States, Britain, and Canada, WVS

Percent approving abortion when asked, “Do you approve or disapprove of abortion under the following circumstances. . .”	1982	1990	1982	1990	1981	1990
	United States		Canada		Britain	
Where the mother’s health is at risk by the pregnancy?	89	86	91	92	93	93
Where it is likely that the child would be born physically handicapped?	60	55	64	64	82	80
Where the woman is not married?	26	29	23	32	34	33
Where a married couple does not want to have any more children?	25	26	24	30	35	35

Source: European Values Study Group and World Values Survey Association, *European and World Values Surveys Four-Wave Integrated Data File, 1981–2004*, vol. 20060423 (Madrid, Spain; Tilburg, The Netherlands; Cologne, Germany: Análisis Sociológicos Económicos y Políticos, JD Systems, Zentralarchiv für Empirische Sozialforschung, 2006).

Table 2. Attitudes toward Abortion in the United States and Canada, Gallup

Percent approving when asked, “Do you think abortions should be . . .”	1975		1983		1992		2001	
	United States	Canada	United States	Canada	United States*	Canada	United States*	Canada
Legal under any circumstances?	21	23	23	23	33	31	26	32
Legal under certain circumstances?	54	60	58	59	50	57	55	52
Illegal in all circumstances?	22	16	16	17	14	10	17	14

Sources: “Gallup’s Pulse of Democracy: Abortion,” vol. 2008 (Gallup, 2008); Neil Nevitte, William P. Brandon, and Lori Davis, “The American Abortion Controversy: Lessons from Cross-National Evidence,” *Politics and the Life Sciences* 12 (1993): 19–30.

* Figures are averages of three separate polls taken that year.

Table 3. Abortion Attitudes in the United States and Britain, GSS and BSA

Percent approving abortion . . .	1984		1994		2004	
	United States	Britain	United States	Britain	United States	Britain
For any reason	38		46		40	
Married woman—no more children	42		48		41	
Woman decides on own does not want		28		55		55
Couple does not want		31		63		63
Woman is unmarried	43	31	47	54	41	50
Couple cannot afford	49	36	50	60	40	52
Birth defect	80	81	82	84	72	79
Health	90	91	90	91	85	90
Rape	79	88	83	92	75	88

Sources: James A. Davis, Tom W. Smith, and Peter V. Marsden, *General Social Surveys, 1972–2006* [Cumulative file], vol. ICPSR04697-v2 (Chicago: National Opinion Research Center, 2007); J. Scott, “Generational Changes in Attitudes to Abortion: A Cross-National Comparison,” *European Sociological Review* 14 (2002): 177–90; Social and Community Planning Research, *British Social Attitudes Survey, 1991* [Computer file] (London: Social and Community Planning Research, 2004).

Notes:

General Social Survey (GSS)

Please tell me whether or not you think it should be possible for a pregnant woman to obtain an abortion if:

There is a strong chance of a serious defect in the baby? (ABDEFECT)

If she is married and does not want any more children? (ABNOMORE)

If the woman’s health is seriously endangered by the pregnancy? (ABHLTH)

If the family has a low income and cannot afford any more children? (ABPOOR)

If she became pregnant as a result of rape? (ABRAPE)

If she is not married and does not want to marry the man? (ABSINGLE)

Is she wants an abortion for any reasons? (ABANY)

British Social Attitudes Survey (BSA)

Here are a number of circumstances in which a woman might consider an abortion. Please say whether or not you think the law should allow an abortion in each case.

The woman decides on her own she does not want to have the child. (abort1)

The couple agrees that they do not wish to have the child. (abort2)

The woman is not married and does not wish to marry the man. (abort3)

The couple cannot afford any more children. (abort4)

There is a strong chance of defect in the baby. (abort5)

The woman's health is seriously endangered by the pregnancy. (abort6)

The woman became pregnant as a result of rape. (abort7)

Table 4. Abortion Attitudes in the United States, Britain, and Canada, WVS

Is abortion "never justifiable" (1) or "always justifiable" (10)? ¹			
	United States	Britain	Canada
1981–82 ²	3.52	4.16	3.77
1990	4.00	4.37	4.95
1999–2000 ³	4.36	4.62	4.49

Source: European Values Study Group and World Values Survey Association, *European and World Values Surveys Four-Wave Integrated Data File, 1981–2004*, vol. 20060423 (Madrid, Spain; Tilburg, The Netherlands; Cologne, Germany: Análisis Sociológicos Económicos y Políticos, JD Systems, Zentralarchiv für Empirische Sozialforschung, 2006).

¹ Question: "Please tell me for each of the following statements whether you think it can always be justified, never be justified, or something in between. . . ."

² The British question was asked in 1981; the others were asked in 1982.

³ The Canadian question was asked in 2000; the others were asked in 1999.

Notes

CHAPTER ONE

1. Ann Shola Orloff, "Gender and the Social Rights of Citizenship: The Comparative Analysis of Gender Relations and Welfare States," *American Sociological Review* 58 (1993): 303–28; Julia S. O'Connor, Ann Shola Orloff, and Sheila Shaver, "Body Rights, Social Rights, and Reproductive Choice," in *States, Markets, Families: Gender, Liberalism, and Social Policy in Australia, Canada, Great Britain and the United States* (Cambridge: Cambridge University Press, 1999), 157–85.
2. James Trussell and B. Vaughan, "Aggregate and Lifetime Contraceptive Failure in the United States," *Family Planning Perspectives* 21, no. 5 (1989): 224–26; James Trussell, "Contraceptive Failure in the United States," *Contraception* 70, no. 2 (2004): 89–96; Guttmacher Institute, "Facts on Induced Abortion in the United States," May 2010, http://www.guttmacher.org/pubs/fb_induced_abortion.html.
3. Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of California Press, 1984); Joni Lovenduski and Joyce Outshoorn, eds., *The New Politics of Abortion* (London: Sage, 1986); Marianne Githens and Dorothy McBride Stetson, *Abortion Politics: Public Policy in Cross-Cultural Perspective* (New York: Routledge, 1996); Dorothy McBride Stetson, ed., *Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism* (Oxford: Oxford University Press, 2001).
4. Arthur Marwick suggests the term "the Long 1960s" for the period ranging from the late 1950s (rising prosperity, increased youth power, Elvis Presley, new sexual mores, and the civil rights movement) to the mid-1970s (the OPEC oil crisis, the end of the Vietnam War, and Nixon's resignation).

Arthur Marwick, *The Sixties: Cultural Revolution in Britain, France, Italy, and the United States, c. 1958–c. 1974* (Oxford: Oxford University Press, 1998). I use the terms “pro-choice” and “pro-life” to identify groups as they wish to be identified. The phrase “right to life” was used in a 1951 speech by Pope Pius XII in which he reiterated the Catholic Church’s opposition to birth control and abortion. Jimmye Kimmey, the executive director of the Association for the Study of Abortion in the United States, developed the phrase “right to choose” in December 1972 to counter this phrase. The terms “pro-life” and “pro-choice” have been used widely in all three countries in this study. Other common terms include “abortion rights,” “reproductive rights,” “pro-abortion,” “anti-abortion,” and “anti-choice.” In 2010, historian Nancy L. Cohen suggested replacing “pro-choice” with “pro-freedom.” *Los Angeles Times*, May 29, 2010. See Pope Pius XII, *Moral Questions Affecting Married Life* (addresses given October 29, 1951, to the Italian Catholic Union of Midwives and November 26, 1951, to the National Congress of the Family Front and the Association of Large Families, National Catholic Welfare Conference, Washington, DC); Jimmye Kimmey, “Right to Choose Memorandum” in *Before Roe v. Wade: Voices That Shaped the Abortion Debate before the Supreme Court’s Ruling*, ed. Linda Greenhouse and Reva Siegel (New York: Kaplan, 2010).

5. Among other things, the restrictions banned abortion provision in public hospitals and required fetal viability tests for late abortions (abortions after viability were illegal in Missouri).
6. *Webster v. Reproductive Health Services*, 492 U.S. 490, 557 (1989) (Blackmun, J., dissenting in part and concurring in part). See also *New York Times*, July 4, 1989, p. 1; November 11, 1988, p. A20; April 16, 1989, p. 28; David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994); G. Halva-Neubauer, “Abortion Policy in the Post-Webster Age,” *Publius: The Journal of Federalism* 20, no. 3 (1990): 27.
7. *Financial Times*, May 7, 1988, 1; *Independent*, January 23, 1988; *Guardian*, April 4, 1988; April 25, 1988; May 7, 1988; Norman Willis, “Message from Norman Willis, TUC General Secretary, to Fight Alton’s Bill Campaign Meeting” (London: Birth Control Trust Library, April 26, 1988); National Abortion Campaign, “A Brief and Partial History of the National Abortion Campaign,” in *A Celebration of 25 Years of Safe Legal Abortion* (London: National Abortion Campaign, 1992), 16–22; J. Christopher Soper, “Political Structures and Interest Group Activism: A Comparison of the British and American Pro-Life Movements,” *Social Science Journal* 31, no. 3 (1994): 319–34.
8. *Toronto Star*, November 13, 1989, A19; November 29, 1989, ME2; November 29, 1989, A22; May 30, 1990, A1; January 30, 1991, A13; February 2, 1991, A7; Mary Ann Glendon, “A Beau Mentir Quie Vient De Loin: The 1988 Canadian Abortion Decision in Comparative Perspective,” *Northwest-*

- ern University Law Review* 83, no. 3 (1989): 569–91; Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997); Marilyn J. Field, *The Comparative Politics of Birth Control: Determinants of Policy Variation and Change in the Developed Nations* (New York: Praeger, 1983); Frederick Lee Morton, *Pro-Choice vs. Pro-Life: Abortion and the Courts in Canada* (Norman: University of Oklahoma Press, 1992).
9. Joyce Arthur, "Abortion in Canada: History, Law and Access," Pro-Choice Action Network, October 1999, <http://www.prochoiceactionnetwork-canada.org/articles/canada.shtml>.
 10. Some cross-national studies of abortion policy are mainly oriented to conceptualizing differences in abortion policies while others seek to explain them. These studies rely on explanatory factors common in research on the welfare state: economic development, social inequality, democracy, left-party strength, Catholicism, Christian Democracy, feminist movements, medical interest groups; classically liberal political culture, the meaning of the abortion issue, the political opportunity structures of movements and countermovements, and the diffusion of regional or world models. Most of these studies compare the United States with one other country—Britain, Canada, Australia, Germany, or Sweden. Jane Brodie, "Health vs. Rights: Comparative Perspectives on Abortion Policy in Canada and the United States," in *Power and Decision: The Social Control of Reproduction*, ed. Gita Sen and Rachel C. Snow (Cambridge, MA: Harvard University Press, 1994), 123–46; Lisa DeLorme, "Gaining a Right to Abortion in the United States and Canada: The Role of Judicial Capacities," *Berkeley Journal of Sociology* 36 (1991): 93–114; David S. Meyer and Suzanne Staggenborg, "Counter-movement Dynamics in Federal Systems: A Comparison of Abortion Politics in Canada and the United States," *Research in Political Sociology* 8 (1998): 209–40; Tatalovich, *Politics of Abortion*; J. Christopher Soper, *Evangelical Christianity in the United States and Great Britain: Religious Beliefs, Political Choices* (New York: New York University Press, 1994); Mildred Schwartz, "Politics and Moral Causes in Canada and the United States," in *Comparative Social Research*, ed. Richard F. Tomasson (Greenwich, CT: JAI Press, 1981); Alvin Cohan, "Abortion as a Marginal Issue: The Use of Peripheral Mechanisms in Britain and the United States," in Lovenduski and Outshoorn, *New Politics of Abortion*, 27–48; Myra Marx Ferree et al., *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States* (Cambridge: Cambridge University Press, 2002); Myra Marx Ferree, "Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany," *American Journal of Sociology* 109, no. 2 (2003): 304–44; Annulla Linders, "Abortion as a Social Problem: The Construction of Opposite Solutions in Sweden and the United States," *Social Problems* 45, no. 4 (1998): 488–509; Annulla Linders, "Victory and Beyond: A Historical Comparative Analysis of the Outcomes of the Abortion

Movements in Sweden and the United States," *Sociological Forum* 19, no. 3 (2004): 371–404; Kerry A. Petersen, *Abortion Regimes* (Sudbury, MA: Dartmouth, 1993); Ian Mylchreest, "'Sound Law and Undoubtedly Good Policy': *Roe v. Wade* in Comparative Perspective," *Journal of Policy History* 7, no. 1 (1995): 53–71; Ellie Lee, *Abortion, Motherhood, and Mental Health: Medicalizing Reproduction in the United States and Great Britain*, Social Problems and Social Issues (New York: Aldine de Gruyter, 2003); Ted G. Jelen and Marthe A. Chandler, *Abortion Politics in the United States and Canada: Studies in Public Opinion* (Westport, CT: Praeger, 1994); Colin Francome, *Abortion Practice in Britain and the United States* (London: Allen and Unwin, 1986).

Other studies compare three to five countries. Melissa Haussman, *Abortion Politics in North America* (Boulder, CO: Lynne Rienner, 2005); O'Connor, Orloff, and Shaver, *States, Markets, Families*; Sheila Shaver, "Body Rights, Social Rights, and the Liberal Welfare State," *Critical Social Policy* 13 (1993–94): 66–93; Michael Minkenberg, "The Policy Impact of Church-State Relations: Family Policy and Abortion in Britain, France, and Germany," *West European Politics* 26, no. 1 (2003): 195–217; Yael Yishai, "Public Ideas and Public Policy: Abortion Politics in Four Democracies," *Comparative Politics* 25, no. 2 (1993): 207–28; Dorothy McBride Stetson, "Abortion Policy Triads and Women's Rights in Russia, the United States, and France," in *Abortion Politics: Public Policy in Cross-Cultural Perspective*, ed. Marianne Githens and Dorothy McBride Stetson (New York: Routledge, 1996); Kim Lane Scheppele, "Constitutionalizing Abortion," in Githens and Stetson, *Abortion Politics*; Merike Blofield, *The Politics of Moral Sin: Abortion and Divorce in Spain, Chile, and Argentina* (London: Routledge, 2006).

Several studies compare abortion policies across a larger number of cases in western Europe, eastern Europe, or among the rich democracies. Marianne Githens, "Reproductive Rights and the Struggle with Change in Eastern Europe," in Githens and Stetson, *Abortion Politics*; T. Alexander Smith and Raymond Tatalovich, *Cultures at War: Moral Conflicts in Western Democracies* (Peterborough, Ontario: Broadview Press, 2003); Michael Minkenberg, "Religion and Public Policy: Institutional, Cultural, and Political Impact on the Shaping of Abortion Policies in Western Democracies," *Comparative Political Studies* 35, no. 2 (2002): 221; Joel E. Brooks, "Abortion Policy in Western Democracies: A Cross National Analysis," *Governance: An International Journal of Policy and Administration* 5, no. 3 (1992): 342–57; Mary Ann Glendon, *Abortion and Divorce in Western Law* (Cambridge, MA: Harvard University Press, 1987); Albin Eser, "Abortion Law Reform in Germany in International Comparative Perspective," *European Journal of Health Law* 1 (1994): 15; Field, *Comparative Politics of Birth Control*; Joyce Outshoorn, "The Stability of Compromise: Abortion Politics in Western Europe," in Githens and Stetson, *Abortion Politics*; Evert Ketting and Philip van Praag, "The Marginal Relevance of Legislation Related to Induced

Abortion," in *The New Politics of Abortion*, ed. Joni Lovenduski and Joyce Outshoorn (London: Sage, 1986).

Three studies are edited volumes that offer case studies of several countries written by different authors that are then analyzed by volume editors in introductory or concluding chapters. Joni Lovenduski and Joyce Outshoorn, "Introduction," in Lovenduski and Outshoorn, *New Politics of Abortion*; Stetson, *Abortion Politics, Women's Movements, and the Democratic State*; Bill Rolston and Anna Eggert, *Abortion in the New Europe: A Comparative Handbook* (Westport, CT: Greenwood Press, 1994).

Finally, several authors compare abortion policies worldwide. Albin Eser and Hans Georg Koch, *Abortion and the Law: From International Comparison to Legal Policy* (The Hague: Asser Press, 2005); Francisco O. Ramirez and Elizabeth H. McEneaney, "From Women's Suffrage to Reproduction Rights? Cross-National Considerations," *International Journal of Comparative Sociology*, 38, no. 1–2 (1997): 6–24; Andrzej Kulczycki, *The Abortion Debate in the World Arena* (London: Routledge, 1999); Victor Asal, Mitchell Brown, and Renee Gibson Figueroa, "Structure, Empowerment and the Liberalization of Cross-National Abortion Rights," *Politics and Gender* 4, no. 02 (2008): 265–84.

11. Previous studies have attended to such factors as the access points provided by federalism and the separation of powers; party discipline; unusual political procedures such as court decisions, free voting, and private member's bills; and multiparty compromise. Several studies also note comparative differences in the ability of social movements and interest groups to influence political parties—mainly through campaign funding and institutionalized linkages between feminist movements and the state. Some have also focused on the differential openness to movements of patronage-oriented and programmatic parties. Haussman, *Abortion Politics in North America*; Schwartz, "Politics and Moral Causes in Canada and the United States"; Soper, *Evangelical Christianity in the United States and Great Britain*; Meyer and Staggenborg, "Countermovement Dynamics in Federal Systems"; Tatalovich, *Politics of Abortion*; Scheppele, "Constitutionalizing Abortion"; Glendon, *Abortion and Divorce in Western Law*; Cohan, "Abortion as a Marginal Issue"; DeLorme, "Gaining a Right to Abortion"; Outshoorn, "Stability of Compromise"; Stetson, *Abortion Politics, Women's Movements, and the Democratic State*; Rosemary Nossiff, *Before Roe: Abortion Policy in the States* (Philadelphia: Temple University Press, 2000).
12. There are various definitions of institutions. John Campbell defines them as "formal and informal rules, monitoring and enforcement mechanisms, and systems of meaning that define the context within which individuals, corporations, labor unions, nation-states, and other organizations operate and interact with each other." John L. Campbell, *Institutional Change and Globalization* (Princeton, NJ: Princeton University Press, 2004), 1. Elisabeth Clemens and James Cook write that "institutions exert

patterned higher-order effects on the actions, indeed the constitution, of individuals and organizations without requiring repeated collective mobilization or authoritative intervention to achieve these regularities." Elisabeth S. Clemens and James M. Cook, "Politics and Institutionalism: Explaining Durability and Change," *Annual Review of Sociology* 25 (1999): 444–45. Peter Hall defines institutions as "the formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy. These can range from the rules of a constitutional order or standard operating procedures of a bureaucracy to the conventions governing trade union behavior or bank-firm relations." Peter A. Hall and Rosemary C. R. Taylor, "Political Science and the Three New Institutionalisms," *Political Studies* 44 (1996): 938. John Campbell notes that sociological and popular uses of the term differ. What most people call institutions, sociologists call organizations as in "Lou's Restaurant is a local institution." "From an institutionalist's point of view, Lou's is really an organization, a group of people that produces goods or services. It exists within a set of institutions that make up its surrounding environment, such as the rules established and enforced by the government regarding the restaurant's health, accounting, labor and other practices as well as the taken-for-granted local customs regarding the appropriate way to treat customers, employees and suppliers." Campbell, *Institutional Change and Globalization*, 4n5.

13. James M. Jasper, "A Strategic Approach to Collective Action: Looking for Agency in Social-Movement Choices," *Mobilization: An International Quarterly* 9, no. 1 (2004): 1–16.
14. Gosta Esping-Andersen, *Three Worlds of Welfare Capitalism* (Princeton, NJ: Princeton University Press, 1990); Greg M. Olsen, *The Politics of the Welfare State: Canada, Sweden, and the United States* (Oxford: Oxford University Press, 2002).
15. O'Connor, Orloff, and Shaver, "Body Rights, Social Rights, and Reproductive Choice."
16. Harold Wilensky, *The Welfare State and Equality* (Berkeley: University of California Press, 1975); Anthony King, "Ideas, Institutions, and Policies of Governments," *British Journal of Political Science* 3, no. 4 (1974): 291–313.
17. Walter Korpi, *The Working Class in Welfare Capitalism* (London: Routledge and Kegan Paul, 1978); Walter Korpi, *The Democratic Class Struggle* (London: Routledge and Kegan Paul, 1983); Francis Castles, "The Impact of Parties on Public Expenditure," in *The Impact of Parties: Politics and Policies in Democratic Capitalist States*, ed. Francis Castles (London: Sage, 1982); John D. Stephens, *The Transition from Capitalism to Socialism* (London: Macmillan, 1979).
18. Ann Shola Orloff and Theda Skocpol, "Why Not Equal Protection? Explaining the Politics of Public Social Spending in Britain, 1900–1911 and in the United States, 1880s–1920s," *American Journal of Sociology* 49 (1984):

- 726–50; Theda Skocpol, *Protecting Soldiers and Mothers* (Cambridge, MA: Harvard University Press, 1992); Evelyne Huber, Charles Ragin, and John D. Stephens, “Social Democracy, Christian Democracy, Constitutional Structure, and the Welfare State,” *American Journal of Sociology* 99 (1993): 711–49; Edwin Amenta, *Bold Relief: Institutional Politics and the Origins of Modern American Social Policy* (Princeton, NJ: Princeton University Press, 1998); Theda Skocpol and Edwin Amenta, “States and Social Policies,” *Annual Review of Sociology* 12 (1986): 131–57. For a discussion of these generations, see Skocpol, *Protecting Soldiers and Mothers*.
19. Faye Ginsburg, *Contested Lives: The Abortion Debate in an American Community* (Berkeley: University of California Press, 1998); James Davison Hunter and Joseph E. Davis, “Cultural Politics at the Edge of Life,” *Journal of Policy History* 7, no. 1 (1995): 103–27; Luker, *Abortion and the Politics of Motherhood*; Rosalind Pollack Petchesky, *Abortion and Woman’s Choice: The State, Sexuality, and Reproductive Freedom* (New York: Longman, 1984); Sally Sheldon, *Beyond Control: Medical Power and Abortion Law* (London: Pluto Press, 1997); Laura Grindstaff, “Abortion and the Popular Press: Mapping Media Discourse from *Roe* to *Webster*,” in *Abortion Politics in the United States and Canada: Studies in Public Opinion*, ed. Ted G. Jelen and Marthe A. Chandler (Westport, CT: Praeger, 1994), 57–88; Kurt W. Back, “Why Is Abortion a Public Issue? The Role of Professional Control,” *Politics and Society* 15 (1986–87): 197–206; Carole E. Joffe, *The Regulation of Sexuality: Experiences of Family Planning Workers, Health, Society, and Policy* (Philadelphia: Temple University Press, 1986).
 20. Edwin Amenta, “State-Centered and Political Institutional Theory,” in *The Handbook of Political Sociology: States, Civil Societies, and Globalization*, ed. Thomas Janoski et al. (New York: Cambridge University Press, 2005). For political institutionalism, see Skocpol, *Protecting Soldiers and Mothers*; Orloff and Skocpol, “Why Not Equal Protection?”; Amenta, *Bold Relief*; Theda Skocpol, “Bringing the State Back In: Strategies of Analysis in Current Research,” in *Bringing the State Back In*, ed. Peter B. Evans, Dietrich Rueschmeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985); Jeff Goodwin, *No Other Way Out: States and Revolutionary Movements, 1945–1991*, Cambridge Studies in Comparative Politics (Cambridge: Cambridge University Press, 2001); Sven Steinmo, *Taxation and Democracy: Swedish, British, and American Approaches to Financing the Modern State* (New Haven, CT: Yale University Press, 1993). For historical institutionalism, see Sven Steinmo, Kathleen Thelen, and Frank Longstreth, *Structuring Politics: Historical Institutionalism in Comparative Analysis* (Cambridge: Cambridge University Press, 1992); Ellen M. Immergut, *Health Politics: Interests and Institutions in Western Europe* (Cambridge: Cambridge University Press, 1992); Ellen M. Immergut, “The Theoretical Core of the New Institutionalism,” *Politics and Society* 26, no. 1 (1998): 5–34; Hall and Taylor, “Political Science and the Three New Institutionalisms.”

21. Skocpol, *Protecting Soldiers and Mothers*; Steinmo, *Taxation and Democracy*; Ira Katznelson, *City Trenches* (Chicago: University of Chicago Press, 1981).
22. See Paul DiMaggio and Walter Powell, "Introduction," in *The New Institutionalism in Organizational Analysis*, ed. Walter Powell and Paul DiMaggio (Chicago: University of Chicago Press, 1991); Walter Powell and Paul DiMaggio, *The New Institutionalism in Organizational Analysis* (Chicago: University of Chicago Press, 1991); James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989).
23. Hugh Heclo, *Modern Social Politics in Britain and Sweden* (New Haven, CT: Yale University Press, 1974); Skocpol, *Protecting Soldiers and Mothers*.
24. Charles Tilly, *From Mobilization to Revolution* (Reading, MA: Addison-Wesley, 1978); Herbert Kitschelt, "Political Opportunity Structures and Political Protest: Anti-nuclear Movements in Four Democracies," *British Journal of Political Science* 16 (1986): 57–85; David S. Meyer, "Protest and Political Opportunities," *Annual Review of Sociology* 30, no. 1 (2004): 125–45.
25. Kitschelt, "Political Opportunity Structures and Political Protest"; Hanspeter Kriesi, *New Social Movements in Western Europe: A Comparative Analysis* (Minneapolis: University of Minnesota Press, 1995); Amenta, *Bold Relief*; Nossiff, *Before Roe*.
26. Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics* (Chicago: University of Chicago Press, 1993).
27. Petchesky, *Abortion and Woman's Choice*.
28. Orloff, "Gender and the Social Rights of Citizenship."
29. Previous typologies of abortion policies have added up the number of abortion restrictions in a given place—treating all as equally consequential. Others have focused on particular aspects of policy such as the legal grounds for abortion, time limits for obtaining abortions, parental consent requirements, or public funding. Others have compared abortion rates. Glendon, *Abortion and Divorce in Western Law*; Marilyn J. Field, "The Determinants of Abortion Policy in Developed Nations," *Policy Studies Journal* 7 (1979): 771–81; Ketting and Praag, "Marginal Relevance of Legislation Related to Induced Abortion"; Glen Halva-Neubauer, "The States after *Roe*: No Paper Tigers," in *Understanding the New Politics of Abortion*, ed. Malcolm L. Goggin (Newbury Park, CA: Sage, 1993), 167–89; Jeffrey E. Cohen and Charles Barrileaux, "Public Opinion, Interest Groups, and Public Policy-Making: Abortion Policy in the American States," in Goggin, *Understanding the New Politics of Abortion*; Susan B. Hansen, "Differences in Public Policies toward Abortion: Electoral and Policy Context," in Goggin, *Understanding the New Politics of Abortion*, 222–48; Kenneth J. Meier and Deborah R. McFarlane, "Abortion Politics and Abortion Funding Policy," in Goggin, *Understanding the New Politics of Abortion*, 249–67; Michael B. Berkman and Robert E. O'Connor, "Do Women Legislators Matter? Female Legislators and State Abortion Policy," in Goggin, *Understanding the New Politics of*

Abortion, 268–84; Matthew E. Wetstein, *Abortion Rates in the United States* (Albany: State University of New York Press, 1996); Eser, “Abortion Law Reform in Germany”; Minkenberg, “Religion and Public Policy”; Roland Boland and Laura Katzive, “Developments in Laws on Induced Abortion: 1998–2007,” *International Family Planning Perspectives* 34, no. 3 (2008): 110–20; Brooks, “Abortion Policy in Western Democracies”; Petersen, *Abortion Regimes*. In 1990, the United States had the highest abortion rate among rich Western democracies. But abortion rates pose some problems for comparing abortion policies. They are mainly influenced by nonpolicy factors such as contraception, attitudes of the population toward abortion, labor force and educational participation of women, and various measures of social and economic development. Wetstein, *Abortion Rates in the United States*; Ketting and Praag, “Marginal Relevance of Legislation Related to Induced Abortion.” In addition, abortion policies have implications that go beyond the mere ability of women to obtain or not obtain abortions, such as monetary and temporal costs and physical and emotional discomfort. They also affect women’s claims to reproductive and bodily self-determination and, in turn, their status as citizens. Finally, contention over abortion is not particularly oriented toward reducing or increasing abortion rates. Abortion rights proponents seek to make abortion more available as an element of reproductive self-determination. Most would be quite content with a decline in abortion rates if this resulted from increased contraceptive services. Pro-lifers find legal abortion unacceptable no matter how low the rate. See Anika Rahman, Laura Katzive, and Stanley K. Henshaw, “A Global Review of Laws on Induced Abortion, 1985–1997,” *International Family Planning Perspectives* 24, no. 2 (1998): 56–64; Ketting and Praag, “Marginal Relevance of Legislation Related to Induced Abortion”; Field, “Determinants of Abortion Policy in Developed Nations”; Glendon, *Abortion and Divorce in Western Law*.

30. The limit is shorter in Turkey and Portugal (ten weeks), and longer in Sweden (eighteen weeks), West Australia (twenty weeks), Victoria, Australia (twenty-four weeks), and the United States (many states have no limit or the limit is viability—about twenty-four weeks). In the Netherlands, the limit is viability. There are no legal time limits in Canada and the Australian Capital Territory.
31. Glendon, *Abortion and Divorce in Western Law*; Eser, “Abortion Law Reform in Germany”; Minkenberg, “Religion and Public Policy.”
32. Glendon, *Abortion and Divorce in Western Law*. German law contains a unique twist on this model—early abortions are illegal but unpunishable.
33. Counseling is neutral in France and the Netherlands, but aimed at protecting life in Italy. In Germany, continuation of pregnancy is one of the many goals of counseling, but the counseling itself must be neutral as to the final outcome and leave it to the woman to make the decision. In some countries, counselors are required to inform women about available social

assistance for mothers. The length of waiting or reflection periods is seven days in France and Italy, six days in Belgium, five days in the Netherlands, three days in Germany, and usually one day in the approximately twenty-five American states that have such waiting periods. Eser and Koch, *Abortion and the Law*; Guttmacher Institute, "Mandatory Counseling and Waiting Periods for Abortion" (New York: Alan Guttmacher Institute, 2007).

34. Strict gatekeeping countries include Ireland, Mexico, and Poland. In Ireland, abortions are legal only if necessary to protect a woman's life. In Mexico (outside of Mexico City), abortion is legal only in cases of rape or fetal abnormality. In Poland, abortions are legal only to protect physical health and in cases of rape, incest, or fetal impairment. Eser offers a typology distinguishing between "permission models based on third party evaluation," "conflict oriented discourse models," and "time terminated models on a self-determination basis." He does not, however, distinguish between countries in which third parties interpret abortion grounds liberally or strictly. He also erroneously places England/Wales, Luxembourg, and Mexico within the conflict-oriented discourse model. Eser, "Abortion Law Reform in Germany." My typology is similar to that of Michael Minkenberg, who, following Eser, distinguishes between "period," "distress," and "indication" models. Minkenberg also does not distinguish between liberal and strict interpretations of indication models. Instead, he incorporates countries such as New Zealand and the United Kingdom where legal grounds are liberally interpreted into the "distress" model. Minkenberg, "Religion and Public Policy."
35. Most countries in this category allow abortions for physical or mental health and for social grounds. South Korea, Spain, and New Zealand do not allow abortions for social grounds, but doctors often import social grounds into the law under mental health grounds. Although Britain's law contains a social ground (the health of existing children in the family), this ground is rarely used. Instead, most abortions are approved on mental health grounds.
36. Currently, the gatekeepers are doctors in every country except Hungary, where they are family welfare nurses.
37. The Netherlands, Greece, Switzerland, and some Australian states are examples of places that abandoned earlier gatekeeping laws. Rolston and Eggert, *Abortion in the New Europe*. The Netherlands is an interesting example of the liberal interpretation of a narrow abortion statute. In 1966, an influential law review article suggested that because the country's 1920 abortion law had delegated abortion decisions to the medical profession, this allowed doctors to bring modern (broad) conceptions of health to bear. Doctors began to broaden their interpretations of the law and, within seven years, interpreted it so broadly that abortion became available on request, and the Netherlands became an abortion center for women from

- all over Europe. The country did not change its abortion laws legislatively for another eight years and then merely codified the new broader practice.
38. In addition to gatekeeping by doctors, some countries require consent from parents or husbands. Nine countries require parental consent. Five of these have judicial bypass procedures (Denmark, France, Italy, Norway, and the United States) while the others do not (Turkey, Greece, the Czech Republic, and Slovakia). Two countries (Japan and Turkey) require husband consent. Rahman, Katzive, and Henshaw, "Global Review of Laws on Induced Abortion, 1985–1997"; United Nations Population Division, *Abortion Policies: A Global Review* (New York: United Nations, 2002); F. M. Tedesco, "Rites for the Unborn Dead: Abortion and Buddhism in Contemporary Korea," *Korea Journal* 36, no. 2 (1996): 61–74; Boland and Katzive, "Developments in Laws on Induced Abortion: 1998–2007." These countries are mainly clustered in the own reasons (Denmark, United States, Turkey, Greece, the Czech Republic, and Slovakia) and distress types (France, Italy, Norway). Japan is the only country in the gatekeeping type that requires consent from parents or husbands.
 39. Iceland and Luxembourg are excluded due to their small size. The subnational units of Australia and Mexico fall into more than one type. Women may obtain abortions without gatekeeping and for their own reasons in West Australia, the Australian Capital Territory, and Victoria, but they must obtain doctors' approvals in the other five states and territories. Women may obtain abortions without gatekeeping and for their own reasons in Mexico's Federal District (Mexico City), but the thirty-one states strongly restrict abortions. In Italy, the required reason for obtaining an abortion is not distress or emergency but danger to women's health "in view of their state of health, their economic, social or family circumstances, [and] the circumstances in which conception occurred." Italy, "Law No. 194 of 22 May 1978 on the Social Protection of Motherhood and the Voluntary Termination of Pregnancy," *Gazzetta Ufficiale della Repubblica Italiana*, no. 140 (1978). This resembles the grounds typically contained in gatekeeping models, but women do not need a gatekeeper's approval. They decide for themselves whether they meet the legally defined grounds for abortion.
 40. Lewis A. Coser, *Masters of Sociological Thought: Ideas in Historical and Social Context* (New York: Harcourt, 1977).
 41. Guttmacher Institute, "Mandatory Counseling and Waiting Periods for Abortion"; National Abortion Rights Action League, "Who Decides? A State-by-State Review of Abortion and Reproductive Rights" (Washington, DC: National Abortion Rights Action League, 2007).
 42. For a similar argument about the United States, see Udo Werner, "Convergence of Abortion Regulation in Germany and the United States: A Critique to Glendon's Rights Talk Thesis," *Loyola of Los Angeles International and Comparative Law Review* 18 (1995): 571.

43. Yishai distinguishes between “enabling,” “hindering,” “intrusive,” and “restrictive” policies that result from the ability of women to choose abortion without restriction and the degree to which the state facilitates abortion access through health-care funding and provision. Yishai, “Public Ideas and Public Policy.” Minkenberg criticizes this typology because it confuses two independent policy areas—abortion and health care. Though the two policy areas obviously are not identical, they are only rarely independent. For example, one could argue that there is little public funding of abortion in the United States because there is little public health care in general. But this does not explain why abortion has been excluded from public health insurance for the poor. Minkenberg, “Religion and Public Policy.”
44. For example, Germany, Austria, and the Czech Republic fund abortions only if they are provided for medical reasons, and Germany does so only for the poor. The American Hyde amendment allows federal funding of abortions only for grounds of life, rape, or incest, but seventeen states use their own money to fund abortions for grounds of physical or mental health or fetal abnormality. These are Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, and West Virginia. Six additional states use their own funds for a narrower set of circumstances: Indiana (physical health), Iowa (fetal abnormality), Mississippi (fetal abnormality), Utah (physical health and fetal abnormality), Virginia (fetal abnormality), and Wisconsin (physical health). *Abortion Facts: Public Funding for Abortion: Medicaid and the Hyde Amendment* (Washington, DC: National Abortion Federation, 2008), http://www.prochoice.org/about_abortion/facts/public_funding.html.
45. This includes Spain, Greece, Turkey, South Korea, and Britain before 1991.
46. A final unusual path occurs in Japan where abortion grounds are interpreted liberally but both birth and abortion are considered private matters ineligible for public health insurance coverage. H. P. David, “Abortion in Europe, 1920–91: A Public Health Perspective,” *Studies in Family Planning* 23, no. 1 (1992): 1–22; United Nations Population Division, *Abortion Policies*; National Abortion Rights Action League, “Who Decides?”; B. Pinter et al., “Accessibility and Availability of Abortions in Six European Countries,” *European Journal of Contraception and Reproductive Health Care* 10, no. 1 (2005): 51–58; Tedesco, “Rites for the Unborn Dead”; Tomoko Furukawa, “Health Care Puzzles,” *Japan Times*, November 4, 2004; Eser and Koch, *Abortion and the Law*.
47. The types are based on my reading of case studies of abortion reforms in OECD countries as well as my own knowledge of the British, Canadian, and American cases. The types are also inspired by scholars who have attempted to explain similarities in “families” or “worlds” of welfare capitalism through such factors as left-wing power, Catholicism and Christian Democracy, women’s suffrage and mobilization, policy makers’ imitation

of policy models, and the legacies of previous policies. Finally, the types are inspired by scholars who have classified parties and party systems on the basis of such factors as the number of parties and their polarization, whether decisions are made through consensus or majority rule, and the degree to which parties prioritize policies, votes, or spoils of office.

For case and cross-national studies of abortion policies, see Outshoorn, "Stability of Compromise"; Lovenduski and Outshoorn, *New Politics of Abortion*; Stetson, *Abortion Politics, Women's Movements, and the Democratic State*; Githens and Stetson, *Abortion Politics: Public Policy in Cross-Cultural Perspective*; Eugenia Georges, "Abortion Policy and Practice in Greece," *Social Science and Medicine* 42, no. 4 (1996): 509–19; Paul Christopher Manuel, "Roman Catholicism, Secularization, and the Recovery of Traditional Communal Values: The 1998 and 2007 Referenda on Abortion in Portugal," *South European Society and Politics* 13, no. 1 (2008): 117–29; D. Bradley, "Equality and Patriarchy: Family Law and State Feminism in Finland," *International Journal of the Sociology of Law* 26, no. 2 (1998): 197–216; Linders, "Victory and Beyond"; Mylchreest, "Sound Law and Undoubtedly Good Policy"; Karen Coleman, "The Politics of Abortion in Australia: Freedom, Church and State," *Feminist Review* 29 (1988): 75–97; M. J. Rankin, "Contemporary Australian Abortion Law: The Description of a Crime and the Negation of a Woman's Right to Abortion," *Monash University Law Review* 27 (2001); Mark J. Rankin, "Recent Developments in Australian Abortion Law: Tasmania and the Australian Capital Territory," *Monash University Law Review* 29 (2003): 229; Noah Riseman, "An Unfinished Job? Abortion Law Reform in Australia 1967-80," *Australia and New Zealand Law and History E-Journal*, Other Paper No. 4 (2006); Petersen, *Abortion Regimes*; Marilyn Pryor, *The Right to Live: The Abortion Battle of New Zealand* (Auckland: Harlen Books, 1986); Abortion Law Reform Association New Zealand, "A Brief History of Abortion Laws in New Zealand," 2008, <http://www.alranz.org/nzabortionlaws.htm>; Deirdre McKeown and Rob Lundie, "Free Votes in Australian and Some Overseas Parliaments," *Current Issues Brief: Parliament of Australia*, no. 1 (2002); Ferree et al., *Shaping Abortion Discourse*. The Lovenduski and Outshoorn volume includes case studies of Belgium, Britain, France, Ireland, Italy, Netherlands, Norway, and the United States. The Rolston and Eggert volume includes case studies of Austria, Belgium, Britain, Bulgaria, the Czech and Slovak Republics, Denmark, Finland, France, Germany, Hungary, Ireland, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, and the United States. The Stetson volume includes case studies of Austria, Belgium, Britain, Canada, France, Germany, Ireland, Italy, the Netherlands, Spain, and the United States. Another edited volume by Githens and Stetson contains comparative studies involving Canada, eastern Europe, France, Germany, Hungary, Ireland, Japan, Russia, the United States, and western Europe, but also case studies of Japan and the United States.

For work on “families” of nations, see Wil A. Arts and John Gelissen, “Three Worlds of Welfare Capitalism or More? A State-of-the-Art Report,” *Journal of European Social Policy* 12, no. 2 (2002): 137; Esping-Andersen, *Three Worlds of Welfare Capitalism*; Gøsta Esping-Andersen, *Social Foundations of Postindustrial Economies* (Oxford: Oxford University Press, 2000); Alan Siaroff, “Work, Welfare, and Gender Equality: A New Typology,” in *Gendering Welfare States*, ed. Diane Sainsbury (London: Sage, 1994), 82–100; Francis Castles, ed., *Families of Nations: Patterns of Public Policy in Western Democracies* (Brookfield, VT: Dartmouth, 1993); Francis G. Castles, “On Religion and Public Policy: Does Catholicism Make a Difference?,” *European Journal of Political Research* 25, no. 1 (1994): 19–40. See also H. Obinger and U. Wagschal, “Families of Nations and Public Policy,” *West European Politics* 24, no. 1 (2001): 99–114.

Esping-Andersen famously theorized “three worlds of welfare capitalism”—social democratic, conservative, and liberal—which he based on the degree to which welfare states promoted decommodification (the independence of citizens from labor markets and employers), economic equality, and state (rather than market) provision of benefits and services. Ann Orloff criticized Esping-Andersen’s scheme for its inattention to gender and proposed that welfare states be judged on five main dimensions: (1) the ways in which they divide responsibilities for social provision between states, markets and families, and within families between men and women; (2) the ways in which they are stratified, including their treatment of paid and unpaid labor; (3) the degree to which they “decommodify” workers by providing sources of income that emancipate men and women from markets and individual employers; (4) the degree to which they promote women’s access to paid work—thus emancipating women from dependence on families; and (5) the degree to which they promote women’s ability to form and maintain autonomous households. Siaroff’s gender-sensitive welfare regimes are based on spending on family benefits (family allowances, day care, and parental leave) and the degree to which paid work is attractive to women (e.g., less discrimination in wages and positions). He calls the four resulting types protestant social-democratic, advanced Christian Democratic, protestant liberal, and late female mobilization. Finally, Castles’s “families of nations” include the English-speaking, Continental, Scandinavian, and Southern. Esping-Andersen, *Three Worlds of Welfare Capitalism*; Orloff, “Gender and the Social Rights of Citizenship.” See also Julia S. O’Connor, “Gender, Class, and Citizenship in the Comparative Analysis of Welfare State Regimes: Theoretical and Methodological Issues,” *British Journal of Sociology* 44 (1993): 501–18; O’Connor, Orloff, and Shaver, *States, Markets, Families*. For Esping-Andersen’s response, see Gøsta Esping-Andersen, *Social Foundations of Postindustrial Economies* (New York: Oxford University Press, 1999); Siaroff, “Work, Welfare and Gender Equality”; Castles, *Families of Nations*.

For comparisons of political party systems, see Robert A. Dahl, *Political Oppositions in Western Democracies* (New Haven, CT: Yale University Press, 1966); Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (Colchester, UK: ECPR Press, 2005); Richard Gunther and Larry Diamond, "Species of Political Parties: A New Typology," *Party Politics* 9, no. 2 (2003): 167; Martin Rhodes, "Southern European Welfare States: Identity, Problems, and Prospects for Reform," in *Southern European Welfare States: Between Crisis and Reform*, ed. Martin Rhodes (London: Frank Cass, 1997); Otto Kirchheimer, "The Transformation of the Western European Party Systems," in *Political Parties and Political Development*, ed. Joseph LaPalombara and Myron Weiner (Princeton, NJ: Princeton University Press, 1966), 177–200; Steven B. Wolinetz, "Classifying Party Systems: Where Have All the Typologies Gone?" (paper presented at the Annual Meeting of the Canadian Political Science Association, Winnipeg, Manitoba, 2004); Peter Mair, *The West European Party System* (Oxford: Oxford University Press, 1990); Jean Blondel, "Party Systems and Patterns of Government in Western Democracies," *Canadian Journal of Political Science* 1, no. 2 (1968): 180–203; Steven B. Wolinetz, "Beyond the Catch-All Party: Approaches to the Study of Parties and Party Organization in Contemporary Democracies," in *Political Parties: Old Concepts and New Challenges*, ed. Richard Gunther, J. R. Montero, and Juan J. Linz (Oxford: Oxford University Press, 2002), 136–65; Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven, CT: Yale University Press, 1999).

48. This is instead of assigning the reforms based on the overall or cumulative nature of abortion politics in each country. The long-term fortunes of political parties are less relevant to abortion policy than other types of policy because many parties have been reluctant to reopen the issue once reforms have been made. This is especially true in the negotiated and nonpartisan types. Outshoorn, "Stability of Compromise."
49. Abortion votes were whipped only in Austria, Norway, and the Netherlands. Only the Austrian social democratic party whipped its members (after pressure from feminists and after a nonwhipped bill failed). Above, I noted that the Austrian reform fell somewhere between the own reasons and distress models since its health insurance system does not fund abortions for nonmedical reasons. Austria's reform is probably more restrictive than others in the "social democratic" type because of the presence of a large Christian democratic party and more liberal than others in the "negotiated" type because the reform was not the product of a coalition government. Though social democratic governments enacted the Norwegian and Finnish reforms, they established gatekeeping and distress models respectively rather than own reasons models like the other countries in the "social democratic" type. This may be because Norway is the only Nordic country with a sizable Christian democratic party and Finland is the only Nordic country where the social democrats are not the dominant party.

Moreover, although the Finnish reform involved gatekeeping, the grounds were broad and were interpreted liberally from the beginning. Outshoorn, “Stability of Compromise.”

50. West Germany’s 1974 reform was introduced by the parliamentary caucuses of the governing social democrats and liberals while the opposition Christian democrats opposed it. Germany’s 1992 reform was introduced by a cross-party group of women MPs, but after it was struck down by the Supreme Court, social democrats and liberals forced the Christian democrats to compromise. In Switzerland, social democrats allied with other parties behind the 2001 reform while Christian democrats gathered signatures for an unsuccessful 2002 referendum to rescind it. In Belgium and Italy, members of left and liberal parties used private member initiatives to enact reforms over the opposition of Christian democratic cabinets. In the Netherlands, governing coalitions of Christian democrats and liberals introduced abortion reform bills in 1971 and 1980. This is one of the few cases in which Christian democrats were behind abortion reform proposals. These were aimed at preventing broader reforms supported by social democrats and also sought to narrow liberal medical interpretations of the 1920 abortion law. In France, the 1975 reform was introduced by the center-right modernizer Giscard d’Estaing, but more than half of his party voted against it while virtually all social democrats and communists voted for it. This was also the pattern when the law was renewed after its expiration in 1979.
51. Although Britain and Canada contain major third parties, the Liberal Democrats (formerly the Liberals) and the New Democratic Party respectively, these countries are commonly classified as two-party systems since third parties have not been particularly influential (with the exception of the Liberal Democrats in 2010). Canada is sometimes referred to as a two-and-a-half party system because of its small left party, the NDP, but the NDP would have a greater effect on Canadian politics if it was between the two major parties rather than to the left of them. This is the case in the other main cases of two-and-a-half parties in Germany, Belgium, and Luxembourg. Blondel, “Party Systems and Patterns of Government in Western Democracies.”
52. The British party system is usually classified as being moderately polarized, though polarization was higher during the Thatcher and Major years (1979–97). Scholars also note that the British Conservative and the American Republican parties were less “catch-all” during the Thatcher, Reagan, and Bush (father and son) years. Wolinetz, “Classifying Party Systems”; Wolinetz, “Beyond the Catch-All Party.”
53. Of the countries in which courts have ruled on abortion, four liberalized abortion laws (the United States (1973), Australia, Canada, and Italy), four restricted abortion (Ireland, Germany, Spain, and the United States (1988 and 1992)), and three upheld legislative liberalizations (Austria, France, Portugal). Eser and Koch, *Abortion and the Law*.

54. Outshoorn, "The Stability of Compromise"; Stetson, *Abortion Politics, Women's Movements, and the Democratic State*; Blofield, *Politics of Moral Sin*; Pierre Bréchon, "Integration into Catholicism and Protestantism in Europe: The Impact on Moral and Political Values," in *Religion and Secularizing Society: The Europeans' Religion at the End of the 20th Century*, ed. Loek Halman and Ole Riis (Boston: Brill-Leiden, 2003), 114–61.
55. In Germany, unification and two Supreme Court decisions reopened the abortion issue. In Austria, antiabortion forces took the 1974 abortion reform to the Supreme Court, which upheld it. In Italy, abortion opponents brought abortion to the public agenda through a 1981 referendum, 1999 private member's legislation, and the 2008 election. Parliaments voted on, but rejected, antiabortion legislation in Austria in 1978 and 1999, and in the Netherlands in 1984.
56. Robert Dahl, *Who Governs? Democracy and Power in an American City* (New Haven, CT: Yale University Press, 1961); Korpi, *Democratic Class Struggle*; Castles, "Impact of Parties on Public Expenditure"; Frank Wilson, "Interest Groups and Politics in Western Europe: The Neo-Corporatist Approach," *Comparative Politics* 16, no. 1 (1983): 105–23; James Alt, "The Evolution of Tax Structures," *Public Choice* 41 (1984): 181–222.
57. Immergut, "Theoretical Core of the New Institutionalism"; Immergut, *Health Politics*; Peter A. Hall, *Governing the Economy: The Politics of State Intervention in Britain and France* (Oxford: Oxford University Press, 1986); Steinmo, *Taxation and Democracy*; Frank Dobbin, *Forging Industrial Policy: The United States, Britain, and France in the Railway Age* (New York: Cambridge University Press, 1994); Skocpol, *Protecting Soldiers and Mothers*; Joseph R. Gusfield, *The Culture of Public Problems: Drinking-Driving and the Symbolic Order* (Chicago: University of Chicago Press, 1981); Aaron Wildavsky, "Choosing Preferences by Constructing Institutions: A Cultural Theory of Preference Formation," *American Political Science Review* 81, no. 1 (1987): 3–21; James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review* 78 (1984): 734–49; Steinmo, Thelen, and Longstreth, *Structuring Politics*; Elisabeth S. Clemens, *The People's Lobby: Organizational Innovation and the Rise of Interest Group Politics in the United States, 1890–1925* (Chicago: University of Chicago Press, 1997); James M. Jasper, *Nuclear Politics: Energy and the State in the United States, Sweden, and France* (Princeton, NJ: Princeton University Press, 1990).
58. Peter Swenson, *Capitalists against Markets: The Making of Labor Markets and Welfare States in the United States and Sweden* (Oxford: Oxford University Press, 2002).
59. Drew Halfmann, "Historical Priorities and the Responses of Doctors' Associations to Abortion Reform Proposals in Britain and the United States, 1960–1973," *Social Problems* 50, no. 4 (2003): 567–91.
60. Esping-Andersen, *Three Worlds of Welfare Capitalism*; Stephens, *Transition*

- from Capitalism to Socialism*; Korpi, *Working Class in Welfare Capitalism*; Castles, "Impact of Parties on Public Expenditure"; Francis G. Castles and Peter Mair, "Left-Right Political Scales: Some "Expert" Judgements," *European Journal of Political Research* 12 (1984): 73–88.
61. Alexander Hicks, Joya Misra, and Tang Nah Ng, "The Programmatic Emergence of the Social Security State," *American Sociological Review* 60 (1995): 329–49.
62. This is a narrower usage than that of "new social movement" theory, which focuses on an allegedly new set of post-industrial, post-Marxist movements such as the feminist, gay rights, and environmental movements that are mainly concerned with quality of life rather than economic issues. Alberto Melucci, *Challenging Codes: Collective Action in the Information Age* (Cambridge: Cambridge University Press, 1989); Enrique Laraña, Hank Johnston, and Joseph R. Gusfield, *New Social Movements: From Ideology to Identity* (Philadelphia: Temple University Press, 1994); Jurgen Habermas, "New Social Movements," *Telos* 49 (1981): 33–37; C. Offe, "New Social Movements: Changing Boundaries of the Political," *Social Research* 52 (1985): 817–68. Critics of the term have argued that "new social movements" have been present throughout American history, that economic movements have hardly subsided, and that many of the new social movements have economic interests as well. Nelson A. Pichardo, "New Social Movements: A Critical Review," *Annual Reviews in Sociology* 23, no. 1 (1997): 411–30; Craig Calhoun, "'New Social Movements' of the Early Nineteenth Century," *Social Science History* 17, no. 3 (1993): 385–427.
63. V. O. Key, *Politics, Parties, and Pressure Groups*, 5th ed. (New York: Crowell, 1964); Geoffrey K. Roberts, *Political Parties and Pressure-Groups in Britain* (London: Weidenfeld and Nicolson, 1970).
64. Meyer and Staggenborg, "Counter-movement Dynamics in Federal Systems"; Soper, "Political Structures and Interest Group Activism"; R. Kent Weaver, "The Politics of Blame Avoidance," *Journal of Public Policy* 6, no. 4 (1986): 371–98; Lisa Young, *Feminists and Party Politics* (Vancouver: UBC Press, 2000); Leon D. Epstein, *Political Parties in the American Mold* (Madison: University of Wisconsin Press, 1986); Earl H. Fry, *The Canadian Political System*, ACSUS Papers (Washington, DC: Association for Canadian Studies in the United States, 1996); Frank J. Sorauf, *Money in American Elections* (Glenview, IL: Scott, Foresman, 1988); Clive S. Thomas, "The United States: The Paradox of Loose Party-Group Ties in the Context of American Political Development," in *Political Parties and Interest Groups: Shaping Democratic Governance*, ed. Clive S. Thomas (Boulder, CO: Lynne Rienner, 2001); Duane Murray Oldfield, *The Right and the Righteous: The Christian Right Confronts the Republican Party*, Religious Forces in the Modern Political World (Lanham, MD: Rowman and Littlefield, 1996); William J. Crotty, *Party Reform* (New York: Longman, 1983); John C. Green, James L. Guth, and Clyde Wilcox, "Less Than Conquerors: The Christian Right in State

- Republican Parties,” in *Social Movements and American Political Institutions*, ed. Anne N. Costain and Andrew S. McFarland (Lanham, MD: Rowman and Littlefield, 1998); William P. Cross, *Political Parties* (Vancouver: UBC Press, 2004); E. E. Schattschneider, *The Semi-Sovereign People* (Hinsdale, IL: Dryden Press, 1975).
65. Oldfield, *Right and the Righteous*; Thomas Frank, *What’s the Matter with Kansas?* (New York: Macmillan, 2005).
 66. Kenneth T. Andrews and Bob Edwards, “Advocacy Organizations in the U.S. Political Process,” *Annual Review of Sociology* 30 (2004): 479–506; Marco Giugni, Doug McAdam, and Charles Tilly, *How Social Movements Matter* (Minneapolis: University of Minnesota Press, 1999); Edwin Amenta, *When Movements Matter: The Townsend Plan and the Rise of Social Security* (Princeton, NJ: Princeton University Press, 2006).
 67. Frances Fox Piven and Richard Cloward, *Poor People’s Movements: Why They Succeed, How They Fail* (New York: Random House, 1977); Michael Lipsky, “Protest as a Political Resource,” *American Political Science Review* 62, no. 4 (1968): 1144–58; William A. Gamson, *The Strategy of Social Protest* (Homewood, IL: Dorsey Press, 1975); Kenneth T. Andrews, *Freedom Is a Constant Struggle: The Mississippi Civil Rights Movement and Its Legacy* (Chicago: University of Chicago Press, 2004).
 68. Doug McAdam, “Political Opportunities: Conceptual Origins, Current Problems, Future Directions,” in *Comparative Perspectives on Social Movements*, ed. Doug McAdam, John D. McCarthy, and Mayer N. Zald (Cambridge: Cambridge University Press, 1996), 23–40; Sidney Tarrow, *Power in Movement: Social Movements, Collective Action and Politics* (New York: Cambridge University Press, 1994); Jack Goldstone, “The Weakness of Organization: A New Look at Gamson’s *The Strategy of Social Protest*,” *American Journal of Sociology* 85 (1980): 1017–42; Kitschelt, “Political Opportunity Structures and Political Protest.” For a critique of this approach, see Jeff Goodwin and James M. Jasper, “Caught in a Winding, Snarling Vine: The Structural Bias of Political Process Theory,” *Sociological Forum* 14, no. 1 (1999): 27–54; Edwin Amenta and Drew Halfmann, “Opportunity Knocks: The Trouble with Political Opportunity and What You Can Do About It,” in *Contention in Context: New Opportunities in Social Movement Research*, eds. Jeff Goodwin and James M. Jasper (Palo Alto: Stanford University Press, forthcoming); David S. Meyer and Debra C. Minkoff, “Conceptualizing Political Opportunity,” *Social Forces* 82, no. 4 (2004): 1457–92; Jeff Goodwin and James M. Jasper, eds., *Contention in Context: New Opportunities in Social Movement Research* (Palo Alto: Stanford University Press, forthcoming).
 69. Amenta also notes several more permanent political institutional factors that provided context for the American Townsend movement: the under-democratized polities of the South, the patronage parties of the Northeast, the fragmentation of political authority, the difficulty of building third

- parties in a winner-take-all electoral system, and the rightward skew of the major political parties. Amenta, *When Movements Matter*.
70. As Amenta defines them, assertive tactics include public protests and electoral challenges as opposed to educational and letter-writing campaigns. Ibid.
 71. Gene Burns, *The Moral Veto: Framing Contraception, Abortion, and Cultural Pluralism in the United States* (Cambridge: Cambridge University Press, 2005).
 72. In Canada, the 1960s reform was led by medical and legal interest groups—social movement organizations were not much of a factor. After reform, abortion became more controversial in all three countries as opposing movements expanded. Pro-life and pro-choice movements combined assertive and less assertive actions in all three countries. Initially, elected officials in all three countries sought to avoid the abortion issue. Institutions were key because, as I mentioned in the last section, American parties offered more opportunities for new movements to persuade, benefit, and sanction political parties and candidates. Both major American parties eventually embraced the issue. Once this occurred, partisanship, rather than movement tactics, became the best explanation for movement gains. The pro-life movement made significant policy gains mainly because of the electoral success of the Republican Party. Amenta argues that ballot initiatives are assertive actions because they usurp the prerogatives of elected officials. The move to the courts could perhaps be viewed similarly, but some legislators were probably happy to have the court take over the issue. Amenta does not pay much attention to courts as they were not particularly relevant to the Townsend movement, but he does note that they are often a veto point for social policies. Here, however, they were an access point. Amenta, *When Movements Matter*.
 73. Jasper has criticized the framing concept in the social movement literature for its overemphasis on the strategic and intentional aspects of meaning making. And Skrentny argues that framing analysts ignore the numerous ways in which issue definitions and meanings result from the unconscious and uncoordinated activities of multiple actors. James M. Jasper, “The Emotions of Protest: Affective and Reactive Emotions in and around Social Movements,” *Sociological Forum* 13, no. 3 (1998): 395–424; John D. Skrentny, *The Minority Rights Revolution* (Cambridge, MA: Belknap Press, Harvard University, 2002). See also John Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown, 1984); Baumgartner and Jones, *Agendas and Instability in American Politics*; Joel Best, *Images of Issues: Typifying Contemporary Social Issues* (New York: Aldine de Gruyter, 1995); Deborah Stone, “Causal Stories and the Formation of Policy Agendas,” *Political Science Quarterly* 104 (1989): 281–300; William H. Riker, *The Art of Political Manipulation* (New Haven, CT: Yale University Press, 1986); Gusfield, *Culture of Public Problems*; David A. Snow et al., “Frame Alignment Processes,

- Micromobilization, and Movement Participation,” *American Sociological Review* 51, no. 4 (1986): 464–81; William Gamson, *Talking Politics* (New York: Cambridge University Press, 1992); Margaret Weir, *Politics and Jobs: The Boundaries of Employment Policy in the United States* (Princeton, NJ: Princeton University Press, 1992); Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (New York: Harper and Row, 1974).
74. Daniel M. Cress and David A. Snow, “The Outcomes of Homeless Mobilization: The Influence of Organization, Disruption, Political Mediation and Framing,” *American Journal of Sociology* 105 (2000): 1063–1104.
 75. This is reminiscent of Gamson’s claim that “displacement” goals are counterproductive. Gamson, *Strategy of Social Protest*.
 76. Luker, *Abortion and the Politics of Motherhood*; Burns, *Moral Veto*; William Saletan, *Bearing Right: How Conservatives Won the Abortion War* (Berkeley: University of California Press, 2004). See also Ferree et al., *Shaping Abortion Discourse*; Shaver, “Body Rights, Social Rights, and the Liberal Welfare State.”
 77. Frank R. Baumgartner and Bryan D. Jones, “Agenda Dynamics and Policy Subsystems,” *Journal of Politics* 53, no. 4 (1991): 1044–74; Frank R. Baumgartner and Bryan D. Jones, eds., *Policy Dynamics* (Chicago: University of Chicago Press, 2002); Schattschneider, *Semi-Sovereign People*; Jasper, *Nuclear Politics*.
 78. The conflict between constitutional courts and democracy can be overstated. Decisions made by elected officials may not be any more representative of majority views than those of courts. And much research shows that courts stay fairly close to the views of the majority as well as to those of the incumbents of other branches of government. Constitutional court judges are usually appointed by elected officials, and the constitutions on which they base their decisions are usually approved through democratic processes. Barry Friedman, “The Counter-Majoritarian Problem and the Pathology of Constitutional Scholarship,” *Northwestern University Law Review* 95 (2000): 933; Mark C. Miller and Jeb Barnes, *Making Policy, Making Law: An Interbranch Perspective* (Washington, DC: Georgetown University Press, 2004); Stephen Holmes, “Gag Rules or the Politics of Omission,” in *Constitutionalism and Democracy*, ed. Jon Elster and Rune Slagstad (Cambridge: Cambridge University Press, 1988), 19–58; Lee Epstein and Jack Knight, *The Choices Justices Make* (Washington, DC: Congressional Quarterly Press, 1998).
 79. Kingdon, *Agendas, Alternatives, and Public Policies*; Baumgartner and Jones, *Agendas and Instability in American Politics*; Roger Cobb, Jeannie-Keith Ross, and Marc Howard Ross, “Agenda-Building as a Comparative Political Process,” *American Political Science Review* 70, no. 1 (1976): 126–38; Roger W. Cobb and Charles D. Elder, *Participation in American Politics; the Dynamics of Agenda-Building* (Boston: Allyn and Bacon, 1972); Jack L. Walker, “Setting the Agenda in the U.S. Senate: A Theory of Problem Selection,” *British*

- Journal of Political Science* 7 (1977): 423–45; Roy B. Flemming, John Bohte, and B. Dan Wood, “One Voice among Many: The Supreme Court’s Influence on Attentiveness to Issues in the United States, 1947–92,” *American Journal of Political Science* 41 (1997): 1224–50.
80. Jasper, “Emotions of Protest”; Edward J. Walsh, “Resource Mobilization and Citizen Protest in Communities around Three Mile Island,” *Social Problems* 29 (1981): 1–21; Jeff Goodwin, James M. Jasper, and Francesca Polletta, “The Return of the Repressed: The Fall and Rise of Emotions in Social Movement Theory,” *Mobilization* 5, no. 1 (2000): 65–84.
 81. Paul Burstein, “Is the Welfare State a Bad Idea?,” *Contemporary Sociology* 21, no. 4 (1992): 451–53; Cass R. Sunstein, *After the Rights Revolution: Reconceiving the Regulatory State* (Cambridge, MA: Harvard University Press, 1990); Scheppele, “Constitutionalizing Abortion.”
 82. Scheppele, “Constitutionalizing Abortion.” The constraints and limitations of constitutional discourse should not be overstated since judges reshape and reinterpret constitutional texts over time and creatively use them in ways that might have shocked the founders. Mary Ann Glendon argues that Americans are especially likely to frame issues in terms of rights and that they speak a particular dialect of rights talk. This dialect is characterized by absolute, exaggerated formulations; silence about responsibilities; overattention to individual independence and self-sufficiency; neglect of the intermediate institutions of civil society; and insulation from legal discourses in other countries. She also suggests that Anglo-American law is less pedagogical and communitarian than continental European law. The former produces morally neutral, absolutist law while the latter produces morally engaged, compromise law. Mary Ann Glendon, *Rights Talk* (New York: Free Press, 1991). For a critique, see Samuel Walker, *The Rights Revolution: Rights and Community in Modern America* (New York: Oxford University Press, 1998); Holmes, “Gag Rules or the Politics of Omission”; Glendon, *Abortion and Divorce in Western Law*. Court decisions can have both positive and negative effects on social movement mobilization. They can serve as discursive resources for the construction of injustice claims and collective identities. But movement litigation can also inhibit other types of mobilization by sucking up scarce resources and hindering the development of broad-based, multi-issue movements. Litigation also requires the involvement of professionals who may inhibit disruptive action. Finally, court “victories” may lead to movement demobilization, as winners consider an issue settled, while court “losses” may lead to movement mobilization, as losers are motivated to action. Stuart A. Scheingold, *The Politics of Rights: Lawyers, Public Policy, and Political Change* (Ann Arbor: University of Michigan Press, 2004); Piven and Cloward, *Poor People’s Movements*; Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991); Michael McCann, *Rights at Work: Reform and the Politics of Legal Mobilization* (Chicago: University of Chicago

- Press, 1994); Nicholas Pedriana and Robin Stryker, "Political Culture Wars 1960s Style: Equal Employment Opportunity-Affirmative Action Law and the Philadelphia Plan," *American Journal of Sociology* 103, no. 3 (1997): 633–91.
83. For an excellent discussion of conflicts between constitutionalism and democracy, see Jon Elster and Rune Slagstad, *Constitutionalism and Democracy*, Studies in Rationality and Social Change (Cambridge: Cambridge University Press, 1988).
 84. Since 1988, British courts have also had the power to declare that an Act of Parliament is incompatible with human rights. Such a declaration does not invalidate the Act but puts pressure on Parliament to change it. The Constitutional Reform Act of 2005 created the Supreme Court of the United Kingdom, which began operation in 2009. Lord Irvine of Lairg, "Sovereignty in Comparative Perspective: Constitutionalism in Britain and America," in *The Unpredictable Constitution*, ed. Norman Dorsen (New York: New York University Press, 2002); James T. McHugh, *Comparative Constitutional Traditions*, Teaching Texts in Law and Politics, vol. 27 (New York: P. Lang, 2002).
 85. Alexis de Tocqueville, *Democracy in America*, ed. and trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 257.
 86. Robert A. Kagan, *Adversarial Legalism: The American Way of Law* (Cambridge, MA: Harvard University Press, 2001); Charles R. Epp, *The Rights Revolutions: Lawyers, Activists, and Supreme Courts in Comparative Perspective* (Chicago: University of Chicago Press, 1998).
 87. Rosenberg further argues that significant change occurs only when there is ample precedent, when other branches of government support it, when some of the public supports it or nobody opposes it, and when one of the following methods of implementation is available: The court offers inducements or imposes sanctions, markets promote implementation, or other branches of government wish to leverage or hide behind court decisions. Rosenberg, *Hollow Hope*.
 88. Neal Devins, "Judicial Matters," *California Law Review* 80 (1992): 1027–69. For a response to his critics, see Gerald N. Rosenberg, *Ideological Preferences and Hollow Hopes: Responding to Criticism* (Chicago: University of Chicago Press, 2008).
 89. Paul Frymer, *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton, NJ: Princeton University Press, 2007); Paul Frymer, "Acting When Elected Officials Won't: Federal Courts and Civil Rights Enforcement in U.S. Labor Unions, 1935–85," *American Political Science Review* 97, no. 03 (2003): 483–99; Mark A. Graber, "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary," *Studies in American Political Development* 7, no. 1 (1993): 35–73; Cohan, "Abortion as a Marginal Issue."
 90. Glendon, *Rights Talk*.

91. Huber, Ragin, and Stephens, "Social Democracy, Christian Democracy, Constitutional Structure and the Welfare State"; Samuel P. Huntington, *Political Order in Changing Societies* (New Haven, CT: Yale University Press, 1968); Orloff and Skocpol, "Why Not Equal Protection?"; Immergut, *Health Politics*.
92. Amenta, *Bold Relief*.
93. *New State Ice Co. v. Liebmann*, 285 U.S. 262, 280 (1932) (Brandeis, J., dissenting); Jack L. Walker, "The Diffusion of Innovations among the American States," *American Political Science Review* 63 (1969): 880–99; Pierre Trudeau, "The Practice and Theory of Federalism," in *Federalism and the French Canadians*, ed. Pierre Trudeau (Toronto: Macmillan of Canada, 1968); Alan G. Cairns, "The Government and Societies of Canadian Federalism," *Canadian Journal of Political Science* 10, no. 4 (1977): 695–725; Alan G. Cairns, "The Other Crisis in Canadian Federalism," *Canadian Public Administration* 22 (1979): 175–95; Gwendolyn Gray, *Federalism and Health Policy: The Development of Health Systems in Canada and Australia* (Toronto: University of Toronto Press, 1991); Meyer and Staggenborg, "Counter-movement Dynamics in Federal Systems"; Tatalovich, *Politics of Abortion*; Schattschneider, *Semi-Sovereign People*.
94. Private member's bills exist in both Britain and Canada, but are far more important in the former.
95. These bills are usually technical and uncontroversial and pass without objection. Though introduced by backbenchers, these bills usually originate within the Government or are based on Government reports or the findings of the Law Commission (an independent body of lawyers appointed to advise the Lord Chancellor on legal reform). Private member's bills cannot be mainly concerned with government expenditure, and if they involve incidental expenditures, these must be approved by a minister. David Marsh and Melvyn Read, *Private Member's Bills* (Cambridge: Cambridge University Press, 1988).
96. In Britain, debate for all private member's bills is limited to Fridays and thus a mere sixty hours. MPs who are opposed to a specific private member's bill will often try to filibuster. The sponsor can call for a closure vote, but one hundred votes are required. There are three types of private member's bills—Balloted, Standing Order 39, and ten-minute-rule. Bills go through five stages in the House of Commons—First Reading (introduction), Second Reading (initial debate), Committee, Report, and Third Reading (final debate). Balloted bills are introduced by about twenty backbenchers who win a private member's bill lottery. Standing Order 39 bills may be introduced by any backbencher, but can only receive their Second Reading after all of the balloted bills for a given day have been considered. Ten-minute-rule bills may also be introduced by any backbencher. Upon introduction (First Reading) of these bills, the sponsor is entitled to make a ten-minute speech in favor of the bill, which may be followed by

a ten-minute opposing speech. If an opposing speech is given, a vote is taken on whether the bill should be given a Second Reading. Like Standing Order 39 bills, ten-minute-rule bills may receive their Second Reading only after consideration of the balloted bills for a given day. Bills automatically move to Committee stage unless a single member objects. Once a member objects, however, the bill must gain a majority in a Second Reading vote to proceed. But such a vote can occur only if there is time available in a given day. Otherwise, it will be held over for another day. Given these rules, Standing Order 39 and ten-minute-rule bills usually run out of time unless they are completely unopposed. In Britain, since 1959, no private member's bill has passed that was opposed by a single MP at Second or Third Reading and that did not receive extra time from the Government. In Canada, most private member's bills get only an hour of debate. If no decision is made within an hour, the bill falls to the bottom of the list and usually never returns to the chamber. There are less than one hundred hours for debate on private member's bills in each session. During the twenty-eighth Parliament (1968–72), there were 639 private member's bills. Only 22 were enacted, and all involved naming such things as electoral districts, banks, and "national pollution week." R. V. Stewart Hyson, "The Role of the Backbencher: An Analysis of Private Members' Bills in the Canadian House of Commons," *Parliamentary Affairs* 3, no. 3 (1974): 262–72; Philip Cowley, *Conscience and Parliament* (London: Frank Cass, 1998); Marsh and Read, *Private Member's Bills*. In Britain's House of Lords, any member can introduce a private member's bill (there is no lottery) and there is no time limit for debate, but such a bill can become law only if it is taken up by a member of the Commons who has won a place in the lottery. *Promoting a Private Member's Bill in the House: A Guide for Members* (London: Public Bill Office, House of Lords, October, 2001).

97. Cowley, *Conscience and Parliament*; Keith Hindell and Madeline Simms, *Abortion Law Reformed* (London: Peter Owen, 1971); Colin Francome, *Abortion Freedom: A Worldwide Movement* (Winchester, MA: Allen and Unwin, 1984); Barbara Brookes, *Abortion in England, 1900–1967* (London: Croom Helm, 1988); Marsh and Read, *Private Member's Bills*; Hyson, "The Role of the Backbencher"; McKeown and Lundie, "Free Votes in Australian and Some Overseas Parliaments"; Philip Cowley, "Unbridled Passions? Free Votes, Issues of Conscience and the Accountability of British Members of Parliament," *Journal of Legislative Studies* 4, no. 2 (1998): 70–88.
98. Peter G. Richards, *Parliament and Conscience* (London: George Allen and Unwin, 1971); Cohan, "Abortion as a Marginal Issue"; Cowley, *Conscience and Parliament*.
99. Roger Freeman, quoted in Cowley, *Conscience and Parliament*, 181.
100. Even within the context of a free vote, the Government has extensive power to defeat private member's bill legislation that it opposes without utilizing formal party machinery. It can orchestrate opposition among

- members of the Government, arrange a filibuster, urge a member to withdraw his or her measure in exchange for some concession such as the creation of a commission, or seek amendments to a bill in the Committee stage. In the postwar period, only seven private member's bills that were opposed by the Government passed. Richards, *Parliament and Conscience*; Marsh and Read, *Private Member's Bills*.
101. The Government can even go so far as to solicit an MP to introduce a private member's bill, aid its passage by providing extra time, and then disclaim responsibility—the party did not introduce the bill, remained neutral, allowed free voting, and gave extra time only to guarantee full consideration of the issue.
 102. Marsh and Read, *Private Member's Bills*; Keith Archer, *Parameters of Power: Canada's Political Institutions* (Toronto: Nelson Canada, 1995); Cowley, "Unbridled Passions?"
 103. Liberal Democrat MP Evan Harris in *Guardian*, July 11, 2008.
 104. As Philip Cowley puts it, "in a system in which voters overwhelmingly vote for parties and not MPs . . . free votes allow controversial issues to become detached from the electoral process. However controversial they are, free vote issues vanish from the political radar at election time." As a result, "free votes effectively allow the party in government to enact controversial legislation while simultaneously denying all responsibility for that legislation." Philip Cowley, "Party Rules," *Progress*, May 14, 2008, <http://www.progressonline.org.uk/articles/article.asp?a=2776>.
 105. James Mahoney, "Nominal, Ordinal, and Narrative Appraisal in Macro-Causal Analysis," *American Journal of Sociology* 104, no. 4 (1999): 1155. See also James Mahoney and Dietrich Rueschmeyer, *Comparative Historical Analysis in the Social Sciences* (Cambridge: Cambridge University Press, 2003); Theda Skocpol and Margaret Somers, "The Uses of Comparative History in Macro-Social Research," *Comparative Studies in Society and History* 22 (1980): 174–97.
 106. I also seek to develop concepts that are equivalent across cases. These need to be abstract enough to serve my analytical purposes across cases and, at the same time, particular enough to be meaningful within cases. Julia Adams, Elisabeth Clemens, and Ann Shola Orloff, "Social Theory, Modernity, and the Three Waves of Historical Sociology" (Working Paper #206, Russell Sage Foundation, New York, 2003); Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973); Dietrich Rueschmeyer, "Can One or a Few Cases Yield Theoretical Gains?," in *Comparative Historical Analysis in the Social Sciences*, ed. James Mahoney and Dietrich Rueschmeyer (Cambridge: Cambridge University Press, 2003), 305–36.
 107. O'Connor, Orloff, and Shaver, "Body Rights, Social Rights, and Reproductive Choice."
 108. James Mahoney, "Strategies of Causal Assessment in Comparative and Historical Analysis," in Mahoney and Rueschmeyer, *Comparative Historical*

- Analysis in the Social Sciences*, 337–72; Adam Przeworski and Henry Teune, *The Logic of Comparative Social Inquiry* (New York: John Wiley, 1970); Carsten Ankar, “On the Applicability of the Most Similar Systems Design and the Most Different Systems Design in Comparative Research,” *International Journal of Social Research Methodology* 11, no. 5 (2008): 389–401.
109. Castles, *Families of Nations*.
 110. See also Esping-Andersen, *Three Worlds of Welfare Capitalism*.
 111. Ibid. O’Connor, Orloff, and Shaver, *States, Markets, Families*; Mary Ruggie, *Realignments in the Welfare State: Health Policy in the United States, Britain, and Canada* (New York: Columbia University Press, 1996); Siaroff, “Work, Welfare, and Gender Equality.”
 112. Donald T. Campbell, “‘Degrees of Freedom’ and the Case Study,” *Comparative Political Studies* 8 (1975): 178–93; Andrew Bennett, “Lost in the Translation: Big (N) Misinterpretations of Case Study Research” (paper presented at the thirty-eighth Annual Convention of the International Studies Association, Toronto, March 1997); Henry E. Brady and David Collier, *Rethinking Social Inquiry: Diverse Tools, Shared Standards* (Lanham, MD: Rowman and Littlefield, 2004); Michael Coppedge, “Thickening Thin Concepts and Theories: Combining Large N and Small in Comparative Politics,” *Comparative Politics* 31, no. 4 (1999): 465–76.
 113. Coppedge, “Thickening Thin Concepts and Theories,” 472.
 114. Jack A. Goldstone, “Comparative Historical Analysis and Knowledge Accumulation in the Study of Revolutions,” in Mahoney and Rueschmeyer, *Comparative Historical Analysis in the Social Sciences*, 47.
 115. Mahoney and Rueschmeyer, *Comparative Historical Analysis in the Social Sciences*; Alexander L. George and Timothy J. McKeown, “Case Studies and Theories of Organizational Decision-Making,” *Advances in Information Processing in Organizations* 2 (1985): 21–58; Charles Tilly, *Mechanisms in Political Processes* (New York: Columbia University, 2000); Peter Hedstrom and Richard Swedberg, *Social Mechanisms: An Analytical Approach to Social Theory* (Cambridge: Cambridge University Press, 1998); Bennett, “Lost in the Translation”; Charles Tilly, “To Explain Political Processes,” *American Journal of Sociology* 100 (1995): 1594–610; Peter A. Hall, “Aligning Ontology and Methodology in Comparative Research,” in Mahoney and Rueschmeyer, *Comparative Historical Analysis in the Social Sciences*, 373–404; Coppedge, “Thickening Thin Concepts and Theories,” 472. I pursue pattern matching and process tracing through “strategic narrative.” According to Jack Goldstone, “Strategic narrative differs from a straightforward narrative of historical events by being structured to focus attention on how patterns of events relate to prior theoretical beliefs about social phenomena. . . . Sometimes such narratives are designed to demonstrate strict causal connections between elements in a sequence of events . . . , sometimes they are designed to demonstrate the impact of contingency or path dependency in producing divergent or unexpected outcomes. Either way, the

narrative marshals evidence that particular sequences or patterns unfolded in a particular way, for particular reasons, and it relates those data to our confidence in the existing theory.” Goldstone, “Comparative Historical Analysis and Knowledge,” 50–51. See also Robin Stryker, “Beyond History Versus Theory: Strategic Narrative and Sociological Explanation,” *Sociological Methods and Research* 24, no. 3 (1996): 304–52.

116. Coppedge, “Thickening Thin Concepts and Theories,” 472.
117. For exemplars of this approach, see Theda Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia, and China* (Cambridge: Cambridge University Press, 1979); Orloff and Skocpol, “Why Not Equal Protection?”

CHAPTER TWO

1. In Britain and Canada, abortions for reasons of health were allowed by the 1938 English court decision *Rex v. Bourne*. In the United States, abortions were permissible to preserve the life of the mother in forty-two states. Five states and the District of Columbia had broader grounds: to preserve the life or health of the mother (Alabama, District of Columbia, Oregon), to save the life of the mother or to prevent serious or permanent bodily injury to her (Colorado, New Mexico), when a physician was “satisfied that the fetus is dead, or that no other method will secure the safety of the mother (Maryland). Finally, in three states, physicians violated the law only if they performed an abortion “unlawfully” (Massachusetts, Pennsylvania) or “maliciously or without lawful justification” (New Jersey). Precedents suggested that these latter statutes would be applied liberally to a licensed physician acting in good faith to preserve the life or health of the pregnant woman. Even in states that allowed abortions only to protect the mother’s life, doctors often argued that the preservation of health extended life or that abortions for mental health grounds prevented suicide. J. M. Kummer and Z. Leavy, “Criminal Abortion—a Consideration of Ways to Reduce Incidence,” *California Medicine* 95, no. 3 (1961): 170.
2. Carole E. Joffe, *Doctors of Conscience: The Struggle to Provide Abortion: Before and After Roe v. Wade* (Boston: Beacon Press, 1995); Elizabeth Kathleen Lane, *Report of the Committee on the Working of the Abortion Act*, Great Britain. Parliament. (London: Her Majesty’s Stationery Office, 1974); Robin F. Badgley, Denyse Fortin Caron, and Marion G. Powell, *Report of the Committee on the Operation of the Abortion Law* (Ottawa: Minister of Supply and Services Canada, 1977).
3. In general, social grounds include such things as being poor, unmarried, too young or too old, or having too many children. The specific British social grounds are detailed below.
4. With no good tests for pregnancy, doctors could not distinguish between pregnancy and menstrual blockage, and the treatment for the latter was

- identical to abortion. Doctors could not know with certainty whether they were treating menstrual blockage or providing an early abortion, but in the interest of keeping their patients, they were wise not to ask too many questions. Michael Thomson, "The Doctor, the Profession, His Patient, and Her Abortion," in *Reproducing Narrative: Gender, Reproduction, and Law* (Hants, England: Ashgate, 1998); James C. Mohr, *Abortion in America: The Origins and Evolution of National Policy* (New York: Oxford University Press, 1978).
5. Thomson, "The Doctor, the Profession, His Patient, and Her Abortion"; Mohr, *Abortion in America*.
 6. The death penalty was reserved for abortions after quickening. In addition, only abortions by drugs, not surgical ones, were illegal after quickening. This apparently unintentional loophole was corrected in 1828.
 7. Victoria Greenwood and Jock Young, *Abortion in Demand* (London: Pluto Press, 1976); Keith Hindell and Madeline Simms, *Abortion Law Reformed* (London: Peter Owen, 1971); Anthony Horder, *Legal Abortion: The English Experience* (Oxford: Pergamon Press, 1971); Thomson, "The Doctor, the Profession, His Patient, and Her Abortion"; John Keown, *Abortion, Doctors, and the Law: Some Aspects of the Legal Regulation of Abortion in England from 1803 to 1982* (Cambridge: Cambridge University Press, 1988); Barbara Brookes, *Abortion in England, 1900–1967* (London: Croom Helm, 1988); Mohr, *Abortion in America*.
 8. Gayle Davis and Richard Davidson, "'Big White Chief,' 'Pontius Pilate,' and The 'Plumber': The Impact of the 1967 Abortion Act on the Scottish Medical Community, c. 1967–1980," *Social History of Medicine* 18, no. 2 (2005): 283–306; Gayle Davis and Roger Davidson, "'A Fifth Freedom' or 'Hideous Atheistic Expediency'? The Medical Community and Abortion Law Reform in Scotland, c. 1960–1975," *Medical History* 50, no. 1 (2006): 29–48.
 9. By Joseph Reeves in 1953, Lord Amulree in 1954, Kenneth Robinson in 1961, Renee Short in 1965, Lord Silkin in 1965, and Simon Wingfield Digby in 1966.
 10. Silkin's bills allowed abortions with the approval of a single doctor for grounds of physical or mental health, economic hardship, rape, mental disability, or underage pregnancy.
 11. Only a few people recognized the possible consequences of the amendment at the time. ALRA leader Diane Munday was one of them: "The real implications hit me as soon as the amendment was proposed and I nearly fell out of the gallery of the House of Lords with excitement and disbelief." Some abortion opponents also recognized this potential, arguing that the amendment might lead to "abortion on demand" if abortion later became safer than childbirth. Greenwood and Young, *Abortion in Demand*; Diane Munday, "Talking about Abortion," in *A Celebration of 25 Years of Safe Legal Abortion, 1967–1992* (London: National Abortion Campaign, 1992), 9.
 12. British Medical Association, "Proceedings of Council: Therapeutic Abortion," *British Medical Journal Supplement*, January 22, 1966; "Leading

- Articles: Therapeutic Abortion," *British Medical Journal*, January 29, 1966; "Leading Articles: Legislation on Abortion," *British Medical Journal*, March 5, 1966; "B.M.A.'s Views on Abortion," *Lancet*, July 2, 1966; Hindell and Simms, *Abortion Law Reformed*; Keith Cuninghame, "Research Note: Abortion (Amendment) Bill 1987–88" (London: House of Commons Library Research Division, 1988); Keown, *Abortion, Doctors, and the Law*.
13. Maureen Muldoon, *The Abortion Debate in the United States and Canada: A Source Book* (New York: Garland, 1991); Janine Brodie, Shelley A. M. Gavigan, and Jane Jenson, *The Politics of Abortion* (Toronto: Oxford University Press, 1992).
 14. Ian Wahn's (Liberal) 1966 bill allowed abortion for grounds of life and health. Grace MacInnis's (NDP) 1967 bill allowed abortion for life, health, mental health, fetal abnormality, and rape or incest. H. W. Herridge's (NDP) 1967 bill mimicked the British Abortion Act, allowing abortion for life, health, mental health, fetal abnormality, and the health of existing children in the family. When the standing committee issued its report in December 1967, it supported Wahn's more conservative bill. The Government's bill included the grounds suggested by the committee but substituted the word "likely" for "seriously," thus liberalizing it slightly.
 15. Alphonse de Valk, "Abortion in Canada, 1960–66," in *Death before Birth*, ed. E. J. Kremer and E. A. Synan (Toronto: Griffin House, 1974); Jane Jenson, "Getting to Morgentaler: From One Representation to Another," in Brodie, Gavigan, and Jenson, *Politics of Abortion*; Eleanor Wright Pelrine, *Abortion in Canada* (Toronto: New Press, 1971); Frederick Lee Morton, *Pro-Choice vs. Pro-Life: Abortion and the Courts in Canada* (Norman: University of Oklahoma Press, 1992).
 16. Criminal Code, 1968–69 (Eliz. II) (1969), 17–18, ch. 38, s. 18 (Can.).
 17. The president of the Ontario Medical Association, Dr. John Walters, agreed, "[Abortion committees] will base their decisions on a conservative interpretation of what constitutes a danger to life and health. Doctors are not trained to weigh economic or social factors." *Toronto Star*, July 5, 1969; Canada House of Commons, House of Commons Debates (Hansard) (Ottawa: v.d.), 8397, May 6, 1969.
 18. Sharon Walls, "Abortion Law and Improved Abortion Services: Discussion Paper" (Ottawa: National Association of Women and the Law, National Archives of Canada, Record Group 29, 1990-91/248, Box 31, File 0154-A1 vol. 2, 1982).
 19. Even the most ardent antiabortion physicians resisted attempts to better specify therapeutic exceptions or monitor doctors' compliance with it. The writings of prominent antiabortion physicians as well as various accounts of abortion in medical journals indicate that the exception was often defined broadly, for example, to include threats to women's physical or mental health, as well as cases of rape, incest, or "fetal deformity." Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of

- California Press, 1984); U.S. Public Health Service, *Family Planning Evaluation: Abortion Surveillance Report—Legal Abortions, United States, Annual Summary, 1970* (Atlanta: U.S. Public Health Service, Center for Disease Control, Department of Health, Education, and Welfare, 1970).
20. Mohr, *Abortion in America*; Luker, *Abortion and the Politics of Motherhood*; Gene Burns, *The Moral Veto: Framing Contraception, Abortion, and Cultural Pluralism in the United States* (Cambridge: Cambridge University Press, 2005); Thomson, “The Doctor, the Profession, His Patient, and Her Abortion.”
 21. Mohr, *Abortion in America*; “Abortion: The Doctor’s Dilemma,” *Modern Medicine*, April 24, 1967; Luker, *Abortion and the Politics of Motherhood*; Jonathan B. Imber, *Abortion and the Private Practice of Medicine* (New Haven, CT: Yale University Press, 1986); Leslie J. Reagan, *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867–1973* (Berkeley: University of California Press, 1997); Rosalind Pollack Petchesky, *Abortion and Woman’s Choice: The State, Sexuality, and Reproductive Freedom* (New York: Longman, 1984); Jenson, “Getting to Morgentaler.”
 22. Joseph W. Dellapenna, *Dispelling the Myths of Abortion History* (Durham, NC: Carolina Academic Press, 2005).
 23. In 1952, the ALI began drafting a model penal code. Its council considered abortion provisions in 1956, and its membership approved them in 1959 and 1962. American Law Institute, Model Penal Code: Council Draft No. 10 (Philadelphia: American Law Institute, 1956); American Law Institute, Model Penal Code: Tentative Draft No. 9 (Philadelphia: American Law Institute, 1959); Herbert Wechsler, “Codification of Criminal Law in the United States: The Model Penal Code,” *Columbia Law Review* 68, no. 8 (1968): 1425–49; Lee Epstein and Joseph F. Kobylka, *The Supreme Court and Legal Change: Abortion and the Death Penalty* (Chapel Hill: University of North Carolina Press, 1992); Mary Calderone, *Abortion in the United States* (New York: Paul Hoeber, 1958).
 24. “American Law Institute Abortion Policy” in *Before Roe v. Wade: Voices That Shaped the Abortion Debate before the Supreme Court’s Ruling*, ed. Linda Greenhouse and Reva Siegel (New York: Kaplan, 2010), 25; American Law Institute, Model Penal Code: Tentative Draft No. 9; Wechsler, “Codification of Criminal Law in the United States”; American Law Institute, *Model Penal Code and Commentaries, Part II* (Philadelphia: American Law Institute, 1980); American Law Institute, *Model Penal Code and Commentaries, Part I* (Philadelphia: American Law Institute, 1985); Reagan, *When Abortion Was a Crime*; Charles M. Cook, *The American Codification Movement: A Study of Antebellum Legal Reform* (Westport, CT: Greenwood Press, 1981); Joseph W. Dellapenna, *Dispelling the Myths of Abortion History* (Durham, NC: Carolina Academic Press, 2005).
 25. The author of the ALI’s sexual offenses provisions, University of Pennsylvania Law Professor Louis B. Schwartz, later criticized the ALI abortion provisions. He argued that the ALI’s general approach to morality laws and

- unenforceable criminal liabilities supported a broader revision of abortion law along the lines of Danish and Swedish law, which allowed abortions for grounds of economic hardship. Schwartz suggested that the ALI had sacrificed a broader abortion reform to avoid offending the Catholic Church and jeopardizing the legislative prospects of the code as a whole. The code's language on abortion said: "A licensed physician is justified in terminating a pregnancy if he believes there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother or that the child would be born with grave physical or mental defect, or that the pregnancy resulted from rape, incest, or other felonious intercourse. All illicit intercourse with a girl below the age of 16 shall be deemed felonious for purposes of this subsection. Justifiable abortions shall be performed only in a licensed hospital except in case of emergency when hospital facilities are unavailable." American Law Institute Model Penal Code, 230.3 Proposed Official Draft, 1962; Louis B. Schwartz, "Morals Offenses and the Model Penal Code," *Columbia Law Review* 63 (1963): 669.
26. The 1961 New Hampshire bill merely added a life endangerment ground, which had perhaps been omitted by a printer's mistake from the nineteenth-century law. The bill was introduced at the behest of the state medical society and passed both houses, but was vetoed by the governor after opposition from the Catholic Church. David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994).
 27. In 1966 California medical examiners attempted to discipline nine doctors who performed abortions on grounds of fetal abnormality, but backed off after public objections by prominent figures in academic medicine. *Los Angeles Times*, November 18, 1966, 11B; Garrow, *Liberty and Sexuality*.
 28. *Wall Street Journal*, November 9, 1972, 4; May 15, 1972, 24; Mary C. Segers and Timothy A. Byrnes, "Introduction: Abortion Politics in American States," in *Abortion Politics in American States*, ed. Mary C. Segers and Timothy A. Byrnes (Armonk, NY: M. E. Sharpe, 1995), 1–15; Burns, *Moral Veto*; Lawrence Lader, *Abortion II: Making the Revolution* (Boston: Beacon Press, 1973).
 29. Greenhouse and Siegel, *Before Roe v. Wade*.
 30. Oregon's reform included language from a May 1968 resolution of the American College of Obstetricians that was itself borrowed from the British reform. As doctors assessed the pregnant woman's health, they could take account of "the mother's total environment, actual or reasonably foreseeable." Garrow, *Liberty and Sexuality*.
 31. Raymond Tatalovich and Byron W. Daynes, *The Politics of Abortion: A Study of Community Conflict in Public Policy Making* (New York: Praeger, 1981).
 32. Burns, *Moral Veto*; U.S. Public Health Service, *Family Planning Evaluation*.
 33. *United States v. Vuitch*, 402 U.S. 62 (1971). *Vuitch* was actually a victory for the pro-choice movement because the Supreme Court ruled that "health" included mental health.

34. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973). See Eva R. Rubin, *Abortion Politics and the Courts* (New York: Greenwood Press, 1987); Garrow, *Liberty and Sexuality*; Mark A. Graber, *Rethinking Abortion: Equal Choice, the Constitution, and Reproductive Politics* (Princeton, NJ: Princeton University Press, 1996); Leon Epstein, "British Mass Parties in Comparison with American Parties," *Political Science Quarterly* 71, no. 1 (1956): 97–125; Burns, *Moral Veto*; Lader, *Abortion II*.
35. Greenhouse and Siegel, *Before Roe v. Wade*, 226.
36. The designation of the second trimester as the "compelling" point where the state could begin to regulate abortion rested on the fact that mortality rates for first trimester abortions were lower than those for childbirth.
37. *Roe v. Wade*, 410 U.S. at 164–65.
38. *Doe v. Bolton*, 410 U.S. at 192.
39. Betty Friedan's *The Feminine Mystique* (New York: Norton, 1963) was especially influential.
40. Greenhouse and Siegel, *Before Roe v. Wade*; Hindell and Simms, *Abortion Law Reformed*; Lader, *Abortion II*; Alphonse de Valk, *Morality and Law in Canadian Politics: The Abortion Controversy* (Montreal: Palm, 1974).
41. Abortion reached the governmental agenda in Canada in part because of the 1967 British reform. The U.S. Supreme Court's *Roe* decision referred to the treatment of abortion under English common law and to the 1967 British abortion reform. British and Canadian movements borrowed the designations "pro-choice" and "pro-life" from the United States.
42. Here, I mean the classical liberalism of Locke and Hobbes rather than the American usage in which "liberal" is one side of the conservative-liberal, left-right, Democratic-Republican divide. Anthony King, "Ideas, Institutions, and Policies of Governments," *British Journal of Political Science* 3, no. 4 (1974): 291–313; Gaston Rimlinger, *Welfare Policy and Industrialization in Europe, America, and Russia* (New York: Wiley, 1971); Samuel P. Huntington, *American Politics: The Promise of Disharmony* (Cambridge, MA: Belknap Press, 1981); Seymour Martin Lipset, *American Exceptionalism* (New York: W. W. Norton, 1996); John W. Kingdon, *America the Unusual* (New York: Worth, 1999).
43. Laurence Tribe critiques Glendon's suggestion that European-style abortion compromises are applicable to the United States, arguing that such compromises would violate American traditions of individual rights and the rule of law, and that discretion in the American context often produces race and class inequality. Laurence H. Tribe, *Abortion: The Clash of Absolutes* (New York: W. W. Norton, 1990).
44. All three countries were heavily influenced by the thought of Thomas Hobbes, John Locke, and John Stuart Mill. But Glendon argues that U.S. Supreme Court Justices Oliver Wendell Holmes Jr. and Louis Brandeis imported liberal legal values from England in a particularly radical form. Mary

- Ruggie, *Realignments in the Welfare State: Health Policy in the United States, Britain, and Canada* (New York: Columbia University Press, 1996); Gosta Esping-Andersen, *Three Worlds of Welfare Capitalism* (Princeton, NJ: Princeton University Press, 1990); Julia S. O'Connor, Ann Shola Orloff, and Sheila Shaver, *States, Markets, Families: Gender, Liberalism, and Social Policy in Australia, Canada, Great Britain, and the United States* (Cambridge: Cambridge University Press, 1999); Mary Ann Glendon, *Abortion and Divorce in Western Law* (Cambridge, MA: Harvard University Press, 1987). Tatalovich, following Lipset, suggests that because Canadians are more collectivist and defer more to elites (i.e., are less classically liberal than Americans) they might show greater deference to abortion laws. But he rejects this hypothesis when he finds that Canadian and American hospitals were equally slow to provide abortions. What is most interesting here is that liberal values can be used to explain both support for permissive abortion laws (Glendon) and resistance to them (Tatalovich). This underscores the multivocality of liberal values and the difficulty of using them to explain policy differences. Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997); S. M. Lipset, *Continental Divide* (New York: Routledge, 1990).
45. Social movements also shape public opinion and issue salience and communicate this information to policy makers. Activists try to convince policy makers of the intensity of their members, the utility of their issue for building electoral coalitions, and the potential of particular policy proposals to mobilize their members. Susan Herbst, *Reading Public Opinion: How Political Actors View the Democratic Process*, Studies in Communication, Media, and Public Opinion (Chicago: University of Chicago Press, 1998).
 46. Connie de Boer, "The Polls: Abortion," *Public Opinion Quarterly* 41, no. 4 (1977): 553–64.
 47. Mark Evers and Jeanne McGee, "The Trend and Pattern in Attitudes toward Abortion in the United States, 1965–1977," *Social Indicators Research* 7, no. 1 (1980): 251–67.
 48. "Do you believe that there should be no legal restraint on getting an abortion—that is, if a woman wants one she need only consult her doctor, or do you believe that the law should specify what kinds of circumstances justify abortion." J. Blake, "The Supreme Court's Abortion Decisions and Public Opinion in the United States," *Population and Development Review* 3, no. 1/2 (1977): 50.
 49. Monica Boyd and Dierdre Gillieson, "Canadian Attitudes on Abortion: Results of the Gallup Polls," *Canadian Studies in Population* 2 (1975): 53–64.
 50. Ann Shola Orloff and Theda Skocpol, "Why Not Equal Protection? Explaining the Politics of Public Social Spending in Britain, 1900–1911 and in the United States, 1880s–1920s," *American Journal of Sociology* 49 (1984): 726–50; Herbert McClosky and John Zaller, *The American Ethos* (Cambridge, MA: Harvard University Press, 1984).

51. Sven Steinmo, "American Exceptionalism Reconsidered: Culture or Institutions?," in *The Dynamics of American Politics: Approaches and Institutions*, ed. Lawrence C. Dodd and Calvin Jillson (Boulder, CO: Westview Press, 1993), 106–31; Ann Swidler, "Culture in Action: Symbols and Strategies," *American Sociological Review* 51, no. 2 (1986): 273–86; Lawrence R. Jacobs and Robert Y. Shapiro, *Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness*, Studies in Communication, Media, and Public Opinion (Chicago: University of Chicago Press, 2000).
52. Kingdon, *America the Unusual*; Steinmo, "American Exceptionalism Reconsidered: Culture or Institutions?"; Theda Skocpol, *Protecting Soldiers and Mothers* (Cambridge, MA: Harvard University Press, 1992).
53. Edwin Amenta, *When Movements Matter: The Townsend Plan and the Rise of Social Security* (Princeton, NJ: Princeton University Press, 2006).
54. Reeves and Robinson both drew tenth place. Short introduced her bill under the ten-minute rule. Steel drew third place. Hindell and Simms, *Abortion Law Reformed*; Peter G. Richards, *Parliament and Conscience* (London: George Allen and Unwin, 1971); Brookes, *Abortion in England, 1900–1967*.
55. Hindell and Simms, *Abortion Law Reformed*; David Marsh and Melvyn Read, *Private Member's Bills* (Cambridge: Cambridge University Press, 1988); Richards, *Parliament and Conscience*.
56. Incrementalism might have been expected in Canada since it also had a federal system, but the British North America Act of 1867 gave the federal government sole jurisdiction over the criminal code where abortion statutes were found. The relative powers of the provinces and the federal government have varied over time. Initially, the federal government had unlimited powers of taxation while the provinces were limited to direct taxation. The federal government could disallow provincial legislation, even in areas that had been reserved to the provinces. But over time, the provinces gained more power. In the postwar period, federal and provincial governments engaged in "cooperative federalism." But in the 1960s, many provinces, led by Quebec, demanded more independence and took a greater role in social, economic, and taxation policy. Gwendolyn Gray, *Federalism and Health Policy: The Development of Health Systems in Canada and Australia* (Toronto: University of Toronto Press, 1991).
57. David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994).
58. Pat Vergata, Charlyn Buss, Barbara Schain, and Donna Greenfield, "Abortion Cases in the United States," *Women's Rights Law Reporter* 1 (1972): 50–55.
59. Francome, *Abortion Freedom*; Lesley Hoggart, "Socialist Feminism, Reproductive Rights, and Political Action," *Capital and Class* 24, no. 1 (2000): 95; Hindell and Simms, *Abortion Law Reformed*.
60. Jenson, "Getting to Morgentaler"; Association for the Modernization of Canadian Abortion Laws, "Presentation to the Honorable John N. Turner,

- P.C., M.P., Minister of Justice and Attorney General of Canada,” Ottawa, National Archives of Canada, December 9, 1968; de Valk, *Morality and Law in Canadian Politics*. AMCAL had about three hundred members in 1968.
61. The organization was originally called the Citizen’s Committee for Humane Abortion Laws. Maginnis was out of California in 1963 and 1964, but revived the organization in 1965 and started distributing Hardin’s speeches. Garrow, *Liberty and Sexuality*, 293–95.
 62. Ibid.
 63. Ibid., 304.
 64. In its first few years, ASA was called the Committee for Humane Abortion Law and then the Association for Humane Abortion. Ibid. Luker, *Abortion and the Politics of Motherhood*.
 65. Garrow, *Liberty and Sexuality*, 292.
 66. Anthony Beilenson, the sponsor of the California reform bill, said in 1965 that his “deliberately restrictive and conservative” reform bill would have “absolutely no effect on the great majority of abortions.” Similarly, the California Committee on Therapeutic Abortion (CCTA), founded and funded by contraceptive manufacturer Joseph Sunnen, was established in 1966 with the short-term goal of enacting the Beilenson bill but the long-term goal of repealing the abortion laws. Ibid., 299–300.
 67. The implementation of reform was different in California where abortion soon became available virtually on request. Legal abortions increased from less than 600 in 1967 to 5,000 in 1968, 15,000 in 1969, 60,000 in 1970, and 117,000 in 1971. E. W. Jackson, M. Tashiro, and G. C. Cunningham, “Therapeutic Abortions in California,” *California Medicine* 115, no. 1 (1971): 28; Luker, *Abortion and the Politics of Motherhood*; Garrow, *Liberty and Sexuality*.
 68. Garrow, *Liberty and Sexuality*, 347.
 69. Ibid., 359.
 70. Ibid.
 71. Jo Freeman, “The Origins of the Women’s Liberation Movement,” *American Journal of Sociology* 78, no. 4 (1973): 792–811; Suzanne Staggenborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (New York: Oxford University Press, 1991).
 72. Abortion was listed after such issues as the Equal Rights Amendment (ERA), employment discrimination, maternity leave, child-care tax credits, public day-care centers, educational equality, and job training. National Organization for Women, “Bill of Rights [1967],” in Greenhouse and Siegel, *Before Roe v. Wade*, 36–38.
 73. Betty Friedan, “Abortion: A Woman’s Civil Right—Speech to the First National Conference on Abortion Laws, Chicago, February 1969,” in Greenhouse and Siegel, *Before Roe v. Wade*, 39; Steven M. Buechler, *Women’s Movements in the United States: Woman Suffrage, Equal Rights, and Beyond* (New Brunswick, NJ: Rutgers University Press, 1990).

74. Judith Hole and Ellen Levine, *Rebirth of Feminism* (New York: Quadrangle Books, 1973); Jo Freeman, *The Politics of Women's Liberation* (New York: Longman Press, 1975); Freeman, "Origins of the Women's Liberation Movement"; Staggenborg, *Pro-Choice Movement*; National Organization for Women, "Bill of Rights [1967]."
75. Hole and Levine, *Rebirth of Feminism*; Greenhouse and Siegel, *Before Roe v. Wade*; Ruth Rosen, *The World Split Open: How the Modern Women's Movement Changed America* (New York: Viking, 2000); Garrow, *Liberty and Sexuality*.
76. Staggenborg, *Pro-Choice Movement*.
77. Another ASA member, Cyril Means, also advocated a judicial strategy but argued that *Griswold* could not be applied to abortion. Instead, he promoted a historical argument that nineteenth-century abortion laws had been designed to protect women's health (rather than fetuses) and had thus outlived their purpose. Garrow, *Liberty and Sexuality*.
78. Garrow, *Liberty and Sexuality*; Roy Lucas, "Federal Constitutional Limitations on the Enforcement and Administration of State Abortion Statutes," *North Carolina Law Review* 46 (1967): 730.
79. Mark P. Henriques, "Desuetude and Declaratory Judgment: A New Challenge to Obsolete Laws," *Virginia Law Review* 76, no. 5 (1990): 1057–97.
80. Garrow, *Liberty and Sexuality*, 354.
81. *Ibid.*
82. The *Belous* opinion argued that in determining whether an abortion was "medically necessary," physicians could weigh the statistical risks of childbirth against those of abortion. Since early abortion carries less risk than childbirth, some observers felt that the court had found that early abortions could always be considered "medically necessary." *Ibid.*
83. *Ibid.*; Rubin, *Abortion Politics and the Courts*; Amy Kesselman, "Women versus Connecticut: Conducting a Statewide Abortion Hearing," in *Abortion Wars: A Half Century of Struggle*, ed. Rickie Solinger (Berkeley: University of California Press, 1998); Greenhouse and Siegel, *Before Roe v. Wade*.
84. Garrow, *Liberty and Sexuality*; Marian Faux, *Roe v. Wade: The Untold Story of the Landmark Supreme Court Decision That Made Abortion Legal* (New York: Cooper Square Press, 2001).
85. Greenhouse and Siegel, *Before Roe v. Wade*; Luker, *Abortion and the Politics of Motherhood*; Burns, *Moral Veto*.
86. Greenhouse and Siegel, *Before Roe v. Wade*.
87. *Ibid.*, 191–92.
88. Staggenborg, *Pro-Choice Movement*.
89. Garrow, *Liberty and Sexuality*. Colorado's Richard Lamm complained that conservative doctors turned his 5 percent law into a 3 percent one.
90. *Ibid.*
91. Rosalind Petchesky, for example, argues that the pro-choice movement was successful because of the combined pressure of the population control, abortion reform, and feminist movements but that the most important

factor was the refusal of women and feminist activists to comply with abortion laws—creating a crisis of legitimacy for the law. “These two factors—the militant organizing of feminists and the threat of ‘alternative services’ were crucial political influences toward loosening population establishment and medical abortion policy. The role of feminist activists as ‘shock troops’—doing underground abortion referrals and counseling, conducting speakouts, sit-ins, and demonstrations—was critical for the timing of the Supreme Court decisions and earlier decriminalization statutes in several states.” Petchesky, *Abortion and Woman's Choice*, 129. Luker explains the establishment of de facto abortion on request in California by arguing that the SHA raised the consciousness of California women, creating a rights-based mass movement for repeal, which the women reformers of the CCTA eventually joined after the 1967 reform. Male reformers, doctors especially, were generally satisfied with the reform and did not join the repeal movement. After the 1967 reform, women members of the CCTA, worried that doctors would implement the reform narrowly, established a service that referred women either to nonphysicians or physicians willing to go beyond the law. The combination of a new abortion rights frame, the referral service, the 1969 *Belous* decision, and efforts for legislative repeal led to expansive interpretations of the 1967 reform. Luker, *Abortion and the Politics of Motherhood*. Garrow notes that Charles Munger also worked to ensure an expansive interpretation of the statute. Garrow, *Liberty and Sexuality*. As for the Supreme Court's *Roe* decision, Luker argues that the court took up the abortion cases and ruled the way that it did because the pro-choice movement was larger and had broader national support than the pro-life movement, because public opinion was supportive of reform, and because the court wished to resolve the confusion created by contradictory state laws. Her argument that abortion has become a referendum on the meaning of motherhood is mainly oriented to explaining why abortion has been so controversial after the *Roe* decision.

92. Tatalovich and Daynes, *Politics of Abortion*; Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991).
93. Burns, *Moral Veto*.
94. Amenta, *When Movements Matter*.
95. ICBH Witness Seminar, “The Abortion Act 1967” (paper presented at the Witness Seminar, Institute of Contemporary British History, 2001).
96. Francome, *Abortion Freedom*; Sheldon, *Beyond Control*; ICBH Witness Seminar, “Abortion Act 1967”; Roy Jenkins, *A Life at the Center* (London: Random House, 1993); Hindell and Simms, *Abortion Law Reformed*; Marsh and Read, *Private Member's Bills*.
97. Hindell and Simms, *Abortion Law Reformed*.
98. Jenkins, *Life at the Center*, 198.
99. It had been the general practice of the Government in the 1960s to give

- drafting assistance to private member's bills that had passed their Second Reading. However, the private member's bills on divorce, family planning, and abortion all received drafting assistance before their Second Reading. The family planning bill had the assistance of the Ministry of Health, and the abortion bill had the aid of the Home Office. Hindell and Simms, *Abortion Law Reformed*.
100. de Valk, "Abortion in Canada, 1960–66"; "Council of Women Asks Abortion Law Change," *Globe and Mail*, January 31, 1967; Pelrine, *Abortion in Canada*.
 101. In this, it was inspired by the 1957 British Wolfenden Commission, which examined proposals for the decriminalization of homosexuality and prostitution.
 102. Alphonse de Valk, *Abortion: Lang, Lalonde, Trudeau, Turner* (Toronto: Life Cycle Books, 1975), 16.
 103. de Valk, *Morality and Law in Canadian Politics*, 104.
 104. Beginning in 1963, the CBA began questioning the existing abortion law at its annual meetings. It eventually proposed provincial termination boards and the same three abortion grounds as the CMA. Ibid.
 105. C. E. S. Franks, "Free Votes in the House of Commons: A Problematic Reform," *Policy Options*, November 1997.
 106. *Globe and Mail*, March 11, 1968; Canada House of Commons (Hansard), May 8, 1969, 8503–5, 8589–91.
 107. Canada House of Commons (Hansard), May 6, 1969, 8397; May 9, 1969, 8543–44; Marilyn J. Field, *The Comparative Politics of Birth Control: Determinants of Policy Variation and Change in the Developed Nations* (New York: Praeger, 1983); Jenson, "Getting to Morgentaler"; Pelrine, *Abortion in Canada*; Tatalovich, *Politics of Abortion*; Morton, *Pro-Choice vs. Pro-Life*.
 108. The New York abortion repeal had bipartisan support and was signed by Republican governor Nelson Rockefeller. *New York Times*, April 1, 1970, April 11, 1970, and May 11, 1972. But Hawaii's bill was an exception; it pitted Democratic supporters of repeal against Republicans. *New York Times*, February 11, 1970.
 109. Burns, *Moral Veto*; Mary C. Segers and Timothy A. Byrnes, eds., *Abortion Politics in American States* (Armonk, NY: M. E. Sharpe, 1995).
 110. Burns, *Moral Veto*.
 111. Greenhouse and Siegel, *Before Roe v. Wade*, 213.
 112. Lisa Young, *Feminists and Party Politics* (Vancouver: UBC Press, 2000); Christina Wolbrecht, *The Politics of Women's Rights: Parties, Positions, and Change* (Princeton, NJ: Princeton University Press, 2000); Donald T. Critchlow, *Intended Consequences: Birth Control, Abortion, and Federal Government in Modern America* (New York: Oxford University Press, 1999); *New York Times*, May 8, 1972.
 113. Charles M. Lamb and Stephen C. Halpern, "The Political and Historical

- Context of the Burger Court,” in *The Burger Court: Political and Judicial Profiles*, ed. Charles M. Lamb and Stephen C. Halpern (Urbana: University of Illinois Press, 1991), 1–34; Garrow, *Liberty and Sexuality*; Epstein and Kobylka, *Supreme Court and Legal Change*. Justice Brennan was a Democrat but was appointed by Republican president Dwight D. Eisenhower.
114. Dorothy E. Smith, *The Everyday World as Problematic: A Feminist Sociology* (Boston: Northeastern University Press, 1987).
 115. In the 1960s, states had primary jurisdiction over such issues as property rights, utilities, education, land use, criminal law, family policy, and morality policy. The main exception to state jurisdiction over morality was the national prohibition of alcohol. This occurred only after most states had already instituted their own prohibitions and the federal prohibition implicitly recognized state jurisdiction in the policy area by its passage through constitutional amendment. William H. Riker, *Federalism: Origin, Operation, Significance* (Boston: Little, Brown, 1964); Jack L. Walker, “The Diffusion of Innovations among the American States,” *American Political Science Review* 63 (1969): 880–99.
 116. N. E. H. Hull and Peter Charles Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*, Landmark Law Cases and American Society (Lawrence: University Press of Kansas, 2001); Raymond Tatalovich, “The Abortion Controversy in Canada and the United States,” *Canadian-American Public Policy*, February 1996, 1–39. Several factors have caused the court to take up more individual rights cases in the last century: enactment of the Fourteenth Amendment, increased control of the court over its agenda, and the ascendance after 1937 of liberal majorities such as the Warren court. Another factor was the development of a support structure for legal mobilization including rights advocacy organizations and increased sources of funding for litigation. This was aided by the court’s procedural decisions relaxing rules on standing and class-action suits, and allowing the award of attorney’s fees to successful rights plaintiffs. Charles R. Epp, *The Rights Revolutions: Lawyers, Activists and Supreme Courts in Comparative Perspective* (Chicago: University of Chicago Press, 1998). The court also relaxed the standards by which it determined whether it could take a case as well as standards of evidence (e.g., amicus curiae briefs and historical and social science evidence). Rubin, *Abortion Politics and the Courts*; Lisa DeLorme, “Gaining a Right to Abortion in the United States and Canada: The Role of Judicial Capacities,” *Berkeley Journal of Sociology* 36 (1991): 93–114.
 117. Julie Conger, “Abortion: The Five-Year Revolution and Its Impact,” *Ecology Law Quarterly* 3, no. 2 (1973): 311–47; Garrow, *Liberty and Sexuality*; Lader, *Abortion II*.
 118. Hull and Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*, 180.
 119. David J. Garrow, “*Roe v. Wade* Revisited,” *Green Bag* 9, no. 2 (2005): 80.

120. John C. Jeffries, *Justice Lewis F. Powell Jr.* (New York: Charles Scribner's Sons, 1994), 351.
121. Evers and McGee, "Trend and Pattern in Attitudes toward Abortion."
122. Jeffries argues that Powell's blind spot about the extent of opposition to *Roe* may have resulted from the fact that none of the justices, including the two dissenters, Rehnquist and White, were personally opposed to abortion. Nor were any of their clerks. He argues that "if Powell had had to override heartfelt objections from a clerk or colleague, he at least would have been alerted to something he entirely missed—the risk that the constitutionalization of abortion would be deeply and durably divisive." Jeffries, *Justice Lewis F. Powell Jr.*, 351.
123. *Roe v. Wade*, 410 U.S. at 115.
124. Harry A. Blackmun, *Justice Harry A. Blackmun Oral History Project Transcript* (Washington, DC: Library of Congress, 1995), 194.
125. Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey* (New York: Times Books, 2005), 90; George Gallup, "Abortion Seen Up to Woman, Doctor" in Greenhouse and Siegel, *Before Roe v. Wade*, 207–9.
126. Blake, "Supreme Court's Abortion Decisions."
127. Greenhouse, *Becoming Justice Blackmun*, 93.
128. *Roe v. Wade*. Some analysts have argued that the defeats of abortion legislation in the early 1970s were a case of organized minorities vetoing majority preferences. As such, the court asserted majority preferences in *Roe*. This makes sense for the defeat of ALI-style reforms, but it is not the case that public opinion clearly favored abortion repeals (i.e., abortion on request), especially in light of state-by-state variations in public opinion. Neal Devins, *Shaping Constitutional Values: Elected Government, the Supreme Court, and the Abortion Debate*, *Interpreting American Politics* (Baltimore: Johns Hopkins University Press, 1996).
129. "No. 70-18—*Roe v. Wade*, No. 70-40—*Doe v. Bolton*" in Greenhouse and Siegel, *Before Roe v. Wade*, 247.
130. *Ibid.*

CHAPTER THREE

1. Some exceptions are Jonathan B. Imber, *Abortion and the Private Practice of Medicine* (New Haven, CT: Yale University Press, 1986); Frederick S. Jaffe, Barbara L. Lindheim, and Philip R. Lee, *Abortion Politics: Private Morality and Public Policy* (New York: McGraw-Hill, 1981); Carole E. Joffe, *Doctors of Conscience: The Struggle to Provide Abortion: Before and after Roe v. Wade* (Boston: Beacon Press, 1995); Lori Freedman, *Willing and Unable: Doctors' Constraints in Abortion Care* (Philadelphia: Temple University Press, 2010).
2. A large number of studies show that existing policies influence later political struggles and policies. Policy legacies can matter in a multitude of

- ways. They can affect the resources, incentives, cognitions, emotions, and knowledge of government elites, interest groups, and mass publics. They can mobilize new groups and identities, determine how policy problems and solutions are defined, create cultural schemas and symbolic resources, and shape the legitimacy of organizations and practices. See John D. Skrentny, *The Ironies of Affirmative Action: Politics, Culture, and Justice in America* (Chicago: University of Chicago Press, 1996); John D. Skrentny, *The Minority Rights Revolution* (Cambridge, MA: Belknap Press, Harvard University, 2002); John David Skrentny, "State Capacity, Policy Feedbacks, and Affirmative Action for Blacks, Women, and Latinos," *Research in Political Sociology* 8 (1998): 279–310; Paul Pierson, *Dismantling the Welfare State? Reagan, Thatcher, and the Politics of Retrenchment* (New York: Cambridge University Press, 1994); James M. Jasper, "The Emotions of Protest: Affective and Reactive Emotions in and around Social Movements," *Sociological Forum* 13, no. 3 (1998): 395–424; Edward J. Walsh, "Resource Mobilization and Citizen Protest in Communities around Three Mile Island," *Social Problems* 29 (1981): 1–21; Jeff Goodwin, James M. Jasper, and Francesca Polletta, "The Return of the Repressed: The Fall and Rise of Emotions in Social Movement Theory," *Mobilization* 5, no. 1 (2000): 65–84; E. E. Schattschneider, *Politics, Pressures, and the Tariff* (New York: Prentice Hall, 1935); Edwin Amenta, *Bold Relief: Institutional Politics and the Origins of Modern American Social Policy* (Princeton, NJ: Princeton University Press, 1998); Peter Hall, *The Political Power of Economic Ideas: Keynesianism across Countries* (Princeton, NJ: Princeton University Press, 1989); Peter A. Hall, *Governing the Economy: The Politics of State Intervention in Britain and France* (Oxford: Oxford University Press, 1986); Sven Steinmo, Kathleen Thelen, and Frank Longstreth, *Structuring Politics: Historical Institutionalism in Comparative Analysis* (Cambridge: Cambridge University Press, 1992); Hugh Hecl, *Modern Social Politics in Britain and Sweden* (New Haven, CT: Yale University Press, 1974); Jacob S. Hacker, "The Historical Logic of National Health Insurance: Structure and Sequence in the Development of British, Canadian, and U.S. Medical Policy," *Studies in American Political Development* 12, no. 1 (1998): 57–130; Theda Skocpol, *Protecting Soldiers and Mothers* (Cambridge, MA: Harvard University Press, 1992); Nicholas Pedriana and Robin Stryker, "Political Culture Wars 1960s Style: Equal Employment Opportunity-Affirmative Action Law and the Philadelphia Plan," *American Journal of Sociology* 103, no. 3 (1997): 633–91; Chad. A. Goldberg, "Contesting the Status of Relief Workers during the New Deal: The Workers Alliance of America and the Works Progress Administration, 1935–1941," *Social Science History* 29, no. 3 (2005): 337–71.
3. Joffe, *Doctors of Conscience*; Keith Hindell and Madeline Simms, *Abortion Law Reformed* (London: Peter Owen, 1971); Colin Francome, *Abortion Practice in Britain and the United States* (London: Allen and Unwin, 1986); Julia S. O'Connor, Ann Shola Orloff, and Sheila Shaver, "Body Rights,

- Social Rights, and Reproductive Choice," in *States, Markets, Families: Gender, Liberalism, and Social Policy in Australia, Canada, Great Britain and the United States* (Cambridge: Cambridge University Press, 1999), 157–85; Jane Brodie, "Health vs. Rights: Comparative Perspectives on Abortion Policy in Canada and the United States," in *Power and Decision: The Social Control of Reproduction*, ed. Gita Sen and Rachel C. Snow (Cambridge, MA: Harvard University Press, 1994), 123–46.
4. Kurt W. Back, "Why Is Abortion a Public Issue? The Role of Professional Control," *Politics and Society* 15 (1986–87): 197–206.
 5. Jonathan B. Imber, *Abortion and the Private Practice of Medicine* (New Haven, CT: Yale University Press, 1986); Carole E. Joffe, Patricia Anderson, and Jody Steinauer, "The Crisis in Abortion Provision and Pro-Choice Medical Activism," in *Abortion Wars: A Half Century of Struggle*, ed. Rickie Solinger (Berkeley: University of California Press, 1997), 320–34; Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997); Canadian Abortion Rights Action League, "Protecting Abortion Rights in Canada" (Ottawa: Canadian Abortion Rights Action League, 2003); Francome, *Abortion Practice in Britain and the United States*. Canada also has strong regional disparities as the result of the large number of hospitals that have refused to provide abortions and limited provision by clinics.
 6. Eliot Freidson, *Professional Dominance: The Social Structure of Medical Care* (Chicago: Aldine, 1970); Eliot Freidson, *Profession of Medicine: A Study of the Sociology of Applied Knowledge* (New York: Dodd, Mead, 1970); Donald W. Light, "Countervailing Power: The Changing Character of the Medical Profession in the United States," in *The Changing Medical Profession*, ed. Frederic W. Hafferty and John B. McKinlay (Oxford: Oxford University Press, 1993), 69–79; Frederic W. Hafferty and Donald W. Light, "Professional Dynamics and the Changing Nature of Medical Work," *Journal of Health and Social Behavior* 35, extra issue (1995): 132–53; Marie R. Haug, "The Erosion of Professional Authority: A Cross-Cultural Inquiry in the Case of the Physician," *Milbank Quarterly* 54, no. 1 (1976): 83–106.
 7. I use the phrase "abortion on demand" only in quotation marks. Feminist abortion rights activists first used the term, but doctors and abortion opponents eventually used it pejoratively. In practice, "abortion on demand" has never existed in the three countries examined here because individual doctors maintained the right to refuse to perform abortions.
 8. In their testimony to Parliament, CMA delegates argued that abortion rates tended to be higher in smaller unaccredited hospitals and that the CMA had taken a "solid stand . . . that some form of control should be exercised in this regard by the medical profession." Canada House of Commons, *Minutes and Proceedings and Evidence of the Standing Committee on Health Welfare and Social Affairs*, October 31, 1967, 111–12.
 9. Hindell and Simms, *Abortion Law Reformed*.

10. "Leading Articles: Abortion Law," *British Medical Journal*, April 17, 1965.
11. British Medical Association, "Annual Representative Meeting: Abortion," *British Medical Journal Supplement*, July 17, 1965; John Keown, *Abortion, Doctors, and the Law: Some Aspects of the Legal Regulation of Abortion in England from 1803 to 1982* (Cambridge: Cambridge University Press, 1988); Hindell and Simms, *Abortion Law Reformed*.
12. Hector MacLennan, Draft of President's Letter to the *Times* for Comment by Members of the Finance and Executive Committee, Royal College of Obstetricians and Gynaecologists, 1965, Archives of the RCOG A16/1; Sir Hector MacLennan, President, Royal College of Obstetricians and Gynaecologists, to Sir George Godber, Chief Medical Officer, Ministry of Health, December 15, 1965, Archives of the RCOG A16/1.
13. Vera Houghton, Memorandum to Executive Committee of Abortion Law Reform Association on Amendments to Medical Termination of Pregnancy Bill (London (SA/ALR/A6/9/38): Wellcome Institute for the History of Medicine, Contemporary Medical Archives Centre, January 3, 1967).
14. Baird also urged Steel to resist efforts to remove Scotland from the abortion act since abortion practice was liberal only in Baird's home of Aberdeen. Gayle Davis and Roger Davidson, "'A Fifth Freedom' or 'Hideous Atheistic Expediency'? The Medical Community and Abortion Law Reform in Scotland, c. 1960–1975," *Medical History* 50, no. 1 (2006): 29–48.
15. British Medical Association, "Therapeutic Abortion: Report by B.M.A. Special Committee," *British Medical Journal*, July 2 1966; British Medical Association and the Royal College of Obstetricians and Gynaecologists, "Medical Termination of Pregnancy Bill: Views of the British Medical Association and the Royal College of Obstetricians and Gynaecologists," *British Medical Journal*, December 31, 1966; Royal College of Obstetricians and Gynaecologists, "Legalized Abortion: Report by the Council of the Royal College of Obstetricians and Gynaecologists," *British Medical Journal* 1 (1966): 850–52; British Medical Association, "Proceedings of Council: Therapeutic Abortion"; "Leading Articles: Therapeutic Abortion"; "Leading Articles: Legislation on Abortion," *British Medical Journal*, March 5, 1966; "B.M.A.'s Views on Abortion," *Lancet*, July 2, 1966; Hindell and Simms, *Abortion Law Reformed*.
16. "Relaxation of Federal Abortion Law Is Asked by B.C. Doctor," *Globe and Mail*, August 31, 1961; "The Abortion Issue," *Globe and Mail*, September 1, 1961; Alphonse de Valk, "Abortion in Canada, 1960–66," in *Death before Birth*, ed. E. J. Kremer and E. A. Synan (Toronto: Griffin House, 1974). In 1962, a doctor with a law degree argued that Britain's *Bourne* decision did not actually apply to Canada and thus existing law did not allow abortions under any circumstances. The solicitor of the OMA immediately disagreed. J. J. Lederman, "The Doctor, Abortion, and the Law," *Canadian Medical Association Journal* 87 (1962): 216; J. J. Lederman and G. E. Parker, "Therapeutic Abortion and the Canadian Criminal Code," *Criminal Law Quarterly* 6

- (1963): 36; Graham E. Parker, "Bill C-150: Abortion Reform," *Criminal Law Quarterly* 11 (1969): 267–74; Alphonse de Valk, *Morality and Law in Canadian Politics: The Abortion Controversy* (Montreal: Palm, 1974), 761ff.; *Ontario Medical Review*, September 1962.
17. Marilyn J. Field, "The Determinants of Abortion Policy in Developed Nations," *Policy Studies Journal* 7 (1979): 771–81; Jane Jenson, "Getting to Morgentaler: From One Representation to Another," in Brodie, Gavigan, and Jenson, *Politics of Abortion*; Eleanor Wright Pelrine, *Abortion in Canada* (Toronto: New Press, 1971).
 18. The 1966 proposal allowed abortion for grounds of life, physical health, or mental health with approval by a hospital abortion committee and parental or husband consent when necessary. This resembled a proposal approved by the OMA the year before. The Council rejected a motion to add grounds for rape, incest, and fetal abnormality, and the resolution did not include grounds of economic hardship or abortion on request. Canadian Medical Association, *Transactions of the Ninety-eighth Annual Meeting of the Canadian Medical Association* (Ottawa: Canadian Medical Association Archives, 1965), 79; "A Long Overdue Reform," *Globe and Mail*, June 18, 1966; Ontario Medical Association, "Transactions of Council, May 10–11, 1963, No. 96, Section on Obstetrics and Gynecology—Proposed Study of Sterilization and Therapeutic Abortions," *Ontario Medical Review* 30, no. 7 (1963): 418; de Valk, "Abortion in Canada, 1960–66"; "Free the Doctor," *Globe and Mail*, May 18, 1965; Canadian Medical Association, *Transactions of the Ninety-ninth Annual Meeting of the Canadian Medical Association* (Ottawa: Canadian Medical Association Archives, 1966), 62–63.
 19. Canadian Medical Association, *Transactions of the General Council at the One Hundredth Annual Meeting of the Canadian Medical Association* (Ottawa: Canadian Medical Association Archives, 1967).
 20. Medical World News, "Rewriting the Law on Abortion," *Medical World News*, September 29, 1967.
 21. The California Medical Association was an exception to the general pattern; it endorsed abortion reform as early as 1962. James M. Ingram, "Changing Aspects of Abortion Law," *American Journal of Obstetrics and Gynecology* 105 (1969): 35–45; Sagar C. Jain and Laurel Gooch, *Georgia Abortion Act 1968: A Study in Legislative Process* (Chapel Hill: School of Public Health, University of North Carolina at Chapel Hill, 1972); Sagar C. Jain and Steven Hughes, *California Abortion Act 1967: A Study in Legislative Process* (Chapel Hill: School of Public Health, University of North Carolina at Chapel Hill, 1968); Sagar C. Jain and Steven W. Sinding, *North Carolina Abortion Law 1967: A Study of Legislative Process* (Chapel Hill: School of Public Health, University of North Carolina at Chapel Hill, 1972); Raymond Tatalovich and Byron W. Daynes, *The Politics of Abortion: A Study of Community Conflict in Public Policy Making* (New York: Praeger, 1981).
 22. Jain and Gooch, *Georgia Abortion Act 1968*; Kristin Luker, *Abortion and*

- the Politics of Motherhood* (Berkeley: University of California Press, 1984); Suzanne Staggenborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (New York: Oxford University Press, 1991).
23. Tatalovich and Daynes, *Politics of Abortion*.
 24. Lawrence Lader, *Abortion II: Making the Revolution* (Boston: Beacon Press, 1973); Rosalind Pollack Petchesky, *Abortion and Woman's Choice: The State, Sexuality, and Reproductive Freedom* (New York: Longman, 1984).
 25. *New York Times*, June 26, 1970. See also Anthony Hordern, *Legal Abortion: The English Experience* (Oxford: Pergamon Press, 1971); David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994); American Medical Association, *House of Delegate Proceedings, Annual Convention* (Chicago: American Medical Association, 1970).
 26. Later, pro-choice activists asked the AMA to file an amicus brief in *Roe*, but it declined. The American College of Obstetricians and Gynecologists (ACOG) did provide a brief in behalf of the “vagueness” argument. Lee Epstein and Joseph F. Kobylka, *The Supreme Court and Legal Change: Abortion and the Death Penalty* (Chapel Hill: University of North Carolina Press, 1992).
 27. The Royal Medico-Psychological Association endorsed a variety of grounds including fetal abnormality, rape, underage pregnancy, and economic hardship. However, it opposed abortion for grounds of “inconvenience” and warned against defining abortion grounds too exactly because this might introduce an element of “coercion” in which patients would “expect the doctor to acquiesce” and “the role of the surgeon or gynecologist would be reduced to that of a technician carrying out an objectionable task.” In the same year, the Medical Women’s Federation endorsed grounds of physical or mental health only. Royal Medico-Psychological Association, “The Royal Medico-Psychological Association’s Memorandum on Therapeutic Abortion,” *British Journal of Psychiatry* 112 (1966): 1071–72; Medical Women’s Federation, “Abortion Law Reform: Memorandum Prepared by a Subcommittee of the Medical Women’s Federation,” *British Medical Journal*, December 17, 1966.
 28. Rosemary Stevens, *Medical Practice in Modern England: The Impact of Specialization and State Medicine* (New Haven, CT: Yale University Press, 1966); Michael Moran and Bruce Wood, *States, Regulation, and the Medical Profession* (Buckingham: Open University Press, 1993); Hindell and Simms, *Abortion Law Reformed*.
 29. Hindell and Simms, *Abortion Law Reformed*.
 30. Carolyn J. Tuohy, *Accidental Logics: The Dynamics of Change in the Health Care Arena in the United States, Britain, and Canada* (New York: Oxford University Press, 1999); Christopher Hamm, *Health Policy in Britain: The Politics and Organization of the National Health Service* (London: MacMillan, 1982).
 31. Hamm, *Health Policy in Britain*; Stevens, *Medical Practice in Modern England*.

32. Stevens, *Medical Practice in Modern England*; Donald Gould, *The Black and White Medicine Show: How Doctors Serve and Fail Their Customers* (London: Hamish Hamilton, 1985).
33. As Mary Ann Elston puts it: "In 1948, an "underlying concordat" between the state and the profession was established with respect to resource allocation. The state determined the overall resources devoted to medical care, leaving the profession largely free to determine the use of these resources, under the rubric of "clinical autonomy." This freedom extended to include a considerable level of representation as a matter of right on policymaking bodies at all levels as well as freedom from managerial supervision over patient care." Mary Ann Elston, "The Politics of Professional Power: Medicine in a Changing Health Service," in *The Sociology of the Health Service*, ed. Jonathan Gabe, Michael Calnan, and Michael Bury (London: Routledge, 1991), 67. See also Tuohy, *Accidental Logics*.
34. Elston, "Politics of Professional Power"; Hamm, *Health Policy in Britain*; Deal Chandler Brooks, "The Joint Commission on Accreditation of Healthcare Organizations," in *Providing Quality Care*, ed. Norbert Goldfield and David B. Nash (Ann Arbor, MI: Health Administration Press, 1995), 145–60; James Warner Bjorkman, "Politicizing Medicine and Medicalizing Politics: Physician Power in the United States," in *Controlling Medical Professionals: The Comparative Politics of Health Governance*, ed. Giorgio Freddi and James Warner Bjorkman (London: Sage, 1989), 28–73; Stephen Harrison and Rockwell I. Schulz, "Clinical Autonomy in the United Kingdom and the United States: Contrasts and Convergence," in Freddi and Bjorkman, *Controlling Medical Professionals*, 198–209; Marian Dohler, "Physicians' Professional Autonomy in the Welfare State: Endangered or Preserved," in Freddi and Bjorkman, *Controlling Medical Professionals*, 178–97; Moran and Wood, *States, Regulation, and the Medical Profession*; Stevens, *Medical Practice in Modern England*; Paul Starr and Ellen Immergut, "Health Care and the Boundaries of Politics," in *The Politics of Health Care Reform: Lessons from the Past, Prospects for the Future*, ed. James A. Morone and Gary S. Belkin (Durham, NC: Duke University Press, 1994), 221–54; John Fry, *Medicine in Three Societies: A Comparison of Medical Care in the USSR, USA, and UK* (London: MTP Chiltern House, 1969); "Towards Medical Audit," *British Medical Journal*, 1, no. 5902 (1974): 255–57.
35. Elston, "Politics of Professional Power"; Bjorkman, "Politicizing Medicine and Medicalizing Politics"; Harrison and Schulz, "Clinical Autonomy in the United Kingdom and the United States"; Dohler, "Physicians' Professional Autonomy in the Welfare State"; Moran and Wood, *States, Regulation, and the Medical Profession*; Starr and Immergut, "Health Care and the Boundaries of Politics."
36. Moran and Wood, *States, Regulation, and the Medical Profession*, 132.
37. Royal College of Obstetricians and Gynaecologists, "Legalized Abortion," 852; British Medical Association, "Therapeutic Abortion," 41; British

- Medical Association and the Royal College of Obstetricians and Gynaecologists, "Medical Termination of Pregnancy Bill," 1649–50.
38. Royal College of Obstetricians and Gynaecologists, "Legalized Abortion," 852 (emphasis added).
39. David Gullick, Under Secretary, BMA, to Sir John Peel, President, RCOG, "Medical Termination of Pregnancy Bill, Meeting at House of Commons 4th May, 1967," May 4, 1967, Archives of the RCOG A16/4.
40. Houghton, Memorandum to Executive Committee of Abortion Law Reform Association on Amendments to Medical Termination of Pregnancy Bill, 2.
41. David Steel, Member of Parliament, to Sir John Peel, President Royal College of Obstetricians and Gynaecologists, February 8, 1967, Archives of the RCOG A16/2; Sir John Peel, President, Royal College of Obstetricians and Gynaecologists, to David Steel, Member of Parliament, February 10, 1967, Archives of the RCOG A16/2.
42. Hindell and Simms, *Abortion Law Reformed*.
43. Royal College of Obstetricians and Gynaecologists, "Legalized Abortion."
44. British Medical Association and the Royal College of Obstetricians and Gynaecologists, "Medical Termination of Pregnancy Bill," 1649.
45. British Medical Association, "Therapeutic Abortion," 41.
46. British Medical Association and the Royal College of Obstetricians and Gynaecologists, "Medical Termination of Pregnancy Bill," 1649–50.
47. Preventive medicine has historically been the domain of local governments. Local governments retained this responsibility with the creation of the NHS, but now the local health authorities were part of the NHS and had greater resources. This somewhat reduced the traditional separation between the preventive and curative spheres. J. Rogers Hollingsworth, *A Political Economy of Medicine: Great Britain and the United States* (Baltimore: Johns Hopkins University Press, 1986).
48. Tuohy, *Accidental Logics*, 46–47.
49. Sheila Jasanoff, *Designs on Nature: Science and Democracy in Europe and the United States* (Princeton, NJ: Princeton University Press, 2005).
50. The liberal American Public Health Association and the American Medical Women's Association were ahead of the AMA on abortion, calling for the repeal of all restrictions in 1968. Raymond Tatalovich, "After Medicare: Political Determinants of Social Change in the American Medical Association" (PhD, University of Chicago, 1971); C. Gerald Fraser, "Reuther Asks National Health System," *New York Times*, November 15, 1968; *Wall Street Journal*, November 15, 1969, 3. The ACOG was ahead of the AMA on economic hardship grounds, but lagged behind on abortion on request. In 1968, the ACOG endorsed the ALI model, but also added a clause, quoted directly from the British Abortion Act, in which doctors could take account of the "woman's total environment, actual or reasonably foreseeable" while evaluating her physical and mental health. In 1971, the ACOG approved abortion "to safeguard the patient's health or improve her family life

- situation" and in 1972, it called for abortion on request. *New York Times*, May 10, 1968; Nanette J. Davis, *From Crime to Choice: The Transformation of Abortion in America* (Westport, CT: Greenwood Press, 1985), 58, 69; Lader, *Abortion II*.
51. Freidson, *Profession of Medicine*; Tatalovich, "After Medicare."
 52. Tatalovich, "After Medicare"; Freidson, *Profession of Medicine*.
 53. Tuohy, *Accidental Logics*; Julia S. O'Connor, Ann Shola Orloff, and Sheila Shaver, *States, Markets, Families: Gender, Liberalism, and Social Policy in Australia, Canada, Great Britain, and the United States* (Cambridge: Cambridge University Press, 1999).
 54. Paul Starr, *The Social Transformation of American Medicine* (New York: Basic Books, 1982); Moran and Wood, *States, Regulation, and the Medical Profession*; Jill S. Quadagno, *One Nation, Uninsured: Why the U.S. Has No National Health Insurance* (Oxford: Oxford University Press, 2005); Jacob S. Hacker, *The Divided Welfare State: The Battle over Public and Private Social Benefits in the United States* (New York: Cambridge University Press, 2002).
 55. *Wall Street Journal*, June 22, 1967, 4.
 56. Alan F. Guttmacher, "The Genesis of Liberalized Abortion in New York: A Personal Insight," *Case Western Reserve Law Review* 23 (1972): 756–78; Jean Pakter and Frieda Nelson, "Abortion in New York City: The First Nine Months," *Family Planning Perspectives* 3, no. 3 (1971): 5–12; Lader, *Abortion II*; *New York Times*, June 10, 1970, 7; April 11, 1970, 17; June 3, 1970, 44; June 11, 1970, 18; Bernard N. Nathanson, *Aborting America* (Garden City, NY: Doubleday, 1979); "The Widening Horizon of Legal Abortion," *Medical World News*, June 12, 1970; C. Tietze and S. Lewit, "Joint Program for the Study of Abortion (JPSA): Early Medical Complications of Legal Abortion," *Studies in Family Planning* 3, no. 6 (1972): 97–119.
 57. *Hearings Before Subcomm. on Health and the Environment of the House Comm. on Energy and Commerce, Part 1, H6*, May 9, 1983 (testimony of Christopher Tietze).
 58. Uwe E. Reinhardt, "Resource Allocation in Health Care: The Allocation of Lifestyles to Providers," *Milbank Quarterly* 65, no. 2 (1987): 153–76; Harrison and Schulz, "Clinical Autonomy in the United Kingdom and the United States," 205; Moran and Wood, *States, Regulation, and the Medical Profession*; Rudolf Klein, "Reflections on the American Health Care Condition," *Journal of Health Care, Politics, and Law* 6, no. 2 (1981): 188–204; Tuohy, *Accidental Logics*; Starr and Immergut, "Health Care and the Boundaries of Politics"; Uwe Reinhardt, "Healers and Bureaucrats in the All-American Health Care Fray," in *Technology, Bureaucracy, and Healing in America*, ed. Roger J. Bulger (Iowa City: University of Iowa Press, 1988). For a critique, see Richard A. Culbertson and Philip R. Lee, "Medicare and Physician Autonomy," *Health Care Financing Review* 18, no. 2 (1996): 115–30.
 59. Brooks, "Joint Commission on Accreditation of Healthcare Organizations"; Danny Ermann, "Hospital Utilization Review: Past Experience,

- Future Directions,” *Journal of Health Politics, Policy and Law* 13, no. 4 (1988): 683–704; Fry, *Medicine in Three Societies*.
60. Starr, *Social Transformation of American Medicine*.
61. *New York Times*, June 17, 1960, 38.
62. The committee was chaired by Dr. Raymond T. Holden, a Georgetown University ob/gyn. Holden opposed abortion but supported doctors’ right to decide for themselves. Most other members of the committee supported abortion rights, including contraception and pro-choice activists Dr. C. Lee Buxton of Yale University Medical School, who brought the *Griswold* case, and Drs. Mary Calderone and Janet Dingle, both formerly of Planned Parenthood. *Wall Street Journal*, December 1, 1965, 12.
63. Interview with AMA official no. 3, November 2002. All interviews were conducted confidentially, and the names of interviewees are withheld by mutual agreement.
64. All resolutions before the AMA House of Delegates are first sent to a reference committee that hears testimony and makes recommendations.
65. American Medical Association, *House of Delegate Proceedings, Clinical Convention* (Chicago: American Medical Association, 1965), 92.
66. Deborah A. Stone, *The Limits of Professional Power: National Health Care in the Federal Republic of Germany* (Chicago: University of Chicago Press, 1980).
67. *Wall Street Journal*, December 2, 1965, 8; “AMA Defers New Stand on Abortion,” *Medical World News*, December 17, 1965; American Medical Association, *House of Delegate Proceedings, Clinical Convention* (1965), 88–93; “House Spurns a Proposal to Loosen Abortion Law,” *Medical Tribune*, December 13, 1965; Tatalovich, *Politics of Abortion*.
68. “American Medical Association Policy Statements, 1967 and 1970,” in *Before Roe v. Wade: Voices That Shaped the Abortion Debate before the Supreme Court’s Ruling*, ed. Linda Greenhouse and Reva Siegel (New York: Kaplan, 2010), 27; American Medical Association, *House of Delegate Proceedings, Annual Convention* (Chicago: American Medical Association, 1967), 40–51, 201–3; *Wall Street Journal*, June 22, 1967, 4.
69. Dick Kirschten, “AMA Relaxes Abortion Stand for First Time since 1871,” *Chicago Sun-Times*, June 22, 1967; American Medical Association, *House of Delegate Proceedings, Annual Convention* (1967); *Wall Street Journal*, June 19, 1967, 9; June 22, 1967, 4.
70. American Medical Association, *House of Delegate Proceedings, Clinical Convention* (Chicago: American Medical Association, 1969), 312.
71. *Ibid.*, 241, 312; Lucinda Cisler, “Unfinished Business: Birth Control and Women’s Liberation,” in *Sisterhood Is Powerful: An Anthology of Writings from the Women’s Liberation Movement*, ed. Robin Morgan (New York: Random House, 1970), 245–89.
72. In the end, no national health insurance plan was enacted, but this was

- mostly a matter of bad timing. In 1973, the OPEC oil shock, recession, and inflation pushed proposals for national health insurance off the agenda. Starr, *Social Transformation of American Medicine*.
73. Sandra Blakeslee, "Protest Disrupts Meeting of A.M.A.," *New York Times*, July 14, 1969; Jon Nordheimer, "Protestor Likens A.M.A. to Saigon Government," *New York Times*, July 16, 1969; Starr, *Social Transformation of American Medicine*; Frank D. Campion, *The AMA and U.S. Health Policy since 1940* (Chicago: Chicago Review Press, 1984); "Unconventional Convention: American Medical Association," *Nature*, July 11, 1970; "Brush-Off at the Red Lacquer Room," *Medical World News*, July 10, 1970; *New York Times*, July 20, 1969.
 74. Interview with AMA official no. 3, November 2002.
 75. Interview with AMA official no. 2, November 2002.
 76. Ibid.
 77. Interview with AMA official no. 4, November 2002.
 78. Campion, *AMA and U.S. Health Policy since 1940*; Starr, *Social Transformation of American Medicine*; "AMA," *Medical World News*, June 5, 1970; Walter Bornemeier, "Blueprint for the Future," *JAMA* 217, no. 3 (1971): 321–24; Ernest B. Howard, "Organized Medicine: The AMA," *Scope: A Publication of the Boston University Medical Center*, December 1970.
 79. Howard, "Organized Medicine," 10.
 80. Patricia G. Steinhoff, *Abortion Politics: The Hawaii Experience* (Honolulu: University Press of Hawaii, 1977); Peter Kihss, "Repeal of Laws on Morals Urged," *New York Times*, February 13, 1969; American Medical Association, *House of Delegate Proceedings, Annual Convention* (Chicago: American Medical Association, 1970); "Abortion Change Proposed," *American Medical News*, May 25, 1970; "AMA Abortion Position Liberalized," *American Medical News*, July 6, 1970.
 81. *AMA House of Delegates Proceedings* (Annual 1970), quoted in Tatalovich and Daynes, *Politics of Abortion*, 55.
 82. Ibid., 55–56.
 83. American Medical Association, *House of Delegate Proceedings, Annual Convention* (1970), 337–39; Tatalovich and Daynes, *Politics of Abortion*; *Wall Street Journal*, June 26, 1970, 5.
 84. American Medical Association, *House of Delegate Proceedings, Annual Convention* (1970), 220. At the AMA clinical convention six months later, the New Jersey delegation proposed revoking this resolution. As a compromise, the reference committee proposed combining the 1967 and 1970 resolutions, but the delegates stuck with the 1970 resolution. Said AMA president Dr. Walter Bornemeier, "I think the action of the delegates is quite clear. . . . It is up to each doctor to interpret according to his own conscience what he considers a valid medical reason for performing an abortion." Tatalovich and Daynes, *Politics of Abortion*, 56; *Chicago Tribune*, December 3, 1970, 12.

85. Richard D. Lyons, "Abortion Reform Debated by AMA," *New York Times*, June 23, 1970; Richard D. Lyons, "A.M.A. Eases Abortion Rules," *New York Times*, June 26, 1970; "Abortions: Change of Heart," *Nature*, July 4, 1970.
86. "Abortion Debate: Deep Passion, Little Change," *Medical World News*, July 10, 1970; *Wall Street Journal*, June 26, 1970, 5.
87. *Washington Post*, June 26, 1970, A3.
88. *Wall Street Journal*, June 26, 1970, 5.
89. "Modern Medicine Poll on Socioeconomic Issues: Abortion-Homosexual Practices-Marihuana," *Modern Medicine*, November 3, 1969; "Abortion: The Doctor's Dilemma," *Modern Medicine*, April 24, 1967.
90. Joffe, *Doctors of Conscience*; Philip R. Lee and Lauren B. LeRoy, "Abortion Politics and Public Policy," in *Perspectives on Abortion*, ed. Paul Sachdev (Metuchen, NJ: Scarecrow Press, 1985), 44–58; Jaffe, Lindheim, and Lee, *Abortion Politics*.
91. "Abortion, Training Policies Hold Spotlight at AMA," *Hospital Practice*, August 1970, 19.
92. Robert Hall, *Abortion in a Changing World* (New York: Columbia University Press, 1970), 2:108.
93. Interview with AMA official no. 1, November 2002.
94. *Ibid.*
95. Starr, *Social Transformation of American Medicine*.
96. Hollingsworth, *Political Economy of Medicine*; Starr, *Social Transformation of American Medicine*.
97. Greenhouse and Siegel, *Before Roe v. Wade*; Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey* (New York: Times Books, 2005); Nan Hunter, "Justice Blackmun, Abortion, and the Myth of Medical Independence," *Brooklyn Law Review* 72 (2006): 147. Hunter contests the notion that Blackmun "wrote *Roe* to center on the best interests of medicine." I do not make such a claim. Instead, I argue that Blackmun had a high regard for medicine and would have been reluctant to expand abortion rights without the acquiescence of the AMA. I agree with Hunter that Blackmun was inclined to write a narrow abortion opinion but was pushed into a broader ruling by other members of the court.
98. Garrow, *Liberty and Sexuality*, 568.
99. Greenhouse and Siegel, *Before Roe v. Wade*.
100. Eva R. Rubin, *Abortion Politics and the Courts* (New York: Greenwood Press, 1987), 38–43; Garrow, *Liberty and Sexuality*.
101. Greenhouse, *Becoming Justice Blackmun*; Garrow, *Liberty and Sexuality*; Del Dickson, *The Supreme Court in Conference, 1940–1985: The Private Discussions behind Nearly 300 Supreme Court Decisions* (Oxford: Oxford University Press, 2001).
102. Greenhouse, *Becoming Justice Blackmun*, 81.
103. Dickson, *Supreme Court in Conference*.

104. Douglas sent a letter of protest to Burger, contesting his right to assign the cases and the assignment of *Doe* to Blackmun. In fact, Douglas had planned to assign *Roe* to Blackmun anyway as an acknowledgment of his break with Burger in conference. But Douglas had not intended to assign *Doe* to Blackmun.
105. Roy Lucas, "New Historical Insights on the Curious Case of *Baird v. Eisenstadt*," *Roger Williams University Law Review* 9 (2003): 9–54.
106. *Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972).
107. Greenhouse, *Becoming Justice Blackmun*; Garrow, *Liberty and Sexuality*.
108. Garrow, *Liberty and Sexuality*; Greenhouse, *Becoming Justice Blackmun*.
109. Garrow, *Liberty and Sexuality*; Harry A. Blackmun, *Justice Harry A. Blackmun Oral History Project Transcript* (Washington, DC: Library of Congress, 1995); Epstein and Kobylka, *Supreme Court and Legal Change*.
110. Burger eventually joined the majority in both cases. Garrow suggests that he did so to ensure a more unified Court for such an important decision. Garrow, *Liberty and Sexuality*.
111. *Ibid.*; Hunter, "Justice Blackmun, Abortion, and the Myth of Medical Independence"; Greenhouse, *Becoming Justice Blackmun*. Powell's vote was unexpected. It seemed to contradict his support for judicial restraint. But he was not casting the deciding vote since Blackmun had stuck to his original position. In addition, like many upper-class, educated, mainline Protestants, Powell opposed abortion restrictions on a personal level. Like Blackmun, he had great respect for medical authority (his father-in-law and both brothers-in-law were obstetricians), he had personally intervened with the local prosecutor on behalf of an employee who aided a fatal home abortion, and one of Powell's daughters supported abortion rights. Finally, he felt that common sense rather than the Constitution offered the only answer to the abortion debate. John C. Jeffries, *Justice Lewis F. Powell Jr.* (New York: Charles Scribner's Sons, 1994).
112. Blackmun was not the only justice who viewed abortion mainly as a medical issue. Douglas focused on the protection of doctor-patient privacy in an early *Roe* draft, and Powell insisted that abortion was mainly a medical problem. Hunter, "Justice Blackmun, Abortion, and the Myth of Medical Independence."
113. *Roe v. Wade*, 410 U.S. 113, 152 (1973).
114. *Ibid.*
115. *Ibid.*, 165–66.
116. "Our cases long have recognized that the Constitution embodies a promise that a certain private sphere of individual liberty will be kept largely beyond the reach of government. That promise extends to women as well as to men. Few decisions are more personal and intimate, more properly private, or more basic to individual dignity and autonomy than a woman's decision—with the guidance of her physician and with the limits specified

- in *Roe*—whether to end her pregnancy. A woman’s right to make that choice freely is fundamental.” *Thornburgh v. American College of Obstetricians & Gynecologists*, 476 U.S. 747, 772 (1986).
117. “No. 70-18—*Roe v. Wade*, No. 70-40—*Doe v. Bolton*” in Greenhouse and Siegel, *Before Roe v. Wade*, 251; Garrow, *Liberty and Sexuality*. Greenhouse and Siegel note that Blackmun wrote the hand-down before he saw Burger’s concurrence. Once he saw that it disavowed “abortion on demand,” he may have believed that the final paragraph of his announcement was redundant. Although the phrase “abortion on demand” was originally coined by pro-choice activists, by the time of the court’s decisions, proliferators had begun using it as a pejorative term implying abortions without good reasons.
 118. *Roe v. Wade*, 410 U.S. at 178.
 119. *Ibid.*, 208. In a 1994 oral history interview, Blackmun said he was grateful for Burger’s statement: “[The chief justice] said, ‘The Court today is not holding for abortion on demand.’ I’ve always been grateful for that. I think the majority opinion said that, certainly implied it, but coming from the chief justice in a separate opinion, I think greatly enforced that posture, that aspect of the case.” Blackmun, *Justice Harry A. Blackmun Oral History Project Transcript*, sess. 8, pt. 2.
 120. Garrow, *Liberty and Sexuality*; Rubin, *Abortion Politics and the Courts*; Greenhouse, *Becoming Justice Blackmun*.
 121. Tuohy, *Accidental Logics*.
 122. de Valk, *Morality and Law in Canadian Politics*; Canadian Medical Association, *Transactions of the Ninety-ninth Annual Meeting of the Canadian Medical Association*.
 123. Gwendolyn Gray, *Federalism and Health Policy: The Development of Health Systems in Canada and Australia* (Toronto: University of Toronto Press, 1991); Malcolm G. Taylor, *Insuring National Health Care: The Canadian Experience* (Chapel Hill: University of North Carolina Press, 1990).
 124. Because health policy was reserved to the provinces, the government could launch a national plan only by attaching conditions to its contributions to provincial medical care programs.
 125. Tuohy, *Accidental Logics*.
 126. As Dr. D. M. Aitken, assistant secretary of the CMA, put it, “there is a place for a change in the abortion law, even though we are hopeful that this will not be a great number.” Canada House of Commons, *Minutes and Proceedings and Evidence of the Standing Committee on Health Welfare and Social Affairs*, 102.
 127. Tuohy, *Accidental Logics*, 30.
 128. D. Coburn, G. Torrance, and J. Kaufert, “Medical Dominance in Canada in Historical Perspective,” *International Journal of Health Services* 13 (1983): 407–32.

129. In Quebec, extra-billing was prohibited and specialists went on strike. However, after the Front de Liberation du Quebec murdered a minister in the provincial government, Prime Minister Trudeau invoked war powers and ordered the specialists back to work. Gray, *Federalism and Health Policy*; Taylor, *Insuring National Health Care*.
130. John Sutton Bennett, *History of the Canadian Medical Association, 1954–94* (Ottawa: Canadian Medical Association, 1996).
131. Jenson, “Getting to Morgentaler”; de Valk, *Morality and Law in Canadian Politics*; *Globe and Mail*, November 3, 1967.
132. Canada House of Commons, *Minutes and Proceedings and Evidence of the Standing Committee on Health Welfare and Social Affairs*, 98.
133. *Ibid.*, 109.
134. *Ibid.*, 101.
135. Carol Sachs Weisman, *Women’s Health Care: Activist Traditions and Institutional Change* (Baltimore: Johns Hopkins University Press, 1998); American Medical Association, *House of Delegate Proceedings, Annual Convention* (1970).
136. Blakeslee, “Protest Disrupts Meeting of A.M.A.”; Nordheimer, “Protestor Likens A.M.A. to Saigon Government”; “Dispute among the Doctors in A.M.A.’s House,” *New York Times*, July 20, 1969; Starr, *Social Transformation of American Medicine*; Campion, *AMA and U.S. Health Policy since 1940*; “Unconventional Convention: American Medical Association”; “Brush-Off at the Red Lacquer Room”; *Wall Street Journal*, June 22, 1970, 8.
137. Lader, *Abortion II*; Garrow, *Liberty and Sexuality*.
138. “Modern Medicine Poll on Socioeconomic Issues”; “Abortion: The Doctor’s Dilemma”; Morton A. Silver, “Birth Control and the Private Physician,” *Family Planning Perspectives* 4, no. 2 (1972): 42–46; Tatalovich and Daynes, *Politics of Abortion*.

CHAPTER FOUR

1. Robin F. Badgley, Denyse Fortin Caron, and Marion G. Powell, *Report of the Committee on the Operation of the Abortion Law* (Ottawa: Minister of Supply and Services Canada, 1977); Elizabeth Kathleen Lane, *Report of the Committee on the Working of the Abortion Act* (London: Her Majesty’s Stationery Office, 1974); Barbara L. Lindheim, “Services, Policies and Costs in U.S. Abortion Facilities,” *Family Planning Perspectives* 11, no. 5 (1979): 283–89.
2. About 20 percent of abortion patients were extra-billed, at an average amount of \$74. Extra-billing was most common in Alberta (92 percent of patients), Saskatchewan (32 percent), and Nova Scotia, Ontario, and British Columbia (13 to 18 percent).
3. Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*, 402.

4. Gayle Davis, and Roger Davidson, "'A Fifth Freedom' or 'Hideous Atheistic Expediency'? The Medical Community and Abortion Law Reform in Scotland, c. 1960–1975," *Medical History* 50, no. 1 (2006): 29–48.
5. Anne Collins, *The Big Evasion: Abortion: The Issue That Won't Go Away* (Toronto: Lester and Orpen Dennys, 1985).
6. Willard Cates and Christopher Tietze, "Standardized Mortality Rates Associated with Legal Abortion: United States, 1972–1975," *Family Planning Perspectives* 10, no. 2 (1978): 109–12.
7. Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*.
8. Carole Joffe, *Dispatches from the Abortion Wars: The Costs of Fanaticism to Doctors, Patients, and the Rest of Us* (Boston: Beacon Press, 2009).
9. Once small hospitals became dependent on abortion revenue, entrepreneurs used this leverage to obtain reductions on operating room rentals and changes in hospital regulations that hindered economies of scale such as restrictions on frequency of operating room use, anesthesia, the number and qualifications of nurses, and billing and insurance procedures.
10. Michael S. Goldstein, "Creating and Controlling a Medical Market: Abortion in Los Angeles after Liberalization," *Social Problems* 31, no. 5 (1984): 514–29.
11. The actual increase in abortions fell short of these predictions. In the first six months of the new abortion law, New York City provided about 90,000. This was a big increase, but far less than the predicted 500,000. *New York Times*, October 25, 1970, E12; *New York Times*, February 7, 1971. Out-of-state women accounted for 60 percent of the abortions in nonprofit hospitals, 78 percent of those in for-profit hospitals, and 90 percent of those in clinics. *New York Times*, February 7, 1971; *New York Times*, April 11, 1971, SM10.
12. *New York Times*, June 28, 1970, 176.
13. The State Department of Health said that outpatient abortions should be confined to the first twelve weeks of pregnancy and be provided in either hospitals, hospital clinics, or freestanding clinics with a hospital backup, but not in doctor's offices. *New York Times*, May 13, 1970, 37; *New York Times*, June 28, 1970, 176. The State Medical Society took the same position. The New York City Health Services Administration initially ruled that outpatient abortions should be restricted to the first twelve weeks of pregnancy, provided *only in hospitals* and *only to residents*. These guidelines were mandatory for the 18 municipal hospitals but not the other 188 city hospitals. *New York Times*, June 28, 1970, 176. In October 1970, the city incorporated a less restrictive set of regulations into the city health code. These allowed clinic abortions without a residency requirement but required clinics to have an operating room suitable for abdominal surgery and appropriately staffed x-ray, blood bank, and laboratory facilities. The regulations also required clinics to have a backup agreement with a hospi-

- tal within ten minutes' driving distance. The regulations prohibited doctors from providing abortions in their offices. Jean Pakter and Frieda Nelson, "Abortion in New York City: The First Nine Months," *Family Planning Perspectives* 3, no. 3 (1971): 5–12; *New York Times*, October 25, 1970, E12.
14. *New York Times*, April 1, 1971, 1. These included the Park East, Park West, Wickersham, and Madison Avenue hospitals.
 15. Pakter and Nelson, "Abortion in New York City."
 16. *New York Times*, October 20, 1970, 1.
 17. Carole E. Joffe, Tracy A. Weitz, and Clare L. Stacey, "Uneasy Allies: Pro-Choice Physicians, Feminist Health Activists, and the Struggle for Abortion Rights," *Sociology of Health and Illness* 26, no. 6 (2004): 775–96; Carole E. Joffe, *The Regulation of Sexuality: Experiences of Family Planning Workers, Health, Society, and Policy* (Philadelphia: Temple University Press, 1986); Joffe, *Dispatches from the Abortion Wars*.
 18. Robert E. Hall, "Abortion: Physician and Hospital Attitudes," *American Journal of Public Health* 61, no. 3 (1971): 517.
 19. *New York Times*, June 28, 1970, 176.
 20. Hall, "Abortion: Physician and Hospital Attitudes," 518–19.
 21. *New York Times*, October 25, 1970, E12.
 22. Brief of Appellants at 13, 37, 39, 40, *Doe v. Bolton*, 410 U.S. 179 (1973). Hospital requirements were not raised in the appellants' briefs, oral arguments or opinions of *Roe*. But Planned Parenthood's amicus brief noted that the AMA's 1970 resolution allowed abortions in either "hospitals or approved clinics" (which was not actually true) and included a statement by the Joint Program for the Study of Abortion that clinic abortions did not pose a greater risk of complications. The brief also referred to two lower court decisions that had invalidated state hospital requirements. Brief for the Planned Parenthood Federation of America at 9, 16–18, *Roe v. Wade*, 419 U.S. 113 (1973); Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991).
 23. Brief for the American College of Obstetricians et al. at 5, 85, *Doe v. Bolton*, 410 U.S. 179 (1973).
 24. Transcript of Oral Argument at 15, *Doe v. Bolton*, 410 U.S. 179 (1973); Rosenberg, *Hollow Hope*.
 25. *Doe v. Bolton*, 410 U.S. at 195; C. Tietze and S. Lewit, "Joint Program for the Study of Abortion (JPSA): Early Medical Complications of Legal Abortion," *Studies in Family Planning* 3, no. 6 (1972): 97–119.
 26. Lindheim, "Services, Policies, and Costs in U.S. Abortion Facilities"; Stanley K. Henshaw, "Freestanding Abortion Clinics—Services, Structure, Fees," *Family Planning Perspectives* 14, no. 5 (1982): 248–56; Goldstein, "Creating and Controlling a Medical Market"; Michael S. Goldstein, "Abortion as a Medical Career Choice: Entrepreneurs, Community Physicians, and Others," *Journal of Health and Social Behavior* 25, no. 2 (1984): 211–29.

27. Gerald N. Rosenberg, "The Real World of Constitutional Rights: The Supreme Court and the Implementation of the Abortion Decisions," in *Contemplating Courts*, ed. Lee Epstein (Washington, DC: Congressional Quarterly Press, 1995); Edward Weinstock et al., "Legal Abortions in United States since 1973 Supreme Court Decisions," *Family Planning Perspectives* 7, no. 1 (1975): 23–31; Jacqueline Darroch Forrest, Ellen Sullivan, and Christopher Tietze, "Abortion in the United States, 1977–1978," *Family Planning Perspectives* 11, no. 6 (1979): 329; Stanley K. Henshaw and Jennifer Vanvort, "Abortion Services in the United States, 1991 and 1992," *Family Planning Perspectives* 26, no. 3 (1994): 100.
28. Weinstock et al., "Legal Abortions in United States."
29. Ellen Sullivan, Christopher Tietze, and Joy G. Dryfoos, "Legal Abortion in the United States, 1975–1976," *Family Planning Perspectives* 9, no. 3 (1977): 116.
30. Goldstein, "Creating and Controlling a Medical Market," 526.
31. David A. Grimes, "Clinicians Who Provide Abortions: The Thinning Ranks," *Obstetrics and Gynecology* 80, no. 4 (1992): 719–23. Today, the vast majority of ob/gyns still do not provide abortions. Stigma still plays a role, but so does fear of controversy and protest on the part of hospitals and group practices, who often prohibit their doctors from providing abortions. Lori Freedman, *Willing and Unable: Doctors' Constraints in Abortion Care* (Philadelphia: Temple University Press, 2010); Joffe, *Dispatches from the Abortion Wars*.
32. Rosenberg, *Hollow Hope*. Rosenberg identifies four facilitating conditions for the court's limited achievement—existing precedent (*Griswold*), support from professional and political elites, favorable public opinion, and market mechanisms (clinics) for implementing the reform.
33. Neal Devins, "Judicial Matters," *California Law Review* 80 (1992): 1027–69.
34. Willard Cates, "Legal Abortion: The Public Health Record," *Science* 215, no. 4540 (1982): 1586.
35. Mark A. Graber, *Rethinking Abortion: Equal Choice, the Constitution, and Reproductive Politics* (Princeton, NJ: Princeton University Press, 1996); Diana Petitti, *Abortion in California: 1968–1976* (Sacramento: Dept. of Health Services, 1977); *Safe and Legal: 10 Years' Experience with Legal Abortion in New York State* (New York: Alan Guttmacher Institute, 1980). There were also consequences of *Roe* that went beyond the availability and quality of abortion services. It helped reshape the meaning of abortion from health to privacy and body rights. It increased women's control over their reproductive lives. It spurred on the feminist movement. As Rosenberg notes, it also accelerated the pro-life movement—another "significant social change," but he seems to suggest that any court decision would have done so. As I argue in chapter 5, the nature of the decision itself increased controversy. Finally, Rosenberg argues that state-level abortion reforms and repeals would have continued in the absence of *Roe*. In fact, those reforms had come to a halt

- by 1970 as antiabortion mobilization gained steam and women's rights and fetal rights meanings of abortion became prominent.
36. Peter Diggory, "Some Experiences of Therapeutic Abortion," *Lancet*, April 26, 1969, 873–75; Keith Hindell and Madeline Simms, *Abortion Law Reformed* (London: Peter Owen, 1971); Elizabeth Kathleen Lane, *Report of the Committee on the Working of the Abortion Act, Statistical Volume* (London: Her Majesty's Stationery Office, 1974), 37; Elizabeth Kathleen Lane, Ann Cartwright, and Susan Lucas, *Report of the Committee on the Working of the Abortion Act, Survey of Abortion Patients* (London: Her Majesty's Stationery Office, 1974), 21. The LPAS initially provided abortions only for resident women but changed this in 1972. Barbara Rose Unterman, "A Study of the Organization of a Non-profit Service Providing Abortions in Great Britain" (master's thesis, Yale University, 1975). BPAS started by referring patients to Calthorpe Clinic in Birmingham or to private consultants in London but later acquired nursing homes in Brighton and Leamington Spa, Warwickshire. Interview with BPAS official, September 2007. LPAS started with a similar setup to BPAS but later acquired Fairfield Nursing Home on the outskirts of London and began employing five full-time gynecologists. Unterman, "A Study of the Organization of a Non-profit Service Providing Abortions in Great Britain." In 1974, LPAS also obtained a number of beds in the Leigham Nursing Home, also in the outskirts of London. *Ibid.* In the late 1990s, BPAS took over the LPAS after it ran into financial difficulties.
 37. John Keown, *Abortion, Doctors, and the Law: Some Aspects of the Legal Regulation of Abortion in England from 1803 to 1982* (Cambridge: Cambridge University Press, 1988); Victoria Greenwood and Jock Young, *Abortion in Demand* (London: Pluto Press, 1976); Hindell and Simms, *Abortion Law Reformed*.
 38. John Peel, President, RCOG, to Bernard Braine, Member of Parliament, January 16, 1967, Archives of the RCOG A16/3.
 39. *Lancet*, April 19, 1969.
 40. Royal College of Obstetricians and Gynaecologists, "Findings of an Inquiry into the First Year's Working of the Act," *British Medical Journal* 2 (1970): 534.
 41. Lane, *Report of the Committee on the Working of the Abortion Act*, 2:86–89.
 42. Greenwood and Young, *Abortion in Demand*; *Lancet*, February 15, 1969, 355.
 43. Hindell and Simms, *Abortion Law Reformed*.
 44. Colin Francome, *Abortion Practice in Britain and the United States* (London: Allen and Unwin, 1986).
 45. Royal College of Obstetricians and Gynaecologists, "Findings of an Inquiry into the First Year's Working of the Act," 533.
 46. Unterman, "Study of the Organization of a Non-profit Service"; F. G. R. Fowkes, J. C. Catford, and R. F. L. Logan, "Abortion and the NHS: The First Decade," *British Medical Journal*, no. 1 (1979): 217–19; E. E. Rawlings and

- A. A. Khan, "Effects of the Abortion Law, 1967 on a Gynaecological Unit," *Lancet*, December 4, 1971, 1249–51; *Lancet*, October 2, 1971, 767.
47. *Lancet*, November 13, 1971, 1074.
48. Lane, *Report of the Committee on the Working of the Abortion Act*.
49. *Ibid.*, 125.
50. Lane, *Report of the Committee on the Working of the Abortion Act*, 1:134, 262–63.
51. *Ibid.*, 1:64–65.
52. British Medical Association, "Commentary on the Report of the Lane Committee on the Working of the Abortion Act" (London: Archives of the Royal College of Obstetricians and Gynaecologists, A4/16/18, 1974); British Medical Association, "Commentary on the Abortion (Amendment) Bill" (London: Archives of the Royal College of Obstetricians and Gynaecologists, A4/16/18, 1975); Royal College of Obstetricians and Gynaecologists. "Memorandum to Council on Abortion (Amendment)" (London: Archives of the Royal College of Obstetricians and Gynaecologists, A4/16/18, February 20, 1975).
53. David Steel, "Time to Stop Fiddling About with the Abortion Act," *Times*, February 16, 1976; British Medical Association, "Commentary on the Abortion (Amendment) Bill."
54. ICBH Witness Seminar, "Abortion Act 1967" (paper presented at the Witness Seminar, Institute of Contemporary British History, 2001), 46.
55. About four hundred additional hospitals were devoted to specialty services unrelated to obstetrics and gynecology or general medical care. Tatalovich argues that American and Canadian hospitals were equally resistant to providing abortion services. In 1986, only 35 percent of hospitals in each country provided abortions. Of course, the impact of this was greater for Canadian women since hospital abortions were not supplemented by clinic ones. Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997); Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*.
56. Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*.
57. *Ibid.*, 115–20.
58. Sharon Walls, "Abortion Law and Improved Abortion Services" (discussion paper, National Association of Women and the Law, National Archives of Canada, Ottawa, Record Group 29, 1990-91/248, Box 31, File 0154-A1 vol. 2, 1982).
59. Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*.
60. Walls, "Abortion Law and Improved Abortion Services," 30.
61. Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*, 160.

62. Ibid., 192–200.
63. Britain's Lane Committee noted that "under the present N.H.S. Acts the publicly financed health service could not undertake abortions on the grounds only of the patient's wishes or convenience: an assessment of the patient's health is therefore necessary in each case. Those women who were not in need of abortion on grounds of health would presumably find that, so far as the N.H.S. was concerned, a legal right to abortion on demand or request might be unenforceable." Lane, *Report of the Committee on the Working of the Abortion Act*, 65.
64. Sheila Shaver, "Body Rights, Social Rights, and the Liberal Welfare State," *Critical Social Policy* 13 (1993–94): 66–93; Jane Brodie, "Health vs. Rights: Comparative Perspectives on Abortion Policy in Canada and the United States," in *Power and Decision: The Social Control of Reproduction*, ed. Gita Sen and Rachel C. Snow (Cambridge, MA: Harvard University Press, 1994), 123–46.
65. Rosalind Pollack Petchesky, *Abortion and Woman's Choice: The State, Sexuality, and Reproductive Freedom* (New York: Longman, 1984).
66. The Hyde amendment prohibits federal funding of abortions except in cases of rape, incest, or to save the woman's life, but the following seventeen states use their own money to fund medically necessary abortions: Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, and West Virginia. Most of these states provide their funding under court order. Only four states—Hawaii, Massachusetts, New York, and Washington—do so voluntarily. Six additional states use their own funds for a narrower set of circumstances: Indiana (physical health), Iowa (fetal abnormality), Mississippi (fetal abnormality), Utah (physical health and fetal abnormality), Virginia (fetal abnormality), and Wisconsin (physical health). *Abortion Facts: Public Funding for Abortion: Medicaid and the Hyde Amendment* (Washington, DC: National Abortion Federation, 2008), http://www.prochoice.org/about_abortion/facts/public_funding.html; Guttmacher Institute, "State Policies in Brief: An Overview of Abortion Laws," July 1, 2010.
67. *Trends in Abortion in the United States, 1973–2003* (New York: Alan Guttmacher Institute, 2003).
68. Philip J. Cook et al., "The Effects of Short-Term Variation in Abortion Funding on Pregnancy Outcomes," *Journal of Health Economics* 18, no. 2 (1999): 241–57.
69. Heather D. Boonstra, "The Heart of the Matter: Public Funding of Abortion for Poor Women in the United States," *Guttmacher Policy Review* 10, no. 1 (2007): 12–16.
70. Alesha E. Doan, *Opposition and Intimidation: The Abortion Wars and Strategies of Political Harassment* (Ann Arbor: University of Michigan Press, 2007); Carol Mason, *Killing for Life: The Apocalyptic Narrative of Pro-Life Politics*

- (Ithaca, NY: Cornell University Press, 2002); Joffe, *Dispatches from the Abortion Wars*.
71. Rachel K. Jones et al., “Abortion in the United States: Incidence and Access to Services, 2005,” *Perspectives on Sexual and Reproductive Health* 40, no. 1 (2008): 6–16.
 72. Under common law, most medical procedures required parental consent so this was not a change from existing law, but the common law had loose enforcement mechanisms and light penalties which the legally-defined requirements typically strengthened. The key cases were *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976), *Bellotti v. Baird*, 443 U.S. 622 (1979), and *Planned Parenthood Association of Kansas City, Missouri v. Ashcroft*, 462 U.S. 476 (1983). In the late 1980s and early 1990s, some states loosened consent requirements by allowing grandparents or other family members to provide consent, but in the 2000s, many states tightened them by requiring written or notarized consent from parents, by changing from parental notice to parental consent, or by making it more difficult for minors to obtain a judicial bypass. Jon F. Merz, Catherine A. Jackson, and Jacob A. Klerman, “A Review of Abortion Policy: Legality, Medicaid Funding, and Parental Involvement, 1967–1994,” *Women’s Rights Law Reporter* 17, no. 1 (1995): 1–61.
 73. 492 U.S. 490 (1989).
 74. 505 U.S. 833 (1992).
 75. Marlene Gerber Fried, “The Economics of Abortion Access in the United States,” *Conscience*, Winter 2005–6.
 76. Kaiser Family Foundation, “Focus on Health Reform: Access to Abortion Coverage and Health Reform,” January 2010; Kaiser Family Foundation, “Summary of New Health Reform Law,” June 18, 2010.
 77. A Kaiser Family Foundation study found that 46 percent of covered workers had abortion coverage, but 26 percent of the human resources staff interviewed in this study answered “don’t know” on this question. Guttmacher Institute, “News in Context: Guttmacher Institute Memo on Insurance Coverage of Abortion,” July 22, 2009.
 78. Rachel K. Jones, Lawrence B. Finer, and Susheela Singh, “Characteristics of U.S. Abortion Patients, 2008” (New York: Guttmacher Institute, 2010). For an excellent account of the stigma of abortion and the desire of patients for confidentiality, see Joffe, *Dispatches from the Abortion Wars*.
 79. Kaiser Family Foundation, “Focus on Health Reform: Access to Abortion Coverage and Health Reform.”
 80. Sara Rosenbaum, “Abortion Provisions in the Senate Manager’s Amendment” (Washington, DC: George Washington University, 2010).
 81. The Congressional Budget Office estimates that of the twenty-nine million people in the exchanges by 2019, five million will be covered by small businesses and another five million will be people who previously had nongroup coverage. The remainder will be people who were previously

- uninsured. I have halved these estimates to exclude men. Douglas Elmen-dorf, "Estimate for H.R. 4872, Reconciliation Act of 2010 (Final Health Care Legislation)" (Washington, DC: Congressional Budget Office, 2010).
82. *Sunday Times*, August 24, 1986.
 83. Great Britain Office for National Statistics, *Abortion Statistics: Legal Abortions Carried Out under the 1967 Abortion Act in England and Wales*, vol. 28, AB (London: Stationery Office, 2007).
 84. *Times*, January 3, 1995.
 85. *Guardian*, March 13, 2000; Royal College of Obstetricians and Gynaecologists, "The Care of Women Requesting Induced Abortion, National Evidence-Based Clinical Guidelines No. 7" (London: Royal College of Obstetricians and Gynaecologists, 2000); *Times*, November 5, 2001; Royal College of Obstetricians and Gynaecologists, "The National Audit of Induced Abortion 2000" (London: Royal College of Obstetricians and Gynecologists, 2001). Another factor was the incorporation of the RCOG standards into the Department of Health's 2001 national sexual health strategy and its toolkit for the commissioning of sexual health services by primary care trusts (PCTs). These documents called for a reduction in geographic disparities in NHS abortion funding. Jane Mezzzone, *Effective Commissioning of Sexual Health and HIV Services* (London: Department of Health, 2003).
 86. *NHS Abortion Services* (London: Voice for Choice, 2004); S. Rowlands, "Caring for Women Seeking Abortion," *Practitioner*, March 2006, 15–16. In 2004, 36 percent of PCTs failed to reach the target of providing 60 percent of funded abortions before ten weeks' gestation.
 87. Henry Morgentaler, *Abortion and Contraception* (New York: Beaufort Books, 1982); Frederick Lee Morton, *Pro-Choice vs. Pro-Life: Abortion and the Courts in Canada* (Norman: University of Oklahoma Press, 1993).
 88. Abortion Rights Coalition of Canada, *Clinic Funding—Overview of Political Situation* (Vancouver: Abortion Rights Coalition of Canada, 2007).
 89. *Ibid.* The territories do not have large enough populations to support a clinic, but each has a hospital in its largest city providing abortions, and the territorial government provides travel grants so that women can access it. Joyce Arthur, "Abortion in Canada: History, Law and Access," Pro-Choice Action Network, October 1999, <http://www.prochoiceactionnetwork-canada.org/articles/canada.shtml>.

CHAPTER FIVE

1. Other groups included the Pro-Life Alliance, Christian Voice, UK Life League, Family and Youth Concern, Christian Institute, Christian Affirmation Campaign, Conservative Family Campaign, and the London Institute for Contemporary Christianity. J. Christopher Soper, *Evangelical Christianity in the United States and Great Britain: Religious Beliefs, Political Choices* (New York: New York University Press, 1994).

2. Colin Francome, *Abortion Freedom: A Worldwide Movement* (Winchester, MA: Allen and Unwin, 1984); Keith Hindell and Madeline Simms, *Abortion Law Reformed* (London: Peter Owen, 1971); Joni Lovenduski, "Parliament, Pressure Groups, Networks, and the Women's Movement: The Politics of Abortion Law Reform in Britain (1967–1983)," in *The New Politics of Abortion*, ed. Joni Lovenduski and Joyce Outshoorn (London: Sage, 1986); Melvyn D. Read, "The Pro-Life Movement," *Parliamentary Affairs* 51, no. 3 (1998): 445; Joan Isaac, "The Politics of Morality in the UK," *Parliamentary Affairs* 47, no. 2 (1994): 175; Malcolm Potts, Peter Diggory, and John Peel, *Abortion* (Cambridge: Cambridge University Press, 1977).
3. ALRA and NAC merged in 2003 to form Abortion Rights.
4. Other groups included the Women's Abortion and Contraception Campaign (WACC), British Pregnancy Advisory Service (formerly Birmingham Pregnancy Advisory Service), Marie Stopes International, and Childbirth by Choice Trust. Victoria Greenwood and Jock Young, *Abortion in Demand* (London: Pluto Press, 1976); National Abortion Campaign, *All About NAC* (London: National Abortion Campaign, 1991); National Abortion Campaign, *A Celebration of 25 Years of Safe Legal Abortion, 1967–1992* (London: National Abortion Campaign, 1992); National Abortion Campaign, "A Brief and Partial History of the National Abortion Campaign," in *A Celebration of 25 Years of Safe Legal Abortion*; Lovenduski, "Parliament, Pressure Groups, Networks and the Women's Movement"; Lesley Hoggart, "Feminist Principles Meet Political Reality: The Case of the National Abortion Campaign," 2010, <http://www.prochoiceforum.org.uk/al6.php>.
5. Other groups included the Coalition for the Protection of Life (formerly Coalition for Life, the political wing of Alliance for Life), Human Life International, Christians Concerned for Life (Calgary), Christian Action Council, Evangelical Fellowship of Canada, Choose Life, Alberta Women of Worth, REAL Women, Women for Life, Faith and Family, Tradition, Family and Property, Alberta Federation of Women United for the Family, and Life Chain.
6. Anne Collins, *The Big Evasion: Abortion: The Issue That Won't Go Away* (Toronto: Lester and Orpen Dennys, 1985); Lorna Kathleen Erwin, "The Politics of Anti-Feminism: The Pro-Family Movement in Canada" (PhD, York University, 1990); Michael W. Cuneo, *Catholics against the Church: Anti-abortion Protest in Toronto, 1969–1985* (Toronto: University of Toronto Press, 1989); Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997); Alphonse de Valk, *Abortion: Lang, Lalonde, Trudeau, Turner* (Toronto: Life Cycle Books, 1975); Catherine Dunphy, *Morgentaler: A Difficult Hero: A Biography* (Toronto: Random House of Canada, 1996).
7. CARAL was later called the Canadian Abortion Rights Action League and is now called Canadians for Choice. Other groups included Association for the Repeal of Canadian Abortion Laws, Vancouver Women's Caucus,

- Ontario Coalition for Abortion Clinics (OCAC), Coalition of Reproductive Choice (Winnipeg), Pro-Choice Action Network (PCAN) (formerly BC Coalition for Abortion Clinics), and Abortion Rights Coalition of Canada.
8. Pro-choice unions included the Canadian Labour Congress, the Ontario Federation of Labour, International Ladies' Garment Worker's Union, Steelworkers, United Electrical Workers, and Canadian Auto Workers. Lorna Weir, "Left Popular Politics in Canadian Feminist Abortion Organizing, 1982–1991," *Feminist Studies* 20, no. 2 (1994): 249–74; Memorandum by Freda L. Paltiel, Special Adviser, Welfare and Social Status of Women, National Archives of Canada, Ottawa, December 9, 1974; Frederick Lee Morton, *Pro-Choice vs. Pro-Life: Abortion and the Courts in Canada* (Norman: University of Oklahoma Press, 1993); Jane Jenson, "Getting to Morgentaler: From One Representation to Another," in *The Politics of Abortion*, ed. Janine Brodie, Shelley A. M. Gavigan, and Jane Jenson (Toronto: Oxford University Press, 1992); Larry D. Collins, "The Politics of Abortion: Trends in Canadian Fertility Policy," *Atlantis*, Spring 1982, 2–20; Dunphy, *Morgentaler: A Difficult Hero*; *Toronto Star*, May 15, 2010.
 9. Douglas Granberg, "The Abortion Activists," *Family Planning Perspectives* 13, no. 4 (1981): 157.
 10. Other groups included Life Amendment PAC, National Pro-Life PAC, March for Life, National Committee for a Human Life Amendment, Americans United for Life, Legal Defense Fund for Unborn Children, American Citizens Concerned for Life, Human Life International, U.S. Coalition for Life, Birthright, Carenet (formerly Christian Action Council), Heartbeat International, Priests for Life, Stand to Reason, Pro-Life Action League, Life Dynamics, Operation Rescue (West), Pro-Life Action Network (Chicago), Missionaries to the Pre-born (Milwaukee), Coalition for Life (College Station, TX), Advocates for Life Ministries (Portland, Oregon), Army of God, and Christian Voice.
 11. Crowd estimates are from the *New York Times*, various dates. Where multiple crowd estimates were provided, I list the police estimate. Where a range was provided, I list the lowest one. Some have argued that prevalence of antiabortion violence in the United States stems from an unusually polarized and moralized debate. But Ferree and her coauthors find that German discourse is more moralized and extreme than American discourse, but that Germany has not experienced similar levels of violence. They argue that American antiabortion violence comes mainly from the fringes of the movement. It should also be noted that the United States has higher levels of violence (and political violence) in general than the other countries in this study. Myra Marx Ferree, William A. Gamson, Jurgen Gerhards, and Dieter Rucht, *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States* (Cambridge: Cambridge University Press, 2002).
 12. NARAL is now called NARAL Pro-Choice America. Other groups include National Women's Political Caucus (NWPC), Religious Coalition for

- Reproductive Choice (formerly Religious Coalition for Abortion Rights), Zero Population Growth, National Abortion Federation (NAF), Catholics for Free Choice, Republicans for Choice, and Fund for the Feminist Majority.
13. Crowd estimates are from *New York Times*, various dates. Where multiple crowd estimates were provided, I list the police estimate. Where a range was provided, I list the lowest one. N. E. H. Hull and Peter Charles Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*, Landmark Law Cases and American Society (Lawrence: University Press of Kansas, 2001); Suzanne Staggenborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (New York: Oxford University Press, 1991); Ziad W. Munson, *The Making of Pro-Life Activists: How Social Movement Mobilization Works* (Chicago: University of Chicago Press, 2009); Alesha E. Doan, *Opposition and Intimidation: The Abortion Wars and Strategies of Political Harassment* (Ann Arbor: University of Michigan Press, 2007); Jon A. Shields, *The Democratic Virtues of the Christian Right* (Princeton, NJ: Princeton University Press, 2009); Peter Korn, *Lovejoy: A Year in the Life of an Abortion Clinic* (New York: Atlantic Monthly Press, 1996); Drew Halfmann and Michael P. Young, "War Pictures: The Grotesque as a Mobilizing Tactic," *Mobilization* 15, no. 1 (2010): 1–24; James Risen and Judy L. Thomas, *Wrath of Angels: The American Abortion War* (New York: Basic Books, 1998); National Abortion Federation, "Violence and Disruption Statistics," http://www.prochoice.org/pubs_research/publications/downloads/about_abortion/violence_stats.pdf; Carol Mason, *Killing for Life: The Apocalyptic Narrative of Pro-Life Politics* (Ithaca, NY: Cornell University Press, 2002); Holly Yeager, "Does Emily's List Still Matter?," *American Prospect*, July 7, 2007.
 14. Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of California Press, 1984); Gene Burns, *The Moral Veto: Framing Contraception, Abortion, and Cultural Pluralism in the United States* (Cambridge: Cambridge University Press, 2005).
 15. For an argument about the impact of "adversarial policies," see Monica Prasad, *The Politics of Free Markets* (Chicago: University of Chicago Press, 2005).
 16. Mark A. Graber, "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary," *Studies in American Political Development* 7, no. 1 (1993): 35–73; Lovenduski and Outshoorn, "Introduction," in Lovenduski and Outshoorn, *New Politics of Abortion*; Joyce Outshoorn, "The Stability of Compromise: Abortion Politics in Western Europe," in *Abortion Politics: Public Policy in Cross-Cultural Perspective*, ed. Marianne Githens and Dorothy McBride Stetson (New York: Routledge, 1996), 145–64; Alvin Cohan, "Abortion as a Marginal Issue: The Use of Peripheral Mechanisms in Britain and the United States," in Lovenduski and Outshoorn, *New Politics of Abortion*, 27–48; Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*.

17. R. Kent Weaver, "The Politics of Blame Avoidance," *Journal of Public Policy* 6, no. 4 (1986): 371–98. See also Leslie A. Pal and R. Kent Weaver, eds., *The Government Taketh Away: The Politics of Pain in the United States and Canada* (Washington, DC: Georgetown University Press, 2003); Raymond Tatalovich, "Abortion," in Pal and Weaver, *Government Taketh Away*; Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*; Burns, *Moral Veto*.
18. Quoted in Graber, "Nonmajoritarian Difficulty," 58.
19. Ibid. British and Canadian MPs have small, homogenous districts, but they are elected mainly for their affiliation with a national party, and those parties have national constituencies. In both countries, party officials have sometimes discouraged MPs from introducing abortion bills.
20. Barbara Hinkson Craig and David M. O'Brien, *Abortion and American Politics* (Chatham, NJ: Chatham House Publishers, 1993). In 1980, 80 percent of NRLC members said they were single-issue voters while less than half of NARAL members said they were. Granberg, "Abortion Activists."
21. William Saletan, *Bearing Right: How Conservatives Won the Abortion War* (Berkeley: University of California Press, 2004).
22. David S. Meyer and Suzanne Staggenborg, "Countermovement Dynamics in Federal Systems: A Comparison of Abortion Politics in Canada and the United States," *Research in Political Sociology* 8 (1998): 209–40; Soper, *Evangelical Christianity in the United States and Great Britain*; Weaver, "Politics of Blame Avoidance"; Lisa Young, *Feminists and Party Politics* (Vancouver: UBC Press, 2000); Leon D. Epstein, *Political Parties in the American Mold* (Madison: University of Wisconsin Press, 1986); Clive S. Thomas, "The United States: The Paradox of Loose Party-Group Ties in the Context of American Political Development," in *Political Parties and Interest Groups: Shaping Democratic Governance*, ed. Clive S. Thomas (Boulder, CO: Lynne Rienner, 2001); Earl H. Fry, *The Canadian Political System*, ACSUS Papers (Washington, DC: Association for Canadian Studies in the United States, 1996); Frank J. Sorauf, *Money in American Elections* (Glenview, IL: Scott, Foresman, 1988); Duane Murray Oldfield, *The Right and the Righteous: The Christian Right Confronts the Republican Party*, *Religious Forces in the Modern Political World* (Lanham, MD: Rowman and Littlefield, 1996). The Democratic Party may have been more open to social movements than the Republican Party. Among Democrats, power is based on the group of voters or funders one can claim to represent (e.g., labor, blacks, latinos, Asian Americans, women, gays, or business), and allegiance to one's group often comes before allegiance to the party. The party thinks of itself as a collection of outsiders clamoring to get into the mainstream and is thus particularly open to marginalized groups. Historically, the Republican Party was homogenous, and its members thought of themselves as insider members of the mainstream. There were ethnic, gender, regional, and ideological

groups in the party, but their main allegiance was to the party rather than their group. Those who put their ideological or group interests above the party were not “real” Republicans. The rise of the Christian and New Right altered some of these patterns. Jo Freeman, “The Political Culture of the Democratic and Republican Parties,” *Political Science Quarterly* 101, no. 3 (1986): 327–56. See also Todd Gitlin, *The Bulldozer and the Big Tent: Blind Republicans, Lame Democrats, and the Recovery of American Ideals* (New York: Wiley, 2007).

23. It has not always been this way. Prior to 1972, most candidates were chosen through caucuses of state party elites. Hubert Humphrey won the 1968 Democratic nomination without competing in a single primary. But the Democratic Party’s 1972 McGovern-Fraser Commission required state parties to either open caucuses to all registered party identifiers or establish primaries. Faced with caucuses that they could no longer control, Democratic state legislatures passed primary legislation that often applied to the Republican Party as well. The number of primaries increased from about fourteen for both the Democrats and Republicans in 1968 to thirty-four for the Democrats and forty-one for the Republicans in 1996. Of the remaining caucuses, national rules ensured that Democratic ones were reasonably open, but Republican caucuses varied widely. The Iowa Republican caucuses are fairly open while the Arizona and Montana caucuses limit participation to elected members of precinct committees. Oldfield, *Right and the Righteous*; Allan J. Cigler, “Political Parties and Interest Groups: Competitors, Collaborators, and Uneasy Allies,” in *American Political Parties: A Reader*, ed. Eric M. Uslaner (Itasca, IL: F.E. Peacock, 1993).
24. Epstein, *Political Parties in the American Mold*; Anthony M. Sayers, *Parties, Candidates, and Constituency Campaigns in Canadian Elections* (Vancouver: UBC Press, 1999); Oldfield, *Right and the Righteous*; William J. Crotty, *Party Reform* (New York: Longman, 1983); John C. Green, James L. Guth, and Clyde Wilcox, “Less Than Conquerors: The Christian Right in State Republican Parties,” in *Social Movements and American Political Institutions*, ed. Anne N. Costain and Andrew S. McFarland (Lanham, MD: Rowman and Littlefield, 1998); Thomas, “United States: The Paradox of Loose Party-Group Ties”; William P. Cross, *Political Parties* (Vancouver: UBC Press, 2004). Canada’s NDP was the exception—party membership did not fluctuate so wildly, and there was a premium on years of service to the party.
25. In 1998, the Progressive Conservatives switched to a vote of the entire party membership, but in 2003, they went back to a delegated convention. In 2004, the Conservative Party (the merger of the PC and Canadian Alliance parties) elected their leader through a vote of the party membership. In 2009, the Liberals decided to do the same for future elections. Paul Pennings and Reuven Y. Hazan, “Democratizing Candidate Selection,” *Party Politics* 7, no. 3 (2001): 267–75; Lawrence LeDuc, “Democratizing Party Leadership Selection,” *Party Politics* 7, no. 3 (2001): 323.

26. In the United States, the chair of the national party committee is responsible for day-to-day operations, the drafting of the party platform, and electioneering rather than public policy, and the chair is not as powerful as the other members of the party leadership. Other positions within the party hierarchy are also more open to new movements in the United States than in the other countries. The leaders of state and local party organizations are chosen at open, poorly attended meetings that new movements can easily capture. These state and local party organizations have limited power but do determine nomination rules and provide some funds, volunteers, expertise, and networks to candidates, though candidates often obtain the bulk of this support themselves. By contrast, in Britain and Canada, most party positions of importance are at the national level, and the leader of the party appoints them. In Canada, groups can capture local party organizations at election time, but these organizations virtually disappear after the elections so this is not a durable gain. Paul Webb, *The Modern British Party System* (London: Sage, 2000); Cross, *Political Parties*; Sayers, *Parties, Candidates, and Constituency Campaigns*.
27. In the Democratic Party, the nominee chooses the delegates that will represent him or her at the national convention. But in the Republican Party, some delegates are elected in open caucuses or conventions at the precinct, county, district, or state level (or some combination of these). Groups can control these meetings by turning out twenty-five to fifty people for a precinct caucus or about one thousand for a state convention. Though a moderate candidate might win a state's delegates in the primary, conservatives may still dominate the meeting that chooses the delegates that will "represent" the moderate candidate at the convention Douglas Usher, "Strategy, Rules, and Participation: Issue Activists in Republican National Convention Delegations, 1976–1996," *Political Science Quarterly* 53, no. 4 (2000): 887–903.
28. Webb, *Modern British Party System*; Cross, *Political Parties*.
29. Allen D. Hertzke, "Harvest of Discontent: Religion and Populism in the 1988 Presidential Campaign," in *The Bible and the Ballot Box: Religion and Politics in the 1988 Election*, ed. James L. Guth and John C. Green (Boulder, CO: Westview Press, 1991).
30. Turnout in British general elections ranged between 72 and 79 percent between 1970 and 1997 but declined to about 60 percent after that. Jessica Yonwin, "UK Election Statistics, 1918–2004," *House of Commons Library Research Paper* 4, no. 61 (2004). Canadian turnout ranged between 69 and 77 percent between 1972 and 1993, but fell to about 64 percent after that (Elections Canada). U.S. turnout has ranged between 50 and 55 percent for presidential elections since 1972.
31. United States Election Project, <http://elections.gmu.edu>.
32. Epstein, *Political Parties in the American Mold*; Cigler, "Political Parties and Interest Groups." Prasad makes a similar point, noting that weak parties

- tend to have more policy entrepreneurs. Monica Prasad, *The Politics of Free Markets* (Chicago: University of Chicago Press, 2005).
33. Party discipline is especially strong in Canada where there are more confidence votes and dissenting MPs are kicked out of the party caucus and denied renomination for the next election. C. E. S. Franks, "Free Votes in the House of Commons: A Problematic Reform," *Policy Options*, November 1997; D. T. Studlar and K. Christensen, "Is Canada a Westminster or Consensus Democracy? A Brief Analysis," *PS: Political Science and Politics* 39, no. 04 (2006): 837–41.
34. Epstein, *Political Parties in the American Mold*.
35. Cigler, "Political Parties and Interest Groups."
36. Parties with and without long-term members are sometimes referred to as "mass parties" and "cadre parties," respectively, although these ideal types have many other key characteristics as well. Maurice Duverger, *Political Parties, Their Organization, and Activity in the Modern State* (London: Methuen; New York: Wiley, 1955); Epstein, *Political Parties in the American Mold*; Richard S. Katz and Peter Mair, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party," *Party Politics* 1, no. 1 (1995): 5. American and Canadian parties (with the exception of the NDP) did not have mass memberships, but the British parties did. Young, *Feminists and Party Politics*; Sayers, *Parties, Candidates, and Constituency Campaigns*.
37. Soper, "Political Structures and Interest Group Activism"; Grant Jordan and William A. Maloney, "Britain: Change and Continuity within the New Realities of British Politics," in *Political Parties and Interest Groups: Shaping Democratic Governance*, ed. Clive S. Thomas (Boulder, CO: Lynne Rienner, 2001); Robert Garner and Richard N. Kelly, *British Political Parties Today* (Manchester: Manchester University Press, 1993); William M. Chandler and Alan Siaroff, "Parties and Party Government in Advanced Democracies," in *Canadian Political Parties: Leaders, Candidates, and Organization*, ed. Herman Bakvis (Toronto: Dundurn Press, 1991); Christopher Hamm, *Health Policy in Britain: The Politics and Organization of the National Health Service* (London: MacMillan, 1982); Clive S. Thomas, "Studying the Political Party—Interest Group Relationship," in Thomas, *Political Parties and Interest Groups*.
38. Jill McCalla Vickers and M. Janine Brodie, "Canada," in *Politics of the Second Electorate: Women and Public Participation*, ed. Joni Lovenduski and Jill Hills (London: Routledge and Kegan Paul, 1981); Alan Ware, "Activist-Leader Relations and the Structure of Political Parties: Exchange Models and Vote-Seeking Behaviour in Parties," *British Journal of Political Science* 22 (1991): 71–92; Fry, *Canadian Political System*; R. Kenneth Carty and Lynda Erickson, "Candidate Nomination in Canada's Political Parties," in Bakvis, *Canadian Political Parties*; David Kenney Stewart and Keith Archer, *Quasi-Democracy? Parties and Leadership Selection in Alberta* (Vancouver: UBC Press, 2000); George Perlin, "Attitudes of Liberal Convention Delegates toward

Proposals for Reform of the Process of Leadership Selection,” in Bakvis, *Canadian Political Parties*; Rejean Pelletier, Francois Bundock, and Michel Sarra-Bournet, “The Structures of Canadian Political Parties: How They Operate,” in Bakvis, *Canadian Political Parties*; R. Kenneth Carty, William Cross, and Lisa Young, “A New Canadian Party System,” in *Political Parties, Representation, and Electoral Democracy in Canada*, ed. William Cross (Oxford: Oxford University Press, 2002). British and Canadian campaigns are divided into national and constituency levels. At the national level, party leaders campaign through high-visibility media events. At the constituency level, candidates campaign through traditional means such as canvassing, distributing leaflets and posters, and mobilizing supporters on election day. Since the 1950s, conventional wisdom has held that constituency campaigning has little effect on campaign results. More recently, this has been called into question by party dealignment and a decline in class voting. Britain has no restrictions on expenditures for the national campaign but quite strict restrictions on constituency campaigns. Munroe Eagles, “The Effectiveness of Local Campaign Spending in the 1993 and 1997 Federal Elections in Canada,” *Canadian Journal of Political Science/Revue canadienne de science politique* 37, no. 01 (2004): 117–36; David Denver and Gordon Hands, *Modern Constituency Electioneering: Local Campaigning in the 1992 General Election* (London: Frank Cass, 1997).

39. Thomas, “United States: The Paradox of Loose Party-Group Ties”; Cigler, “Political Parties and Interest Groups”; Epstein, *Political Parties in the American Mold*. Historically, national parties avoided interfering in the affairs of local parties. In the last two decades, however, coordination between national and state and local parties increased as national parties used state parties as conduits for large sums of money and state parties used those funds to become more professionalized. Joel Paddock, *State and National Parties and American Democracy* (New York: Peter Lang, 2005).
40. Some parties competed only in federal elections (Bloc Quebecois and Canadian Alliance) while others competed only in provincial ones (Parti Quebecois and Saskatchewan Party). In the parties that competed at both levels, the two levels of the party often operated separately and embraced different ideologies. Of the major parties, only the NDP was a true federation. Cross, *Political Parties*.
41. Thomas, “Studying the Political Party”; Graham K. Wilson, “American Interest Groups in Comparative Perspective,” in *The Politics of Interests*, ed. Mark P. Petracca (Boulder, CO: Westview Press, 1992), 80–95; Otto Kirchheimer, “The Transformation of the Western European Party Systems,” in *Political Parties and Political Development*, ed. Joseph LaPalombara and Myron Weiner (Princeton, NJ: Princeton University Press, 1966), 177–200. In recent years, British parties have become more catch-all. In particular, New Labour has reduced its links to unions—though these remain strong by comparison to the United States. In Canada, from 1969–93, the center-left

- Liberals and center-right Tories dominated Canadian politics, with the left-wing NDP a distant third. In 1993, the Liberals trounced the Tories and the NDP while two regional parties, the *independiste* Bloc Quebecois and the western conservative/populist Reform Party, made big gains. In 2000, Reform became the Canadian Alliance as it attempted to broaden beyond the West. In 2003, the Canadian Alliance merged with the remnants of the Progressive Conservative Party to form the Conservative Party. The party won the government in 2006. Lisa Young and William Cross, "The Rise of Plebiscitary Democracy in Canadian Political Parties," *Party Politics* 8, no. 6 (2002): 673–99; Young, *Feminists and Party Politics*; L. Sandy Maisel, *Parties and Elections in America* (Lanham, MD: Rowman and Littlefield, 1999); Oldfield, *Right and the Righteous*.
42. The chief whip sends a weekly letter ("the whip") to MPs each week indicating the votes that they are required to attend. The most important votes are underlined three times. Generally, defiance of a three-line whip results in disciplinary action.
 43. David Marsh and Joanna Chambers, *Abortion Politics* (London: Junction Books, 1981).
 44. The 1983 manifesto pledged to improve NHS facilities for abortion and remove barriers to implementing the 1967 reform. The 1992 manifesto pledged to reduce abortions through family planning and eliminate regional disparities in abortion services.
 45. Marsh and Chambers, *Abortion Politics*; *Times*, September, 15, 1992.
 46. *Sunday Times*, February 12, 1995.
 47. *Guardian*, March 23, 2005.
 48. *Sunday Times*, October 27, 1996; *Times*, December 28, 1996. Around this same time, LIFE founded the Pro-Life Alliance Party and ran fifty candidates in the constituencies of MPs who supported abortion rights and especially members of the Labour leadership. Running so many candidates allowed it to qualify for five minutes of television time in which it planned to show footage of aborted fetuses, but the major television companies rejected the broadcast for "offending good taste or decency." *Times*, December 19, 1996; February 7, 1997; February 10, 1997; April 23, 1997.
 49. *Times*, December 28, 1996.
 50. *Sunday Telegraph*, October 27, 1996; Ellie Lee, *Abortion, Motherhood, and Mental Health: Medicalizing Reproduction in the United States and Great Britain*, Social Problems and Social Issues (New York: Aldine de Gruyter, 2003). Labour backbencher Ronnie Campbell complained that the party did not actually treat abortion as an issue of conscience: "To say that Labour MPs have had a free-conscience vote is an absolute lie. By God I was put under pressure—by my party and from women's organisations." Campbell said that activists had tried to deselect him for his pro-life views and that he had almost lost his union sponsorship over the issue. The party denied

- these allegations. *Sunday Times*, January 5, 1997; *Times*, October 27, 1997; *Economist*, January 4, 1997.
51. *Sunday Times*, March 13, 2005; *Times*, March 14, 2005.
 52. Magnus Linklater, *Times*, March 16, 2005. See also the *Independent*, March 16, 2005. The *Guardian*'s Jonathan Freedland argued that "to complain if the subject is raised at election time, when we choose the men and women we send to Parliament and who would cast those crucial votes, is to demand that the people be left out of that decision. It makes no democratic sense." *Guardian*, March 23, 2005.
 53. *Guardian*, March 23, 2005; *Times*, March 16, 2005; March 21, 2005; *Guardian*, March 16, 2005; *Daily Mail*, March 15, 2005; *Sunday Telegraph*, March 20, 2005.
 54. After the Tories lost the election, the campaign to succeed Howard as party leader briefly involved abortion. Candidate Liam Fox said that he would cut the abortion upper limit to twelve weeks, but other candidates were dismissive. Opponent David Davis said this "is not going to decide whether the party wins or loses. We are not America. This is not a battle between the Religious Right and the rest of the political establishment. Any party leader who tries to tell me what the abortion limit is will get told where to go." *Daily Telegraph*, February 10, 2005.
 55. *Daily Telegraph*, April 8, 2010; *Guardian*, April 8, 2010; *Catholic Herald*, June 20, 2008; *Catholic Herald*, April 9, 2010. In 2008, Cameron had supported a reduction in the upper time limit to twenty-two or twenty weeks but opposed a reduction to twelve weeks. But at the same time, he supported allowing abortions with the approval of a single doctor and allowing nurses to provide abortions. Cameron's partner in the new coalition Government, Liberal Democrat Nick Clegg, supported the existing twenty-four-week upper time limit.
 56. Philip Cowley, *Conscience and Parliament* (London: Frank Cass, 1998); Philip Cowley, "Party Rules," *Progress*, May 14, 2008, <http://www.progressonline.org.uk/articles/article.asp?a=2776>.
 57. Andre Blais, "Accounting for the Electoral Success of the Liberal Party in Canada Presidential Address to the Canadian Political Science Association London, Ontario June 3, 2005," *Canadian Journal of Political Science/Revue canadienne de science politique* 38, no. 04 (2005): 821–40.
 58. Young, *Feminists and Party Politics*, 141
 59. Joan Hollobon, "Patient and Doctor Victimized by Abortion Laws, MD Says," *Globe and Mail*, June 28, 1974, 13.
 60. *Globe and Mail*, March 15, 1983.
 61. *Maclean's*, October 17, 1988, 16.
 62. Joyce Arthur, "Abortion in Canada: History, Law and Access," Pro-Choice Action Network, October 1999, <http://www.prochoiceactionnetwork-canada.org/articles/canada.shtml>.

63. The support of the Ontario NDP Government for abortion rights was in part the result of the high level of intraparty democracy in the NDP. In the early 1980s, the Ontario NDP's Women's Committee and its allies in the Ontario Federation of Labour passed several party resolutions supporting Morgentaler's Toronto clinic over the objections of party leaders. The parliamentary caucus was willing to support the general principle of access to abortion but not Morgentaler's civil disobedience. In the Liberal and Progressive Conservative parties, party leaders could have safely ignored such resolutions, but this was not true in the more democratic NDP. Lorna Weir, "Social Movement Activism in the Formation of Ontario New Democratic Party Policy on Abortion, 1982–1984," *Labour/Le Travail* 35 (1995): 178; Weir, "Left Popular Politics."
64. The Liberals won majority Governments in 1993, 1997, and 2000, and a minority one in 2004. The Conservative Party (a merger of the Canadian Alliance and the Progressive Conservative Party) won a minority Government in 2006.
65. *Toronto Star*, January 23, 1993, A13.
66. *Toronto Star*, January 28, 1993; May 4, 1993.
67. *Toronto Star*, September 9, 1993, A16.
68. *Toronto Star*, May 7, 1997, A10.
69. *Toronto Star*, June 7, 2000.
70. *Toronto Star*, August 19, 2000, NR01; November 8, 2000, A01; November 17, 2000.
71. *Globe and Mail*, June 2, 2004.
72. *Toronto Star*, June 4, 2004. From June 2003 to June 2005 provincial and federal courts ruled that same-sex marriages were protected under the *Charter* in eight of ten provinces. In 2003, the federal Liberal Government announced that it would not appeal these rulings, and in summer 2005, it passed a Government bill allowing same-sex marriages. Cabinet members were required to vote for the bill, but backbenchers had a free vote.
73. *Globe and Mail*, June 2, 2004.
74. *Toronto Star*, June 4, 2004.
75. The clause allows Parliament to designate legislation that is not subject to the *Charter*. *Globe and Mail*, June 7, 2004; Elisabeth Gidengil et al., "Back to the Future? Making Sense of the 2004 Canadian Election Outside Quebec," *Canadian Journal of Political Science/Revue canadienne de science politique* 39, no. 01 (2006): 1–25.
76. *Vancouver Sun*, March 10, 2005.
77. *Globe and Mail*, January 12, 2006.
78. *Globe and Mail*, January 20, 2006; L. Ian MacDonald, "How Harper Forced a Conservative Spring," *Policy Options*, March 2006.
79. *Toronto Star*, February 3, 2010; March 23, 2010; March 24, 2010; CBC News, March 24, 2010; *Globe and Mail*, March 25, 2010; Angelo Persichilli, *Toronto*

- Star*, March 28, 2010; Andrea Mrozek, "Maternal Madness," *Institute of Marriage and Family Canada, E-Review* 10, no. 5 (2010).
80. *Globe and Mail*, March 31, 2010; April 27, 2010, A1.
 81. *Toronto Star*, April 28, 2010, A10. At the G8 Summit in June, the Government announced that it would commit \$2.85 billion to the maternal health initiative. The plan would include "sexual and reproductive health care and services, including voluntary family planning," but there was no mention of abortion. Group of Eight, "G8 Muskoka Declaration: Recovery and New Beginnings," June 25–26, 2010.
 82. *Toronto Star*, May 15, 2010, A1; May 17, 2010, A6.
 83. *Globe and Mail*, May 18, 2010, A4.
 84. Jerome L. Himmelstein, *To the Right: The Transformation of American Conservatism* (Berkeley: University of California Press, 1990).
 85. I attend to party platforms not as an indicator of eventual policies, but of the campaign positions of candidates and party factions. Most voters do not read the platform, but platform positions are widely disseminated through the media, campaign materials, and candidate speeches. Paddock, *State and National Parties and American Democracy*. The platforms of both parties are drafted by the staff of the winning candidate and then considered and amended by platform committees chosen by the state delegations. This process is more open in the Republican Party. Republican state delegations may choose any two members of their delegation (one man and one woman), but Democratic state delegations must choose from a list of nominees provided by each presidential candidate. Committee members are allocated to each candidate based on his or her delegate count. Jo Freeman, "Change and Continuity for Women at the 1996 Republican and Democratic Conventions," *Off Our Backs*, January 1997, 14–23.
 86. Greg D. Adams, "Times of Tumult: Abortion and the Transformation of American Political Parties" (PhD, University of Iowa, 1996); Ted G. Jelen and Clyde Wilcox, "Causes and Consequences of Public Attitudes toward Abortion: A Review and Research Agenda" (paper presented at the Annual Meeting of the Western Political Science Association, 2003, Long Beach, CA); Paul DiMaggio, John Evans, and Bethany Bryson, "Have Americans' Social Attitudes Become More Polarized?," *American Journal of Sociology* 102, no. 3 (1996): 690–755; John H. Evans, "Have Americans' Attitudes Become More Polarized? An Update," *Social Science Quarterly* 84, no. 1 (2003): 72–90; John H. Evans, Bethany Bryson, and Paul DiMaggio, "Opinion Polarization: Important Contributions, Necessary Limitations," *American Journal of Sociology* 106, no. 4 (2001): 944–59; Ted Mouw and Michael E. Sobel, "Culture Wars and Opinion Polarization: The Case of Abortion," *American Journal of Sociology* 106, no. 4 (2001): 913–43; Morris P. Fiorina, Samuel J. Abrams, and Jeremy C. Pope, *Culture War? The Myth of a Polarized America* (New York: Pearson Longman, 2005). This polarization is not the

- result of increased polarization in the public. The General Social Survey (GSS) has asked abortion questions for almost forty years (since 1972). The GSS data reveal two things. First, abortion attitudes are clustered into two groups of situations—80 to 90 percent of respondents support legal abortion for situations of rape, birth defects, or a threat to the woman's health, but only 45 to 50 percent of respondents support legal abortion for other situations such as that the woman is poor, she is married and does not want more children, or she is unmarried and does not want to marry the man. Second, abortion attitudes have remained remarkably stable over time. It can be argued that support for abortion in the more controversial situations has declined slightly, but only slightly. A simple additive scale of the six GSS abortion items rounded to a mean of 4 and a median of 3 in most years. Adams, "Times of Tumult"; Jelen and Wilcox, "Causes and Consequences of Public Attitudes." Though the mean and median of abortion attitudes have remained stable, some analysts have argued that their distribution has become more polarized, but this polarization is small and has been questioned by other analysts. DiMaggio, Evans, and Bryson, "Have Americans' Social Attitudes Become More Polarized?"; Evans, "Have Americans' Attitudes Become More Polarized? An Update"; Evans, Bryson, and DiMaggio, "Opinion Polarization"; Mouw and Sobel, "Culture Wars and Opinion Polarization"; Fiorina, Abrams, and Pope, *Culture War?*
87. Nolan McCarty, Keith T. Poole, and Howard Rosenthal, *Polarized America: The Dance of Ideology and Unequal Riches* (Cambridge, MA: MIT Press, 2006); Jacob S. Hacker and Paul Pierson, *Off Center: The Republican Revolution and the Erosion of American Democracy* (New Haven, CT: Yale University Press, 2005); Barbara Sinclair, *Party Wars: Polarization and the Politics of National Policy Making* (Norman: University of Oklahoma Press, 2006).
 88. George McKenna, "Democrats, Republicans, and Abortion," *Human Life Review*, Fall 2005; Paige Whaley Eager, *Global Population Policy: From Population Control to Reproductive Rights* (Burlington, VT: Ashgate, 2004).
 89. George Gallup, "Abortion Seen Up to Woman, Doctor" in *Before Roe v. Wade: Voices That Shaped the Abortion Debate before the Supreme Court's Ruling*, ed. Linda Greenhouse and Reva Siegel (New York: Kaplan, 2010), 207–9.
 90. Kevin P. Phillips, *The Emerging Republican Majority* (New York: Anchor Books, 1970); *New York Times*, May 17, 1970.
 91. Thomas Byrne Edsall, *Building Red America: The New Conservative Coalition and the Drive for Permanent Power* (New York: Basic Books, 2006); Tanya Melich, *The Republican War against Women: An Insider's Report from Behind the Lines* (New York: Bantam Books, 1996).
 92. Lawrence T. King, "Abortion Makes Strange Bedfellows: GOP and GOD," in Greenhouse and Siegel, *Before Roe v. Wade*, 113–15.
 93. Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey* (New York: Times Books, 2005), 83.

94. Richard Nixon to Terence Cardinal Cooke, May 16, 1972, in Greenhouse and Siegel, *Before Roe v. Wade*, 158; Donald T. Critchlow, *Intended Consequences: Birth Control, Abortion and Federal Government in Modern America* (New York: Oxford University Press, 1999).
95. "Miscellaneous Issues," *Congressional Quarterly Weekly Report*, September 2, 1972, 2222, quoted in Raymond Tatalovich and Bryon W. Daynes, *The Politics of Abortion: A Study of Community Conflict in Public Policy Making* (New York: Praeger, 1981), 197.
96. *Washington Post*, April 27, 1972, A23. The anonymous source was recently revealed to be Thomas Eagleton (D-MO), McGovern's failed pick for running mate; Robert D. Novak, *The Prince of Darkness* (New York, Crown, 2007).
97. Rick Perlstein, *Nixonland: The Rise of a President and the Fracturing of America* (New York: Scribner, 2008); Greenhouse and Siegel, *Before Roe v. Wade*.
98. Patrick Buchanan, "Assault Book," in Greenhouse and Siegel, *Before Roe v. Wade*, 218.
99. *Ibid.*, 216.
100. *Washington Post*, May 6, 1972, A6.
101. Louis Cassels, "Swing to Right Seen among Catholics, Jews," in Greenhouse and Siegel, *Before Roe v. Wade*, 214.
102. Young, *Feminists and Party Politics*; Christina Wolbrecht, *The Politics of Women's Rights: Parties, Positions, and Change* (Princeton, NJ: Princeton University Press, 2000).
103. Wolbrecht, *Politics of Women's Rights*. McGovern's first and second running mates, Catholics Thomas Eagleton and Sargent Shriver, both opposed abortion rights.
104. Young, *Feminists and Party Politics*; Wolbrecht, *Politics of Women's Rights*.
105. Tanya Melich, *The Republican War against Women: An Insider's Report from Behind the Lines* (New York: Bantam Books, 1996), 29.
106. *Ibid.*; Wolbrecht, *Politics of Women's Rights*.
107. Young, *Feminists and Party Politics*; Wolbrecht, *Politics of Women's Rights*; *New York Times*, August 6, 1972, 40.
108. Young, *Feminists and Party Politics*; Wolbrecht, *Politics of Women's Rights*; Hull and Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*.
109. Laurence H. Tribe, *Abortion: The Clash of Absolutes* (New York: W. W. Norton, 1990); Joseph A. Califano, *Governing America: An Insider's Report from the White House and the Cabinet* (New York: Simon and Schuster, 1981); Andrew R. Flint and Joy Porter, "Jimmy Carter: The Re-emergence of Faith-Based Politics and the Abortion Rights Issue," *Presidential Studies Quarterly* 35, no. 1 (2005): 28–51.
110. Oldfield, *Right and the Righteous*.
111. *New York Times*, November 2, 1975, 82; Melich, *Republican War against Women*; Donald T. Critchlow, *Phyllis Schlafly and Grassroots Conservatism: A*

- Woman's Crusade*, Politics and Society in Twentieth-Century America (Princeton, NJ: Princeton University Press, 2005); Himmelstein, *To the Right*; Catherine E. Rymph, *Republican Women: Feminism and Conservatism from Suffrage through the Rise of the New Right* (Chapel Hill: University of North Carolina Press, 2006). Schafly's predictions seem to have been borne out as the ACLU has attempted to win Medicaid funding of abortions on equal protection grounds in states that have enacted a state ERA. In 1998, the ACLU won such a battle in New Mexico. Kristen Day, *Democrats for Life: Pro-Life Politics and the Silenced Majority* (Green Forest, AR: New Leaf Press, 2006).
112. Phyllis Schlafly, "Women's Libbers Do NOT Speak for Us," in Greenhouse and Siegel, *Before Roe v. Wade*, 219.
 113. *New York Times*, February 4, 1976, 1.
 114. Melich, *The Republican War against Women*; Young, *Feminists and Party Politics*; Wolbrecht, *Politics of Women's Rights*. Feminists claimed that Ford's convention chairman, John Rhodes, actually cheated them out of their victory. Rhodes allegedly ignored a request for a roll call vote and then incorrectly awarded the voice vote to the antiabortion forces.
 115. Timothy A. Byrnes, "The Politics of the American Catholic Hierarchy," *Political Science Quarterly* 108, no. 3 (1993): 497–514; McKenna, "Democrats, Republicans, and Abortion."
 116. Marjorie Randon Hershey, "Citizens' Groups and Political Parties in the United States," *Annals of the American Academy of Political and Social Science* 528 (1993): 142–56; Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*.
 117. Wolbrecht, *Politics of Women's Rights*.
 118. Cynthia Gorney, *Articles of Faith: A Frontline History of the Abortion Wars* (New York: Simon and Schuster, 1998); David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994); Oldfield, *Right and the Righteous*.
 119. Gorney, *Articles of Faith*; Garrow, *Liberty and Sexuality*; Oldfield, *Right and the Righteous*.
 120. Quoted in Lee Epstein and Joseph Kobylka, *The Supreme Court and Legal Change: Abortion and the Death Penalty* (Chapel Hill: University of North Carolina Press, 1992), 232.
 121. Oldfield, *Right and the Righteous*; Michelle McKeegan, *Abortion Politics: Mutiny in the Ranks of the Right* (New York: Free Press, 1992); Gorney, *Articles of Faith*; Rymph, *Republican Women*. The movement of the pro-life movement into the Republican Party was reflected at the NRLC, which was led by conservative Republican Mildred Jefferson from 1975 to 1977. James R. Kelly, "Learning and Teaching Consistency: Catholics and the Right-to-Life Movement," in *The Catholic Church and the Politics of Abortion: A View from the States*, ed. Timothy A. Byrnes and Mary C. Segers (Boulder, CO: Westview Press, 1992), 152–68.

122. Jo Freeman, "Feminism vs. Family Values: Women at the 1992 Democratic and Republican Conventions," *PS: Political Science and Politics* 26, no. 1 (1993): 21–28.
123. Wollbrecht, *Politics of Women's Rights*; Freeman, "Feminism vs. Family Values"; Melich, *Republican War against Women*.
124. Saletan, *Bearing Right*.
125. Quoted in Melich, *Republican War against Women*, 289.
126. The Christian Coalition's Ralph Reed claimed that he could mobilize 102 floor whips, 40 runners, and 25 communications hubs for an abortion floor fight. Freeman, "Change and Continuity for Women."
127. Saletan, *Bearing Right*, 251. Bush's primary opponent, Elizabeth Dole, another abortion opponent, also came out against a constitutional amendment. "People want to see us move forward and accomplish some good things, not just kind of endlessly debate something that really is not going anywhere. It's not going to happen." William Murchison, "Abortion Gridlock," *Human Life Review*, Fall 1999.
128. *New York Times*, August 27, 2008.
129. The effect of the parties' abortion positions on voter's choices has been an object of much dispute. Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*; Alan I. Abramowitz, "It's Abortion, Stupid: Policy Voting in the 1992 Presidential Election," *Journal of Politics* 57, no. 1 (1995): 176–86; Mark J. Wattier, Byron W. Daynes, and Raymond Tatalovich, "Abortion Attitudes, Gender, and Candidate Choice in Presidential Elections: 1972 to 1992," *Women and Politics* 17 (1997): 55–72; Gary Langer and Jon Cohen, "Voters and Values in the 2004 Election," *Public Opinion Quarterly* 69, no. 5 (2005): 744–59; Kenneth Mulligan, "The 'Myth' of Moral Values Voting in the 2004 Presidential Election," *PS: Political Science and Politics* 41, no. 01 (2008): 109–14.
130. William Saletan, "Safe, Legal and Boring," *Slate*, October 16, 2008.
131. Douglas W. Kmiec, "Doug Kmiec Reaffirms Endorsing Sen. Barack Obama," *Catholic Online*, May 3, 2008, <http://www.catholic.org/politics/story.php?id=27820>; Douglas W. Kmiec, "Barack Obama and Abortion," *America*, September 8, 2008.
132. Prominent examples included Ted Kennedy, Jesse Jackson, Richard Gephardt, Sam Nunn, Al Gore, Paul Simon, Bill Clinton, Bob Kerrey, Tom Harkin, Jerry Brown, George H. W. Bush, Mitt Romney, Rudy Giuliani, and John McCain. Day, *Democrats for Life: Pro-Life Politics and the Silenced Majority*; Melich, *Republican War against Women*. Antiabortion Democratic senators Bill Nelson (D-FL), Dick Durbin (D-IL), and Byron Dorgan (D-ND) became more supportive of abortion rights over time. Day, *Democrats for Life*.
133. In sixteen of these states, the issue was placed on the campaign agenda by the candidates themselves. In four campaigns, it was raised by interest

- groups or the media. Thomas M. Carsey, *Campaign Dynamics: The Race for Governor* (Ann Arbor: University of Michigan Press, 2000).
134. The issue was mentioned in 4 percent of all articles in 1988, but 9 percent of all articles in 1990 and 1992.
135. Kim F. Kahn and Patrick J. Kenney, *United States Senate Campaign Strategies and Media Analysis, 1988–1992* [Computer File] (Tempe: Arizona State University [producer], 1995; Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2001, 1995).
136. National Abortion Rights Action League, *Who Decides? A State-by-State Review of Abortion and Reproductive Rights* (Washington, DC: National Abortion Rights Action League, 1990).
137. Ibid. The Vermont Republican Party took no position. Democratic parties took no position in Alabama, Georgia, Indiana, Kansas, North Dakota, and South Dakota. The Mississippi Democratic party opposed abortion.
138. Most of these states were in the South, West or Midwest. The Christian Right was most successful in states where nominations for party officials were made through open party caucuses or conventions, in progressive states where party organizations were designed to be weak, and in the South where the history of Democratic dominance left weak Republican organizations. John C. Green, Mark J. Rozell, and Clyde Wilcox, "The Christian Right's Long Political March," in *The Christian Right in American Politics: Marching to the Millennium*, ed. John C. Green, Mark J. Rozell, and Clyde Wilcox (Washington, DC: Georgetown University Press, 2003), 1–20; Green, Guth, and Wilcox, "Less Than Conquerors." A 2000 survey found that the Christian Right had become a substantial presence in eight additional states. John F. Persinos, "Has the Christian Right Taken over the Republican Party?," *Campaigns and Elections*, September 1994; Kimberly H. Conger and John C. Green, "Spreading Out and Digging In: Christian Conservatives and State Republican Parties," *Campaigns and Elections*, February 2002; Green, Guth, and Wilcox, "Less Than Conquerors."
139. Among Republican county chairs, the main recruiting groups were evangelical (25 percent), antiabortion (21 percent), business (16 percent), or farm (10 percent). Among Democratic county chairs, the main recruiting groups were labor (35 percent), teachers (19 percent), or environmental (10 percent). Among Republican state committee members, the main recruiting groups were business (31 percent), antiabortion (18 percent), evangelical (14 percent), conservative (12 percent), or farm (10 percent). Among Democratic state committee members, the main recruiting groups were labor (28 percent), teachers (11 percent), women (10 percent), or civil rights (9 percent). Abortion rights groups recruited only 4 percent. Paddock, *State and National Parties and American Democracy*.
140. The Christian Right was most successful in states where delegates were chosen in open meetings—the smaller the better. In fact, at the 1992 and 1996 conventions, the Christian Right tried unsuccessfully to require that all

- delegates be chosen at precinct or county-level meetings. Usher, "Strategy, Rules, and Participation."
141. John C. Green, "The Christian Right and the 1994 Elections: An Overview," in *God at the Grass Roots: The Christian Right in the 1994 Elections*, ed. Mark J. Rozell and Clyde Wilcox (Lanham, MD: Rowman and Littlefield, 1995), 1–16; John C. Green, "The Christian Right and the 1998 Elections: An Overview," in *Prayers in the Precincts: The Christian Right in the 1998 Elections*, ed. John Clifford Green, Mark J. Rozell, and Clyde Wilcox (Washington, DC: Georgetown University Press, 2000), 1–19.
 142. Green, "Christian Right and the 1994 Elections"; Mark D. Regnerus, David Sikkink, and Christian Smith, "Voting with the Christian Right: Contextual and Individuals Patterns of Electoral Influence," *Social Forces* 77, no. 4 (1999): 1375–401. The guides were controversial because of charges that they ran afoul of IRS rules requiring nonprofit organizations to be nonpartisan.
 143. Oldfield, *Right and the Righteous*; James W. Lamare, Jerry L. Polinard, and Robert D. Wrinkle, "Texas: Religion and Politics in God's Country," in *The Christian Right in American Politics: Marching to the Millennium*, ed. John C. Green, Mark J. Rozell, and Clyde Wilcox (Washington, DC: Georgetown University Press, 2003), 59–78.
 144. Ralph Reed, *Active Faith: How Christians Are Changing the Soul of American Politics* (New York: Free Press, 1996), 157. For a discussion of the success of "widespread federated interests" in influencing public policies, see Theda Skocpol, *Protecting Soldiers and Mothers* (Cambridge, MA: Harvard University Press, 1992), 55–57.
 145. Some Christian Right leaders criticized Reagan's appointment of Sandra Day O'Connor to the Supreme Court and his lukewarm support of a constitutional amendment banning abortion. Pat Robertson complained that George H. W. Bush appointed too few evangelicals, and Focus on the Family's James Dobson threatened to endorse a third party in 1998. And Christian conservatives were upset about George W. Bush's unsuccessful nomination of the legal lightweight Harriet Miers to the Supreme Court. Oldfield, *Right and the Righteous*; Michael J. Gerson, "A Righteous Indignation," *Newsweek*, May 4, 1998; Hertzke, "Harvest of Discontent."
 146. Oldfield, *Right and the Righteous*; Sarah Diamond, *Roads to Dominion: Right-Wing Movements and Political Power in the United States* (New York: Guilford, 1995).
 147. Edsall, *Building Red America*; Freeman, "Feminism vs. Family Values."
 148. Frank, *What's the Matter with Kansas?*
 149. Hull and Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*.
 150. Fred Block, "Understanding the Diverging Trajectories of the United States and Western Europe: A Neo-Polanyian Analysis," *Politics and Society* 35, no. 1 (2007): 3–33.

151. Paul Weyrich complained that “most leaders of the religious right . . . were so happy, after years of isolation, to get invited to state dinners at the White House that many forgot what moved them to get involved in politics in the first place.” Quoted in Oldfield, *Right and the Righteous*, 120.
152. Ibid.
153. Thomas Medvetz, “The Strength of Weekly Ties: Relations of Material and Symbolic Exchange in the Conservative Movement,” *Politics and Society* 34, no. 3 (2006): 343–68.
154. Reed, *Active Faith*, 163.
155. Quoted in Oldfield, *Right and the Righteous*, 125.
156. Green, Rozell, and Wilcox, “Christian Right’s Long Political March”; Oldfield, *Right and the Righteous*; Diamond, *Roads to Dominion*.
157. *Norfolk Virginian-Pilot*, November 1991.
158. Freeman, “Feminism vs. Family Values”; Paul S. Herrnson, “Do Parties Make a Difference? The Role of Party Organizations in Congressional Elections,” *Journal of Politics* 48, no. 3 (1986): 589–615.
159. Edsall, *Building Red America*. In the 2004 elections, concerns about alienating swing voters were less prominent for the GOP, though. After the 2000 elections, Republican pollsters had discovered that few so-called independent voters were truly independent—most typically voted for only one of the parties. With most swing voters unmovable, the GOP focused on mobilizing its base voters through wedge issues such as abortion and same-sex marriage.
160. Diamond, *Roads to Dominion*; Justin Watson, *The Christian Coalition: Dreams of Restoration, Demands for Recognition* (New York: St. Martin’s Press, 1997).
161. Verta Taylor, “Social Movement Continuity: The Women’s Movement in Abeyance,” *American Sociological Review* 54, no. 5 (1989): 761–75.
162. In 1982, 44 percent of Americans claimed to attend church at least once a week compared with 32 percent of Canadians and 14 percent of Britons. European Values Study Group and World Values Survey Association, *European and World Values Surveys Four-Wave Integrated Data File, 1981–2004*, vol. v.20060423 (Madrid, Spain; Tilburg, The Netherlands; Cologne, Germany: Análisis Sociológicos Económicos y Políticos, JD Systems, Zentralarchiv für Empirische Sozialforschung, 2006). But some scholars argue that American survey respondents overreport their church attendance by as much as 100 percent. Mark Chaves and Laura Stephens, “Church Attendance in the United States,” in *Handbook of the Sociology of Religion*, ed. Michelle Dillon (New York: Cambridge University Press, 2003), 85–95. Respondents in other countries probably overreport as well, but we do not know by how much so these numbers are hard to interpret.
163. Minkenberg, “Religion and Public Policy.”
164. Chester Gillis, *Roman Catholicism in America* (New York: Columbia University Press, 1999); D. Paul Sullins, “Catholic/Protestant Trends on Abortion:

- Convergence and Polarity," *Journal for the Scientific Study of Religion* 38 (1999): 354–69; John C. Green, "The American Religious Landscape and Political Attitudes: A Baseline for 2004" (Washington, DC: Pew Forum on Religion and Public Life, 2004).
165. Meyer and Staggenborg, "Counter-movement Dynamics in Federal Systems"; Mildred Schwartz, "Politics and Moral Causes in Canada and the United States," in *Comparative Social Research*, ed. Richard F. Tomasson (Greenwich, CT: JAI Press, 1981); James A. Morone, *Hellfire Nation: The Politics of Sin in American History* (New Haven, CT: Yale University Press, 2003).
 166. Mary Ann Glendon, *Abortion and Divorce in Western Law* (Cambridge, MA: Harvard University Press, 1987); Elizabeth Adell Cook, Ted G. Jelen, and Clyde Wilcox, *Between Two Absolutes: Public Opinion and the Politics of Abortion* (Boulder, CO: Westview Press, 1992).
 167. Myra Marx Ferree et al., *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States* (Cambridge: Cambridge University Press, 2002); Michele Dillon, "Cultural Differences in the Abortion Discourse of the Catholic Church: Evidence from Four Countries," *Sociology of Religion* 57, no. 1 (1996): 25–36; Timothy A. Byrnes and Mary C. Segers, *The Catholic Church and the Politics of Abortion: A View from the States* (Boulder, CO: Westview Press, 1992); Greenhouse and Siegel, *Before Roe v. Wade*; David Yamane, *The Catholic Church in State Politics: Negotiating Prophetic Demands and Political Realities* (Lanham, MD: Rowman and Littlefield, 2005).
 168. Yamane, *Catholic Church in State Politics*.
 169. Catholics preferred Republicans Nixon (1972) and Reagan (1980, 1984) and Democrats Carter (1976), Clinton (1992, 1996), and Obama (2008), but split almost evenly between George H. W. Bush-Dukakis (1988), George W. Bush-Gore (2000), and George W. Bush-Kerry (2004). In terms of party identification, since 2000, slightly more Catholics identify as Democrats than Republicans. The presidential votes are based on an average of Gallup polls, exit polls, and the American National Election Survey. Center for Applied Research in the Apostolate, "Election '08 Forecast: Democrats Have Edge among U.S. Catholics" (Washington, DC: Georgetown University, 2008).
 170. Joseph Bernardin, "A Consistent Ethic of Life: An American-Catholic-Dialogue" (Gannon Lecture, Fordham University, New York, NY, December 6, 1983).
 171. Joseph Bernardin, "A Consistent Ethic of Life: Continuing the Dialogue" (William Wade Lecture, St. Louis University, St. Louis, MO, March 11, 1984).
 172. Byrnes, "Politics of the American Catholic Hierarchy," 508.
 173. In 1964, Pope Paul VI announced that a church commission was studying the issue of contraception. In 1965, when the Supreme Court issued its *Griswold* decision striking down restrictions on contraception for married couples, the American Catholic bishops did not protest. They argued that contraception was still immoral but that contraceptive decisions were a

- private matter that should not be subject to state regulation. In 1967, the *National Catholic Reporter* obtained leaked copies of both the commission's majority report, recommending that Catholics be permitted to use contraception, and a dissenting minority report. In 1968, the Pope adopted the minority position.
174. Greenhouse and Siegel, *Before Roe v. Wade*; Michael W. Cuneo, *The Smoke of Satan: Conservative and Traditionalist Dissent in Contemporary American Catholicism* (Baltimore: Johns Hopkins University Press, 1999).
 175. Gallup, "Abortion Seen Up to Woman, Doctor." See also Gillis, *Roman Catholicism in America*; Sullins, "Catholic/Protestant Trends on Abortion"; Green, "American Religious Landscape and Political Attitudes."
 176. Although the conservative groups acknowledge that their tactics may not be particularly persuasive to the secular world, they argue that they are the only way to defeat abortion. Said one activist, "This thing is straight out of hell, and you can't eradicate it without supernatural agency." Chicago activist Julie McCreevy in Cuneo, *Smoke of Satan*, 75–76. Milwaukee pro-life leader Monica Migliorno Miller makes a similar point: "Ultimately abortion is a spiritual war, not a political one. We're fighting an ethic, an entire philosophy of life, which places choice and convenience above the sacredness of created life. Our prayers and our rosaries are repugnant to the news media and repugnant to the secular world in general, but for us they're absolutely central." *Ibid.*, 76.
 177. McKenna, "Democrats, Republicans, and Abortion"; Risen and Thomas, *Wrath of Angels*, 154.
 178. Risen and Thomas, *Wrath of Angels*, 154.
 179. *New York Times*, September 7, 1989; Byrnes, "Politics of the American Catholic Hierarchy."
 180. Timothy A. Byrnes, "The Politics of Abortion: Politics and Moral Causes in Canada and the United States," in Byrnes and Segers, *Catholic Church and the Politics of Abortion*.
 181. Yamane, *Catholic Church in State Politics*, 151.
 182. *New York Times*, May 9, 2009, A17; *America*, May 11, 2009.
 183. Cuneo, *Catholics against the Church*.
 184. *Ibid.*, 32.
 185. *Globe and Mail*, December 12, 1967; Alphonse de Valk, *Morality and Law in Canadian Politics: The Abortion Controversy* (Montreal: Palm, 1974).
 186. Cuneo, *Catholics against the Church*, 150.
 187. *Ibid.*, 66.
 188. *Ibid.*, 79.
 189. Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*, 134.
 190. At a minimum, evangelicals believe in the literal truth of the Bible, the need to be "born again," and the necessity of witnessing one's faith to others. There are three main groups—fundamentalists, neo-evangelicals, and

Pentecostals/charismatics. Fundamentalists are doctrinally rigid, avoid associating with people of differing beliefs, and seek to separate themselves from the sinful influences of society. Their most prominent leader was independent Baptist televangelist Jerry Falwell. Neo-evangelicals are more ecumenical and seek to participate in and change society. Their most prominent leader was Billy Graham—though he has also appealed to some fundamentalists. Many fundamentalists and neo-evangelicals are Southern Baptists, the largest denomination in American Protestantism, but they can be found in various other denominations as well. Finally, Pentecostals believe that the gifts of the Holy Spirit, such as speaking in tongues and faith healing, are not confined to biblical times but are with us today. Fundamentalists, for their part, view this as heresy and are often unwilling to associate with Pentecostals. Neo-evangelicals, by contrast, have admitted Pentecostal denominations into their main organization, the National Association of evangelicals. The largest Pentecostal denomination is the Assemblies of God and leading Pentecostal figures include Oral Roberts, Jimmy Swaggert, Jim and Tammy Bakker, and Pat Robertson. Finally, a charismatic movement emphasizing the gifts of the Holy Spirit has gained adherents in non-Pentecostal denominations, including Catholicism. Not all white evangelicals support the political positions or the organizations of the Christian Right, and support among conservative Christians for various Christian Right organizations is often limited by theological and denominational concerns. Oldfield, *Right and the Righteous*; Robert D. Woodberry and Christian S. Smith, “Fundamentalism Et Al: Conservative Protestants in America,” *Annual Review of Sociology* 24 (1998): 25–56.

191. Risen and Thomas, *Wrath of Angels*.
192. William Martin, *With God on Our Side: The Rise of the Religious Right in America* (New York: Broadway Books, 1996), 194.
193. Ibid.; Harold O. J. Brown, “The Passivity of American Christians,” *Christianity Today*, January 16, 1976.
194. Diamond, *Roads to Dominion*; Oldfield, *Right and the Righteous*; Woodberry and Smith, “Fundamentalism Et Al”; Clyde Wilcox and Carin Larson, *Onward Christian Soldiers* (Boulder, CO: Westview Press, 2006); Green, “Christian Right and the 1994 Elections”; Rymph, *Republican Women*.
195. Risen and Thomas, *Wrath of Angels*, 125.
196. Richard Land, “Francis Schaeffer and C. Everett Koop’s Invaluable Impact on Pro-Life Evangelicalism,” *National Right to Life Committee News*, January 1, 2003; Risen and Thomas, *Wrath of Angels*.
197. Cuneo, *Smoke of Satan*.

CHAPTER SIX

1. Lynn D. Wardle, “The Road to Moderation: The Significance of *Webster* for Legislation Restricting Abortion,” *Journal of Law, Medicine, and Ethics* 17,

- no. 4 (1989): 376–83; Raymond Tatalovich, *The Politics of Abortion in the United States and Canada: A Comparative Study* (Armonk, NY: M. E. Sharpe, 1997); Thomas P. Carr, *Issue Brief: Abortion: Legislative Control*, vol. IB88007 (Washington, DC: Congressional Research Service, 1988).
2. I do not include the 2003 ban on so-called partial-birth abortions among the most consequential policy changes since the “intact dilation and extraction” abortion technique is very rare.
3. N. E. H. Hull and Peter Charles Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*, Landmark Law Cases and American Society (Lawrence: University Press of Kansas, 2001).
4. Laura Langer and Paul Brace, “The Preemptive Power of State Supreme Courts: Adoption of Abortion and Death Penalty Legislation,” *Policy Studies Journal* 33, no. 3 (2005): 317–40.
5. Guttmacher Institute, “State Policies in Brief: An Overview of Abortion Laws,” July 1, 2010. In each state, counseling included one or more of the following: discussion of purported links between abortion and breast cancer, discussion of fetal pain, post-abortion syndrome, or the availability of ultrasound.
6. Mifepristone was approved in Britain in 1991 and in the United States in 2000. Canada has not yet approved mifepristone, but a limited number of medication abortions are provided using methotrexate and misoprostol.
7. David Marsh and Melvyn Read, *Private Member’s Bills* (Cambridge: Cambridge University Press, 1988).
8. *Times*, September 17, 1987.
9. Thatcher said she was “broadly sympathetic” to Alton’s bill, but believed that a time limit of eighteen weeks was going too far. Instead, she supported a twenty-four-week time limit—essentially the status quo. *Sunday Times*, January 17, 1988. In 1985, the RCOG recommended that the legal limit for abortions be reduced from twenty-eight to twenty-four weeks because of changes in fetal viability. The Department of Health persuaded the eight private clinics in England that were authorized to provide late abortions to voluntarily establish twenty-four weeks as their upper time limit. And this was later made a condition of department approval for private clinics. *Times*, July 26, 1985; August, 3, 1985, March 23, 1990; Joan Isaac, “The Politics of Morality in the UK,” *Parliamentary Affairs* 47, no. 2 (1994): 175.
10. *Times*, May 13, 1988.
11. *Times*, May 21, 1988.
12. *Guardian*, February 23, 1988; Ann Pettifor, “Abortion Rights: WAC Model Resolution,” *Campaign Group News*, 1988.
13. *Times*, March 9, 1989; March 14, 1989; *Sunday Times*, October 22, 1989.
14. *Times*, October, 25, 1989.
15. Sally Sheldon, *Beyond Control: Medical Power and Abortion Law* (London: Pluto Press, 1997); National Abortion Campaign, “A Brief and Partial His-

- tory of the National Abortion Campaign,” in *A Celebration of 25 Years of Safe Legal Abortion* (London: National Abortion Campaign, 1992), 16–22; Ellie Lee, *Abortion, Motherhood, and Mental Health: Medicalizing Reproduction in the United States and Great Britain*, Social Problems and Social Issues (New York: Aldine de Gruyter, 2003); Susan Millns and Sally Sheldon, “Abortion,” in *Conscience and Parliament*, ed. Philip Cowley (London: Frank Cass, 1998); *Times*, April 6, 1990; April 25, 1990; October 24, 1989; Philip Cowley, “What’s Two Weeks between Friends?,” 2005, <http://www.revolts.co.uk>.
16. Elizabeth Shepherd, *House of Lords Library Note: Human Fertilisation and Embryology Bill [House of Lords Bill 6, 2007–08]* (London: House of Lords, November 14, 2007).
 17. *Times*, May 21, 2008; *Guardian*, October 21–23, 2008; *Daily Telegraph*, July 12, 2008; Sally Sheldon, “A Missed Opportunity to Reform an Outdated Law,” *Clinical Ethics* 4, no. 1 (2009): 3; Abortion Rights, “Briefing Paper: Further Abortion Votes This Autumn,” 2008; S. Kettell, “Did Secularism Win Out? The Debate over the Human Fertilisation and Embryology Bill,” *Political Quarterly* 80, no. 1 (2009): 67–75.
 18. Great Britain House of Commons, *The Abortion Act Inquiry: Summary of Conclusions, Some of Its Findings, and List of Recommendations from Report of the Committee on the Working of the Abortion Act* (London: Abortion Law Reform Association, 1974).
 19. Victoria Greenwood and Jock Young, *Abortion in Demand* (London: Pluto Press, 1976).
 20. Larry D. Collins, “The Politics of Abortion: Trends in Canadian Fertility Policy,” *Atlantis*, Spring 1982.
 21. Quoted in *ibid.*, 13.
 22. *Montreal Gazette*, October 16, 1975.
 23. “Ministers and officials, when called upon to explain why the government does not propose any changes in the Abortion law, should stress that there is no consensus for such changes, that the most important causes of the improper operation of the law (which is the concern of most Canadians) are within provincial control, and that the government intends to do everything it can to encourage provincial action to improve the operation of the law.” “Record of Cabinet Decision: Strategy for Dealing with the Report of the Committee on the Operation of the Abortion Law” (Ottawa: National Archives of Canada, Record Group 29, Vol. 1629, Box 241, File 4, December 22, 1976).
 24. Committee on the Operation of the Abortion Law, *Report of the Committee on the Operation of the Abortion Law* (Ottawa: Department of Supply and Services, 1977), 17.
 25. Anne Collins, *The Big Evasion: Abortion: The Issue That Won’t Go Away* (Toronto: Lester and Orpen Dennys, 1985).
 26. Collins, “Politics of Abortion”; Marc LaLonde, “Statement by the Honourable Marc Lalonde, Minister of National Health and Welfare, March 4”

- (Ottawa: National Archives of Canada, Record Group 29 1985-86/235 Box 74, File 6030-C25-1 vol. 1, May 4, 1977).
27. Quoted in Collins, "Politics of Abortion," 15.
28. Ibid.; Brenda Margaret Appelby, "Canada and Birth Control," in *Encyclopedia of Birth Control*, ed. Vern L. Bullough (New York: ABC-Clio, 2001).
29. *Toronto Star*, June 3, 1987.
30. James M. Robertson, *The Evolution of Private Members' Business in the Canadian House of Commons* (Ottawa: Parliamentary Research and Information Service, 2005); Canada House of Commons, *Private Members' Business: Practical Guide* (Ottawa: Canada House of Commons, 2005).
31. *Toronto Star*, April 21, 2008; August 27, 2008.
32. John A. Dickinson and Brian J. Young, *A Short History of Quebec* (Montreal: McGill-Queens University Press, 2003); Graham Fraser, *René Lévesque and the Parti Québécois in Power* (Montreal: McGill-Queens University Press, 2001).
33. Henry Morgentaler, "Report on 5641 Outpatient Abortions by Vacuum Suction Curettage," *Canadian Medical Association Journal* 109, no. 12 (1973): 1202; Catherine Dunphy, *Morgentaler: A Difficult Hero: A Biography* (Toronto: Random House of Canada, 1996).
34. Dunphy, *Morgentaler: A Difficult Hero*.
35. Bédard wrote Federal Justice Minister Ron Basford, "We have tried [to apply the law] with all required energy but it has been shown that this section cannot be enforced as it is worded. . . . The only solution, it appears to me, is to modify the Criminal Code. In the existing constitutional framework, this can only be done by the federal Parliament even when such a process is badly suited to issues such as abortion where profound differences separate Quebec and other provinces." *Montreal Gazette*, December 11, 1976, 1. Morgentaler claimed that the criminal code protected doctors from criminal prosecution when they performed surgery to benefit a patient with reasonable skill and care. *Montreal Gazette*, December 11, 1976, 1.
36. *Montreal Gazette*, December 11, 1976, 1.
37. Fraser, *René Lévesque and the Parti Québécois in Power*. Several days after the Government dropped the charges against Morgentaler, Social Affairs Minister Denis Lazure said that he wanted to see abortion legalized in Quebec, but he noted that this was a personal view. *Montreal Gazette*, December 15, 1976, 3.
38. *Ottawa Citizen*, May 30, 1977, 22; *Montreal Gazette*, June 2, 1977, 9.
39. *Montreal Gazette*, May 8, 3; July 6, 1978, 1.
40. *Montreal Gazette*, April 4, 1977, 4.
41. *Montreal Gazette*, May 8, 1977, 3; July 6, 1978, 1.
42. *Montreal Gazette*, April 18, 1980, 3.
43. *Montreal Gazette*, December 30, 1980, 4.
44. *Montreal Gazette*, December 18, 1980, 28.

45. Stanley K. Henshaw and Elise F. Jones, "The Delivery of Family Planning Services in Ontario and Quebec," *Family Planning Perspectives* 20, no. 2 (1988): 80–87; *Montreal Gazette*, January 6, 1981, 6; March 9, 1982, 3; March 15, 1982, B2.
46. *Montreal Gazette*, March 12, 1982, 1; *Montreal Gazette*, August 10, 1983, 2.
47. Relations between Morgentaler and the feminist abortion rights groups were often strained. The Committee to Establish Abortion Committees (CEAC) and the Ontario Coalition for Abortion Clinics (OCAC) originally made plans with Morgentaler for a women-run clinic employing a doctor that he had recommended. But the clinic's lease fell through, and CEAC was unable to buy a building. Morgentaler swept in and bought and ran a clinic himself. According to CARAL's Norma Scarborough, CEAC had begged Morgentaler not to come to Toronto, but "there was no way Henry could have let that happen. . . . He was too driven to be the center of attention of this cause. He had made this cause his cause. He was not going to sit back and let a clinic open in Ontario or wherever and not be head of that struggle." Quoted in Dunphy, *Morgentaler: A Difficult Hero*, 196. Morgentaler constantly badgered CARAL for money and seemed unappreciative of OCAC and CARAL's role in providing referrals, escorts, safe houses, public education, fund-raising, and lobbying. Said OCAC's spokesperson Judy Rebick, "There were always two opposing factions in the pro-choice movement. There was a wing in the women's movement that wanted nothing to do with Henry" in order to keep the focus on women. "He's not a feminist, but a humanist, which is different. He does understand that the equality of women is one of the central social issues of our society, but he is very much of an individualist. I still don't think he understands the role of the women's movement in it at all." *Ibid.*, 227. Feminist and labor supporters of Morgentaler also disapproved of Morgentaler's lawyer, Morris Manning, who argued several prominent antilabor cases at the time. They urged Morgentaler to fire him. He refused, but did disavow Manning's arguments in the other cases. *Ibid.*
48. *Ibid.*
49. Frederick Lee Morton, *Pro-Choice vs. Pro-Life: Abortion and the Courts in Canada* (Norman: University of Oklahoma Press, 1993), 112.
50. The Government also rejected attempts to replace "fundamental principles of justice" with "the principles of due process of law" for fear that such wording might allow the court to rule on not only procedural due process, but substantive due process, as in the United States. This could allow the court to rule on questions such as abortion, contraception, and capital punishment. *Ibid.*
51. Dunphy, *Morgentaler: A Difficult Hero*.
52. *Rex v. Morgentaler*, (1988) 1 S.C.R. 30, 50. The year after *Morgentaler*, the court handed down two more important abortion decisions. In *Tremblay*

- v. *Daigle*, (1989) 2 S.C.R. 530, the court rejected a man's attempt to obtain an injunction preventing his former girlfriend's abortion—ruling that the Quebec Assembly had not intended to confer personhood on fetuses when it enacted the *Quebec Charter*. The court did not rule on the status of fetuses in the *Charter of Rights and Freedoms* since it applies to Government and this was a dispute between individuals. In *Borowski v. Canada*, (1989) 1 S.C.R. 342, antiabortion activist Joe Borowski argued that the *Charter of Rights and Freedoms* applied to the unborn. The court avoided this issue, ruling that Borowski's claim was moot since the court had already struck down the federal abortion statute in *Morgentaler*. Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*.
53. All used a three-stage analysis in which they first determined that the act violated one of the rights enumerated in Section 7, then found that this violation did not conform with "principles of fundamental justice," and finally found that the statute could not be saved under Section 1 of the *Charter*. A statute is valid under Section 1 if it serves important state interests, is applied fairly, is narrowly tailored to its objectives, and appropriately balances state interests and individual rights. Section 1 reads, "The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." Daniel O. Conkle, "Canada's *Roe*: The Canadian Abortion Decision and Its Implications for American Constitutional Law and Theory," *Constitutional Commentary* 6 (1989): 299.
 54. *Ibid.*
 55. *Rex v. Morgentaler*, (1988) 1 S.C.R. 30, 90.
 56. *Ibid.*, 171.
 57. Wilson also found that the statute did not accord with "the fundamental principles of justice" because it violated Section 2's freedom of conscience. She found too that the statute gave disproportionate weight to protecting fetal life because it applied equally to all stages of gestation. Conkle, "Canada's *Roe*."
 58. G. P. Crann, "Morgentaler and American Theories of Judicial Review: The *Roe v. Wade* Debate in Canadian Disguise," *University of Toronto Faculty of Law Review* 47 (1989): 499.
 59. Conkle, "Canada's *Roe*."
 60. On the other hand, the "notwithstanding clause" has never actually been used, and those pondering its use have sometimes been accused of insufficient commitment to the *Charter*, and, by extension, to the rights of Canadians.
 61. Glendon, "A Beau Mentir Quie Vient De Loin: The 1988 Canadian Abortion Decision in Comparative Perspective" ; Conkle, "Canada's *Roe*: The Canadian Abortion Decision and Its Implications for American Constitutional Law and Theory."

62. Daniel O. Conkle, "Canada's Roe: The Canadian Abortion Decision and Its Implications for American Constitutional Law and Theory," *Constitutional Commentary* 6 (1989): 312.
63. Mary Ann Glendon, "A Beau Mentir Quie Vient De Loin: The 1988 Canadian Abortion Decision in Comparative Perspective," *Northwestern University Law Review* 83, no. 3 (1989): 569–91 ; Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*; Conkle, "Canada's Roe."
64. The options included (1) abortion on request, (2) abortion with two doctors' approval for health grounds, and (3) a "compromise" resolution that allowed abortion with a single doctor's approval for broad health grounds in the first trimester, but required two doctors' approval for serious health grounds afterward.
65. Thomas Flanagan argues that Mulroney probably could have enacted an antiabortion bill by imposing the whip but was hesitant to do so because it would have put several women ministers who supported abortion rights in a difficult position. And the Government still would have had difficulty getting the bill through the Senate, which had a Liberal majority and was in open conflict with the Government over a proposed free trade agreement with the United States. Thomas Flanagan, "The Staying Power of the Legislative Status Quo: Collective Choice in Canada's Parliament after Morgentaler," *Canadian Journal of Political Science* 30 (March 1997): 1.
66. Ibid.
67. Dunphy, *Morgentaler: A Difficult Hero*.
68. State courts also played a role. Ten states have explicit privacy guarantees in their constitutions, and several others have implied ones. Seven state courts found that poor women have a right to Medicaid abortions under state constitutions. Neal Devins, "Through the Looking Glass: What Abortion Teaches Us about American Politics," *Columbia Law Review* 94, no. 1 (1994): 293–330. Another key access point, not available in Britain and Canada, was citizen-initiated ballot measures. Between 1973 and 2000, voters considered twenty-two abortion ballot measures, five of which passed. Colorado voters restored public funding, and Arkansas voters restricted it. Washington and Maryland voters codified *Roe*, and Colorado voters required parental notification. Other measures sought to establish waiting periods, restrict partial-birth abortion, and outlaw most abortions. Amy L. Pritchard, "A Brief History of Abortion Related Initiatives and Referendum," in *Initiative and Referendum Almanac*, ed. M. Dane Waters (Durham, NC: Carolina Academic Press, 2003), 731–34.
69. Samuel P. Huntington, *Political Order in Changing Societies* (New Haven, CT: Yale University Press, 1968); Evelyne Huber, Charles Ragin, and John D. Stephens, "Social Democracy, Christian Democracy, Constitutional Structure, and the Welfare State," *American Journal of Sociology* 99 (1993): 711–49.
70. *New State Ice Co. v. Liebmann*, 285 U.S. 262, 280 (1932) (Brandeis, J.,

- dissenting); Jack L. Walker, "The Diffusion of Innovations among the American States," *American Political Science Review* 63 (1969): 880–99; Pierre Trudeau, "The Practice and Theory of Federalism," in *Federalism and the French Canadians*, ed. Pierre Trudeau (Toronto: Macmillan of Canada, 1968); Alan G. Cairns, "The Government and Societies of Canadian Federalism," *Canadian Journal of Political Science* 10, no. 4 (1977): 695–725; Alan G. Cairns, "The Other Crisis in Canadian Federalism," *Canadian Public Administration* 22 (1979): 175–95; Gwendolyn Gray, *Federalism and Health Policy: The Development of Health Systems in Canada and Australia* (Toronto: University of Toronto Press, 1991); David S. Meyer and Suzanne Staggenborg, "Countermovement Dynamics in Federal Systems: A Comparison of Abortion Politics in Canada and the United States," *Research in Political Sociology* 8 (1998): 209–40; Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*. Devins argues against "judicial supremacy" and "majoritarian" views of constitutional interpretation, arguing that "give-and-take between elected governments and the courts permeates all of constitutional decision-making." Neal Devins, *Shaping Constitutional Values: Elected Government, the Supreme Court, and the Abortion Debate*, *Interpreting American Politics* (Baltimore: Johns Hopkins University Press, 1996), 162.
71. Constitutional amendment requires either that two-thirds of states demand a constitutional convention or that two-thirds of House and Senate members and three-fourths of states approve an amendment. A new constitutional convention has never been called, and the Constitution has been amended only seventeen times since the ratification of the Bill of Rights in 1791. Laurence H. Tribe, *Abortion: The Clash of Absolutes* (New York: W. W. Norton, 1990).
72. Ruth Bader Ginsburg, "Some Thoughts on Autonomy and Equality in Relation to *Roe v. Wade*," *North Carolina Law Review* 63 (1984): 375; Ruth Bader Ginsburg, "Speaking in a Judicial Voice," *New York University Law Review* 67 (1992): 1185; Cass R. Sunstein, "Three Civil Rights Fallacies," *California Law Review* 79 (1991): 751; Mary Ann Glendon, *Abortion and Divorce in Western Law* (Cambridge, MA: Harvard University Press, 1987); Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991).
73. Gene Burns, *The Moral Veto: Framing Contraception, Abortion, and Cultural Pluralism in the United States* (Cambridge: Cambridge University Press, 2005); Devins, *Shaping Constitutional Values*; David J. Garrow, "History Lesson for the Judge: What Clinton's Supreme Court Nominee Doesn't Know about *Roe*," *Washington Post*, June 20, 1993; Laurence H. Tribe, *Abortion: The Clash of Absolutes* (New York: W. W. Norton, 1990).
74. In the 1965 *Griswold* decision, the court found that a right of privacy was implied by several enumerated rights and was also guaranteed by the due process clause of the Fourteenth Amendment, which states that no state

shall deprive “any person of life, liberty, or property, without due process of law.” Here, the court used “substantive due process,” which argues that the government must not only use fair *procedures* but provide adequate *justification* for its actions. Under substantive due process, the court has identified a small number of traditional, natural rights that it deems “fundamental.” Statutes restricting such rights are subject to “strict scrutiny”—they must serve a “compelling state interest” and be “narrowly tailored” to that interest. At least four justices relied on substantive due process in *Griswold*. Justice Douglas argued that the right of privacy emanated from the penumbras of other enumerated rights. Critics of substantive due process argue that it allows the court to decide which rights are “fundamental” and thus substitute its own values for those of democratically elected legislatures. Substantive due process is associated with the 1905 *Lochner v. New York* decision in which a conservative court struck down restrictions on the maximum number of hours bakers could work, on the grounds that such restrictions violated the fundamental right of employees to make contracts. “Lochnering” fell into disrepute among the judiciary after struggles over the constitutionality of New Deal programs. But in *Griswold* and *Roe*, it appeared to be back. Jack M. Balkin, “*Roe v. Wade*: An Engine of Controversy,” in *What Roe v. Wade Should Have Said: The Nation’s Top Legal Experts Rewrite America’s Most Controversial Decision*, ed. Jack M. Balkin (New York: New York University Press, 2005), 3–27; Edward Keynes, *Liberty, Property, and Privacy: Toward a Jurisprudence of Substantive Due Process* (University Park: Pennsylvania State University Press, 1996). In *Roe*, Blackmun argued that privacy was a fundamental right “broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.” He provided an extensive history of abortion law to back up his claim that abortion was a traditional, fundamental right. And he wrote that “at common law, at the time of the adoption of our Constitution, and throughout the major portion of the 19th century, abortion was viewed with less disfavor than under most American statutes currently in effect” (410 U.S. at 140).

75. Doe v. Bolton, 410 U.S. 179, 221–22 (1973) (White, J., dissenting).
76. John H. Ely, “The Wages of Crying Wolf: A Comment on *Roe v. Wade*,” *Yale Law Journal* 82, no. 5 (1973): 920–49; Keynes, *Liberty, Property, and Privacy*; Jack M. Balkin, ed., *What Roe v. Wade Should Have Said: The Nation’s Top Legal Experts Rewrite America’s Most Controversial Decision* (New York: New York University Press, 2005). For a defense of *Roe*, see Tribe, *Abortion: The Clash of Absolutes*.
77. Richard Gregory Morgan, “*Roe v. Wade* and the Lesson of the Pre-*Roe* Case Law,” *Michigan Law Review* 77 (1978): 1724.
78. Myra Marx Ferree et al., *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States* (Cambridge: Cambridge University Press, 2002); Ginsburg, “Speaking in a Judicial Voice”; Balkin, *What Roe v. Wade Should Have Said*.

79. *Roe v. Wade*, 410 U.S. 113, 160 (1973).
80. Mary Ann Glendon, *Rights Talk* (New York: Free Press, 1991).
81. In the Senate, pro-life Republicans Jesse Helms (NC), Orrin Hatch (UT), and Dewey Bartlett (OK) fought it out with pro-choice Republicans Edward Brooke (MA), Robert Packwood (OR), and Lowell Weicker (CT). David Brady and Edward P. Schwartz, "Ideology and Interests in Congressional Voting: The Politics of Abortion in the U.S. Senate," *Public Choice* 84 (1995): 25–48; Raymond Tatalovich and David Schier, "The Persistence of Ideological Cleavage in Voting on Abortion Legislation in the House of Representatives, 1973–1988," in *Understanding the New Politics of Abortion*, ed. Malcolm L. Goggin (Newbury Park, CA: Sage, 1993); Greg D. Adams, "Abortion: Evidence of an Issue Evolution," *American Journal of Political Science* 41, no. 3 (1997): 718–37; Maris A. Vinovskis, "The Politics of Abortion in the House of Representatives in 1976," *Michigan Law Review* 77 (1978): 1790; Barbara Hinkson Craig and David M. O'Brien, *Abortion and American Politics* (Chatham, NJ: Chatham House, 1993).
82. The Democratic leadership in the House during this period included speakers Carl Albert (OK) and Tip O'Neill (MA), majority leader Jim Wright (TX), and whips John McFall (CA) and John Brademas (IN). The Senate leadership included majority leaders Mike Mansfield (MT) and Robert Byrd (WV). O'Neill was personally ambivalent about abortion. Shortly after *Roe*, he supported a constitutional amendment to ban abortion, briefly changed his mind, then changed it back after pressure from his Boston Catholic constituents, but his main priority and that of other party leaders was keeping peace within the party. Said O'Neill, "I've voted both ways on the subject. Sometimes I say to myself I can't vote that way because my religion won't allow me. Next time I say to myself even though I don't believe it, I don't have the right to prevent anyone else. I don't satisfy either group." John A. Farrell, *Tip O'Neill and the Democratic Century* (Boston: Little, Brown, 2001), 524. On the funding ban, House majority leader Jim Wright told his diary, "Tip couldn't take a hand in this one, because of the hard line position of the Catholic bishops in Massachusetts. Brademas can't get out in front because of Notre Dame. That leaves me." *Ibid.*; Craig and O'Brien, *Abortion and American Politics*; Barbara Sinclair, "The Speaker's Task Force in the Post-Reform House of Representatives," *American Political Science Review* 75, no. 2 (1981): 397–410. In this difficult environment, House speaker Tip O'Neill tried to "keep peace in the family" through the "politics of inclusion"—involving as many members as possible, including junior ones, in the development of coalitions for key bills. Sinclair, "Speaker's Task Force in the Post-Reform House of Representatives"; John A. Farrell, "The O'Neill Speakership," in *The Cannon Centenary Conference: The Changing Nature of the Speakership* (Washington, DC: Government Printing Office, 2003).
83. Authorization bills establish the content of government programs while appropriations bills provide the funding for them.

84. The first funding ban rider was offered in the House in 1974. It was soundly defeated by majorities of both parties, in part because it did not include an exception for life-threatening pregnancies. That same year, the Senate passed a ban that included such an exception with majorities from both parties, but it did not make it out of the House-Senate conference committee. The first funding ban to become law, introduced by Representative Henry Hyde (R-IL), was passed in 1976 with majorities among House Republicans, Senate Republicans and Democrats, and a near majority among House Democrats. The House initially approved a ban with no life exception. In the Senate, majorities of both parties initially voted down the ban, but as elections approached, majorities of both parties accepted a ban with a life exception. In 1977, the ban passed again with even stronger support in the Democratic Party. Fifteen Senate Democrats, among them prominent liberals, changed their positions from the previous year to support the ban. These included Edmund Muskie (D-ME), Edward Kennedy (D-MA), Sam Nunn (D-GA), Hubert Humphrey (D-MN), Patrick Leahy (D-VT), Howard Baker (R-TN), Lawton Chiles (D-FL), and Frank Church (D-ID). Democratic President Carter also expressed support. When asked if the Supreme Court's 1977 rulings approving state and local funding bans were fair, he replied that "there are many things in life that are not fair, that wealthy people can afford and poor people can't. But I don't believe that the federal government should take action to try to make those opportunities exactly equal, particularly when there is a moral factor involved." Frederick S. Jaffe, Barbara L. Lindheim, and Philip R. Lee, *Abortion Politics: Private Morality and Public Policy* (New York: McGraw-Hill, 1981), 132; Craig and O'Brien, *Abortion and American Politics*.
85. House Appropriations Committee chair George Mahon (D-TX) bypassed the head of the House conferees, Edward Flood (D-PA), an adamant abortion opponent, and met secretly with the head of the Senate conferees, Edward Brooke (R-MA). Joseph A. Califano, *Governing America: An Insider's Report from the White House and the Cabinet* (New York: Simon and Schuster, 1981). Speaker Tip O'Neill, with his Boston Catholic constituency, told reporters that he did not participate in the negotiations and did not vote on the amendment (*New York Times*, September 28, 1977; December 7, 1977). Under the compromise, threats to life had to be certified by two doctors, rapes had to be reported promptly to law enforcement or public health officials, and the health exception was limited to "severe and long-lasting physical health damage." Craig and O'Brien, *Abortion and American Politics*.
86. 448 U.S. 297 (1980).
87. Craig and O'Brien, *Abortion and American Politics*.
88. Ibid.
89. B. Norrander and C. Wilcox, "Public Opinion and Policymaking in the States: The Case of Post-Roe Abortion Policy," *Policy Studies Journal* 27, no. 4 (1999): 707–22.

90. Most of these targeted abortion exclusively, but some granted minors broad new powers of medical consent while excluding abortion. A separate analysis (available on request) controlled for the number of legislatures held by each party in each period. The number of legislatures held by Republicans increased over time, but this diminished the Republican effect only slightly. Another concern is that states that enact abortion restrictions in early periods are less likely to do so in later periods, but the courts worked against this tendency by frequently resetting the parameters of policy making. After Supreme Court decisions in 1976, 1981, 1983, 1989, and 1992, many states that had previously established policies revised them in the face of new opportunities or constraints.
91. In four states, divided legislatures passed restrictions after 1992. In Iowa and Texas, Democrats fought for looser language that would allow minors to notify relatives or counselors instead of parents. In Oklahoma and South Dakota, the two parties supported similar restrictions. *The Gazette* (Cedar Rapids, IA), March 14, 1996; *San Antonio Express-News*, May 15, 1999; *Daily Breeze* (Torrance, CA), August 2, 1987; *Muskogee Daily Phoenix and Times-Democrat* (OK), April 28, 2005.
92. Steve Alumbaugh and C. K. Rowland, “Links between Platform-Based Appointment Criteria and Trial Judges’ Abortion Judgments,” *Judicature* 74 (1990): 153.
93. Janet C. Greenburg, *Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court* (New York: Penguin Press, 2007); Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun’s Supreme Court Journey* (New York: Times Books, 2005); Michelle McKeegan, *Abortion Politics: Mutiny in the Ranks of the Right* (New York: Free Press, 1992); Lee Epstein and Joseph Kobylka, *The Supreme Court and Legal Change: Abortion and the Death Penalty* (Chapel Hill: University of North Carolina Press, 1992). After the surprises with O’Connor, the Reagan administration took steps to vet future nominees better. It made more extensive background checks, eliminated the independent circuit judge nominating commission, and gave appointment authority to a nine-person committee of top White House and Justice Department appointees. It also favored law professors because they were more likely to have a paper trail on conservative issues. Epstein and Kobylka, *Supreme Court and Legal Change*; McKeegan, *Abortion Politics*. O’Connor was also a strong voice against gender discrimination and may have felt pressured by the feminist movement’s renewed embrace of the abortion issue at the time of *Webster*. Finally, her years as a legislator had inclined her to broker compromise on the court. Epstein and Kobylka, *Supreme Court and Legal Change*; Hull and Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*. On the day after her nomination, President Reagan wrote in his diary, “Called Judge O’Connor in Arizona and told her she was my nominee for Supreme Court. Already the flak is starting, and from my own supporters. Right-to-life people say she’s

- pro-abortion. She declares abortion is personally repugnant to her. I think she'll make a good justice" (*New York Times*, January 30, 2008). Epstein and Kobylka argue that pro-choice activists blew a chance to draw O'Connor even closer by inflexibly sticking to the reasoning of *Roe* and ignoring her concerns in their legal briefs. Given her liberal inclinations in gender discrimination cases, they could have used equal protection arguments or realized that the "undue burden" standard suggested by Solicitor General Rex Lee in *Akron* would appeal to her. Instead of ignoring Lee's argument, they could have addressed its weaknesses or, given its vagueness, try to define it in a way that was more favorable to the abortion rights position. Epstein and Kobylka, *Supreme Court and Legal Change*. For a present-day example of such an approach, see L. J. Wharton, S. Frietsche, and K. Kolbert, "Preserving the Core of *Roe*: Reflections on *Planned Parenthood v. Casey*," *Yale Journal of Law and Feminism* 18, no. 2 (2006): 317.
94. Senator Howell Heflin (D-AL) said, "I was troubled by Judge Bork's extremism and admission that he'd been a social democrat, a libertarian, that he'd nearly become a Communist and actually recruited people to attend Communist party meetings and had a strange lifestyle. I was further disturbed by his refusal to discuss his belief in God or the lack thereof." William Saletan, *Bearing Right: How Conservatives Won the Abortion War* (Berkeley: University of California Press, 2004), 52; Greenburg, *Supreme Conflict*; *New York Times*, October 7, 1987, October 23, 1987.
 95. Balkin, "*Roe v. Wade*: An Engine of Controversy."
 96. Laurence H. Tribe, *Abortion: The Clash of Absolutes* (New York: W. W. Norton, 1990).
 97. Ginsburg's nomination was destroyed by allegations that he had smoked marijuana while a law professor. Greenburg, *Supreme Conflict*.
 98. *New York Times*, July 24, 1990; P. Reidinger, "Mr. Souter Goes to Washington," *American Bar Association Journal* 76 (1990): 48; Epstein and Kobylka, *Supreme Court and Legal Change*; McKeegan, *Abortion Politics*; Hull and Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*.
 99. 492 U.S. 490 (1989).
 100. 505 U.S. 833 (1992).
 101. David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994); Greenhouse, *Becoming Justice Blackmun*. O'Connor had first applied the "undue burden" standard to abortion in *City of Akron v. Akron Center for Reproductive Health*, 463 U.S. 416 (1983). The standard appeared in U.S. Solicitor General Rex Lee's brief and had also been used in Justice Powell's *Beal* and *Maher* opinions on public funding for the poor. Hull and Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*.
 102. *Webster*, 492 U.S. at 537.
 103. They planned to do so by replacing the "strict scrutiny" standard with a "rationality" standard.

104. For the trio, the “core holding” of *Roe* had three parts: (1) women have the right to have abortions before viability without undue interference by the state, (2) the state can restrict abortions after viability so long as there is an exception for the woman’s life or health, and (3) the state has legitimate interests in women’s health and potential life from the beginning of pregnancy. This was a plurality opinion: Blackmun and Stevens supported the parts of the opinion supporting *Roe* while White, Rehnquist, Scalia, and Thomas supported the parts modifying it.
105. The trio upheld Pennsylvania’s waiting period and parental consent requirements, but overturned its husband notice requirement. They dramatized their support for *Roe* by issuing a joint decision and reading it jointly from the bench. The joint decision imitated the court’s 1958 reaffirmation of *Brown v. Board of Education of Topeka* in *Cooper v. Aaron*. Reading decisions from the bench is rare, but this *joint* reading was the only one of the century. Historian David Garrow argues that the ruling “almost certainly guarantees that the central core of [*Roe*] will never again be in any significant danger.” David J. Garrow, “A Landmark Decision,” *Dissent* 39 (1992): 427. Legal scholar Roy Lucas disagrees. Lucas, “New Historical Insights on the Curious Case of *Baird v. Eisenstadt*,” *Roger Williams University Law Review* 9 (2003): 9–54. See also Wharton, Frietsche, and Kolbert, “Preserving the Core of *Roe*,” 342; Greenhouse, *Becoming Justice Blackmun*.
106. Garrow, *Liberty and Sexuality*; Chris Whitman, “Looking Back on *Planned Parenthood v. Casey*,” *Michigan Law Review* 100, no. 7 (2002): 1980–96; Saletan, *Bearing Right; Hearings before Subcomm. on the Constitution of the House Comm. of the Judiciary*, April 22, 1996 (testimony of Douglas W. Kmiec).
107. Quoted in Mark A. Graber, *Rethinking Abortion: Equal Choice, the Constitution, and Reproductive Politics* (Princeton, NJ: Princeton University Press, 1996), 198. See also David J. Garrow, “Abortion before and after *Roe v. Wade*: An Historical Perspective,” *Albany Law Review* 62 (1998): 833.
108. Graber, *Rethinking Abortion*.
109. Vanessa Laird, “*Planned Parenthood v. Casey*: The Role of Stare Decisis,” *Modern Law Review* 57, no. 3 (1994): 461–67; A. Campbell, “A Divisive Issue and a Divided Court: *Planned Parenthood v. Casey*,” *Oxford Journal of Legal Studies* 13, no. 4 (1993): 571–83; Richard H. Fallon, “Legitimacy and the Constitution,” *Harvard Law Review* 118, no. 6 (2005): 1787–1844.
110. *Casey*, 505 U.S. at 866–67. The trio articulated a four-prong test for determining whether the court should violate stare decisis—if its central rule is unworkable, if the rule can be removed without social upheaval or unfairness to those who relied on it, if the rule has become a “doctrinal anachronism discounted by society,” or if the factual basis of the rule has changed so much as to undermine it (*ibid.*, 835). The trio argued than none of these four conditions had been met in the case of *Roe*. Laird, “*Planned Parenthood v. Casey*”; Campbell, “A Divisive Issue and a Divided Court”; Fallon, “Legitimacy and the Constitution.”

111. *Casey*, 505 U.S. at 997–98.
112. *New York Times*, September 12, 2009, 12.
113. Kaiser Family Foundation, “Summary of New Health Reform Law,” June 18, 2010; Jonathan Cohn, “How They Did It: The Inside Account of Health Care Reform’s Death-Defying Triumph,” *New Republic*, June 10, 2010.
114. *Los Angeles Times*, September 4, 2009; U.S. House of Representatives, *Amendment to the Amendment in the Nature of a Substitute to H.R. 3200 Offered by M. Capps* (Washington, DC: 2009).
115. *New York Times*, November 15, 2009, 26; January 7, 2010; Kaiser Family Foundation, “Summary of New Health Reform Law”; Cohn, “How They Did It.”
116. Few observers, on either side of the debate, mentioned that the federal government was already subsidizing employer-provided insurance plans, most of which covered abortion, through the income tax exclusion for employer-provided health insurance.
117. The Senate bill had already lost its public plan at the insistence of Senator Joe Lieberman (I-CT), so the issue of abortions in the public plan was now moot.
118. *New York Times*, March 21, 2010, 1; Kaiser Family Foundation, “Summary of New Health Reform Law.”
119. William F. Murphy, Daniel DiNardo, and John Wester, “Guest Voices: Health Care for Life and for All,” *Washington Post*, March 20, 2010, http://newsweek.washingtonpost.com/onfaith/guestvoices/2010/03/health_care_for_life_and_for_all.html; Secretariat of Pro-Life Activities, “Issues of Life and Conscience in Health Care Reform: An Analysis of the ‘Patient Protection and Affordable Care Act’ of 2010” (Washington, DC: United States Conference of Catholic Bishops, 2010); United States Conference of Catholic Bishops, “What’s Wrong with the Senate Health Care Bill on Abortion? A Response to Professor Jost” (Washington, DC: United States Conference of Catholic Bishops, 2010).
120. Jost responded to the argument that premium credits would pay for *plans* that covered abortion by noting that this was no different from the status quo. Medicaid and Medicare currently provide funds to hospitals that provide abortions. And the exclusion of employer-provided health benefits from income taxation provides a subsidy of \$200 billion per year to employer-provided insurance plans, most of which cover abortion. The crucial point in his view was that federal funds themselves did not pay for abortions. *New York Times*, March 20, 2010, 10; Timothy Stoltzfus Jost, “Episcopal Oversight: How the Bishops Conference Gets Health-Care Legislation Wrong,” *Commonweal*, May 25, 2010; Timothy Stoltzfus Jost, *The House and Senate Bills on Abortion* (Lexington, VA: Washington and Lee University, 2010); Timothy Stoltzfus Jost, *Response to the United States Conference of Catholic Bishops* (Lexington, VA: Washington and Lee University, 2010).
121. The Democrats lost their sixty-vote Senate majority in January 2010 and

- were thus forced to resolve differences between the bills passed by the House and Senate through the budget reconciliation process. By Senate rules, this process could not be used to address abortion funding. As a result, the abortion language in the Senate bill could no longer be amended without killing health reform itself.
122. Representative Christopher Smith (R-NJ) in the *New York Times*, March 20, 2010, 10.
 123. Nancy Keenan, "Statement on Health Reform. NARAL Pro-Choice America," March 21, 2010.
 124. Sheldon, *Beyond Control*; John Keown, *Abortion, Doctors, and the Law: Some Aspects of the Legal Regulation of Abortion in England from 1803 to 1982* (Cambridge: Cambridge University Press, 1988).
 125. Colin Francome, *Abortion Freedom: A Worldwide Movement* (Winchester, MA: Allen and Unwin, 1984); Keown, *Abortion, Doctors, and the Law*; Sheldon, *Beyond Control*.
 126. The BMA still did not support abortion on request; delegates rejected a resolution allowing it at the association's 1976 annual meeting. Keown, *Abortion, Doctors, and the Law*; Hindell and Simms, *Abortion Law Reformed*; Sheldon, *Beyond Control*; Francome, *Abortion Freedom*; David Marsh and Joanna Chambers, *Abortion Politics* (London: Junction Books, 1981); *Guardian*, April 4, 1988; April 25, 1988; March 13, 2000; Royal College of Obstetricians and Gynaecologists, "The Care of Women Requesting Induced Abortion, National Evidence-Based Clinical Guidelines No. 7" (London: Royal College of Obstetricians and Gynaecologists, 2000). In 2007, the RCOG supported allowing midwives and nurses to perform first-trimester medication abortions and allowing abortions in GPs offices, but the BMA opposed both of these changes. Both associations supported extending the 1969 Abortion Act to Northern Ireland. *Guardian*, October 11, 2007; British Medical Association, "Wednesday's Updates from the Annual Meeting: Call for End to Two-Signature Rule in Abortions," *BMA News*, June 27, 2007; British Medical Association, "First Trimester Abortion," June 4, 2007; Royal College of Obstetricians and Gynaecologists, "Reasons to Do Away with Two Doctors' Signatures in Approving Abortions—the O&G Perspective," May 2008; Royal College of Obstetricians and Gynaecologists, "Abortion Settings—the O&G Perspective," August 2008.
 127. All of the committees approved abortions for grounds of physical or mental health, but not all of them allowed abortions for broader grounds such as fetal abnormality (88 percent of committees allowed it), rape or incest (81 percent), economic hardship (66 percent), extra-marital conception (53 percent), and pregnancies below age eighteen (54 percent). Committees in Ontario and British Columbia were more likely than those in the Maritimes to allow abortions for broad grounds. Robin F. Badgley, Denyse Fortin Caron, and Marion G. Powell, *Report of the Committee on the Operation of the Abortion Law* (Ottawa: Minister of Supply and Services Canada, 1977).

128. Bette Stephenson, "The C.M.A. and Abortion," *Ontario Doctor's Wife*, Spring 1975, 7–8; "Abortion: C.M.A. Prepares M.P.s for Anticipated Commons Debate with Reminder of Current Policy," *Canadian Medical Association Journal* 105 (1971): 522–23; "The C.M.A. Resolutions on Abortion," *Canadian Medical Association Journal* 105 (1971): 441–44.
129. *Globe and Mail*, June 8, 1971, 1.
130. "C.M.A. Resolutions on Abortion," 442.
131. Bette Stephenson, "Abortion: An Open Letter," *Canadian Medical Association Journal* 112 (1975): 494. An official with the National Health and Welfare Department said that "Lang tried to intimidate the hospitals by warning their administrations against too liberal application of the abortion law. The warning went out as a confidential memo, but of course it was leaked." Quoted in Collins, "Politics of Abortion," 12.
132. *Globe and Mail*, March 31, 1975.
133. Stephenson, "Abortion: An Open Letter," 497.
134. *Ibid.*, 494.
135. Joan Hollobon, "Patient and Doctor Victimized by Abortion Laws, MD Says," *Globe and Mail*, June 28, 1974, 13.
136. Douglas A. Geekie, "Abortion: A Review of CMA Policy and Positions," *CMA Journal* 111 (1974): 477.
137. Some doctors complained that the Government had "tried to get something for nothing" by imposing the committees without compensating the doctors who served on them. And many doctors disliked second-guessing colleagues who had submitted abortion applications. Badgley, Caron, and Powell, *Report of the Committee on the Operation of the Abortion Law*, 230.
138. *Ibid.*
139. Dunphy, *Morgentaler: A Difficult Hero*, 164.
140. *Globe and Mail*, July 1, 1975.
141. *Globe and Mail*, July 28, 1983.
142. *Toronto Star*, January 29, 1988; August 23, 1988; Tatalovich, *Politics of Abortion in the United States and Canada: A Comparative Study*; Canadian Medical Association, "Resolutions Adopted by the General Council of the Canadian Medical Association Pertaining to Abortion, 1970–Present" (Ottawa: Canadian Medical Association, 1981); Canadian Medical Association, "CMA Policy Summary: Induced Abortion," *Canadian Medical Association Journal* 136 (1988): 1176A; Jane Jenson, "Getting to Morgentaler: From One Representation to Another," in *The Politics of Abortion*, ed. Janine Brodie, Shelley A. M. Gavigan, and Jane Jenson (Toronto: Oxford University Press, 1992); Patrick Sullivan, "New Abortion Policy Approved for CMA Despite Some Vocal Opposition," *Canadian Medical Association Journal* 139, no. 6 (1988): 542–44. Dr. Judy Kazimirski, the head of the drafting committee, said, "The association is saying that the woman's physician should prescribe abortion for her if, in the doctor's professional opinion, one is required in the same

- way the physician would order any other medical treatment.” *Toronto Star*, August 23, 1988.
143. *Toronto Star*, February 6, 1990; February 7, 1990; August 21, 1990.
 144. *Toronto Star*, September 10, 1990.
 145. *Toronto Star*, October 30, 1990; January 19, 1991.
 146. American Medical Association, “House of Delegates Resolution” (1973); American Hospital Association, “House of Delegates Resolution” (1973); Jonathan B. Imber, *Abortion and the Private Practice of Medicine* (New Haven, CT: Yale University Press, 1986); Carole E. Joffe, *Doctors of Conscience: The Struggle to Provide Abortion: Before and after Roe v. Wade* (Boston: Beacon Press, 1995).
 147. “Abortion Policy Reaffirmed; Alternatives Stressed,” *American Medical News*, July 2/9 1973; Howard Wolinsky and Tom Brune, *The Serpent on the Staff: The Unhealthy Politics of the American Medical Association* (New York: G. P. Putnam’s Sons, 1994).
 148. The association did respond to a request for information from Senator Edward Brooke. He asked when abortions were medically necessary, and AMA executive vice president James Sammons replied that “the determination of whether or not a proper medical procedure should be performed should not be defined by Congress.” Craig and O’Brien, *Abortion and American Politics*.
 149. Jaffe, Lindheim, and Lee, *Abortion Politics*.
 150. *Ibid.*
 151. Joffe, *Doctors of Conscience*.
 152. Quoted in Epstein and Kobylka, *Supreme Court and Legal Change*, 207.
 153. Joffe, *Doctors of Conscience*; Imber, *Abortion and the Private Practice of Medicine*.
 154. Paul Starr, *The Social Transformation of American Medicine* (New York: Basic Books, 1982); Frederic W. Hafferty and John B. McKinlay, *The Changing Medical Profession* (Oxford: Oxford University Press, 1993); Donald W. Light, “Countervailing Power: The Changing Character of the Medical Profession in the United States,” in *The Changing Medical Profession*, ed. Frederic W. Hafferty and John B. McKinlay (Oxford: Oxford University Press, 1993), 69–79.
 155. George D. Lundberg and James Stacey, *Severed Trust: Why American Medicine Hasn’t Been Fixed* (New York: Basic Books, 2000), 191. The AMA did file amicus briefs in several major abortion rights cases. It supported FDA approval of the abortion pill, and the House of Delegates passed resolutions opposing parental consent and affirming the rights of women to early abortions. But abortion rights activists believed that the AMA’s support for abortion rights was lukewarm, especially when it came to lobbying. According to Rachael Pine of the Center for Reproductive Law and Policy, “they have the right views, but politics really intervenes about when and where they’ll express them.” Wolinsky and Brune, *Serpent on the Staff*, 191.
 156. Wolinsky and Brune, *Serpent on the Staff*.

157. *New York Times*, May 29, 1997.
158. Wolinsky and Brune, *Serpent on the Staff*, 194.
159. On the funding ban, the ACOG opposed “the interposition of a third party—the government—without medical expertise between the patient and her attending physician.” Jaffe, Lindheim, and Lee, *Abortion Politics*, 48.
160. Carole E. Joffe, *Dispatches from the Abortion Wars: The Costs of Fanaticism to Doctors, Patients, and the Rest of Us* (Boston: Beacon Press, 2009); *New York Times Magazine*, July 12, 2010.
161. Lori Freedman, *Willing and Unable: Doctors’ Constraints in Abortion Care* (Philadelphia: Temple University Press, 2010); Joffe, *Dispatches from the Abortion Wars*.

CHAPTER SEVEN

1. Some exceptions are Jonathan B. Imber, *Abortion and the Private Practice of Medicine* (New Haven, CT: Yale University Press, 1986); Frederick S. Jaffe, Barbara L. Lindheim, and Philip R. Lee, *Abortion Politics: Private Morality and Public Policy* (New York: McGraw-Hill, 1981); Carole E. Joffe, *Doctors of Conscience: The Struggle to Provide Abortion: Before and after Roe v. Wade* (Boston: Beacon Press, 1995); Lori Freedman, *Willing and Unable: Doctors’ Constraints in Abortion Care* (Philadelphia: Temple University Press, 2010).
2. For example, before she became a Supreme Court justice, Ruth Bader Ginsburg suggested that the court could have ruled more narrowly in *Roe*, striking down the narrow “life” grounds of the Texas abortion statute but upholding the broader “health” grounds of the Georgia statute. Ginsburg, “Some Thoughts on Autonomy and Equality in Relation to *Roe v. Wade*,” *North Carolina Law Review* 63 (1984): 375; Ginsburg, “Speaking in a Judicial Voice,” *New York University Law Review* 67 (1992): 1185.
3. Gene Burns, *The Moral Veto: Framing Contraception, Abortion, and Cultural Pluralism in the United States* (Cambridge: Cambridge University Press, 2005).
4. Marie Gottschalk, “The Politics of the Death Penalty,” *Perspectives on Politics* 7, no. 4 (2009): 925–28; Joshua Micah Marshall, “Death in Venice,” *New Republic*, July 31, 2000.
5. Graber concedes that merely preserving the basic abortion right will not achieve some goals of the pro-choice movement such as public funding or the abolition of parental consent requirements, but he argues that keeping abortions legal (and inexpensive) does more for poor women than public funding could ever do. Mark A. Graber, *Rethinking Abortion: Equal Choice, the Constitution, and Reproductive Politics* (Princeton, NJ: Princeton University Press, 1996).
6. *Ibid.*; Timothy L. Smith, “Review of *Rethinking Abortion*, by Mark A. Graber,” *Law and Politics Book Review* 7, no. 9 (1997): 442–45.

what he called a “moderate” position, declaring that the Supreme Court had “gone too far” and calling for a constitutional amendment to return the issue to the states.¹¹³ At the convention, a New Right–dominated subcommittee passed a strong antiabortion plank. Feminists tried to remove it in the full committee and on the convention floor, but Ford’s team blocked them.¹¹⁴ During the general election, Carter tried to court Catholics on abortion, setting up a face-to-face meeting with the bishops, but Ford met with the bishops too and persuaded them that he was more opposed to abortion than Carter.¹¹⁵

The 1980 conventions solidified party positions on feminism and abortion. The Democratic convention was full of delegates supporting Massachusetts senator Edward Kennedy, and more than a fifth were members of the NWPC or NOW. They forced through several platform planks on feminist issues. One threatened to withhold party assistance from candidates who opposed the ERA, and another recognized “reproductive freedom as a fundamental human right.” The abortion plank also supported public funding for the poor. President Carter tried but failed to kill the funding plank on the convention floor.¹¹⁶ In the Republican Party, the Reagan Revolution had arrived. Since 1975, only one state (Indiana in 1977) had ratified the ERA. Congress extended the deadline in 1978, but now congressional Republicans had turned against it.¹¹⁷ The New Right had gotten credit for electing scores of new conservatives to Congress during the 1978 midterm elections,¹¹⁸ and the Christian Right was emerging as a force as Jerry Falwell, with the assistance of New Right leaders, founded the Moral Majority. The Republican platform failed to support the ERA for the first time since 1940 and called for an antiabortion constitutional amendment, a ban on public funding of abortions for the poor, and pro-life judicial appointments.¹¹⁹ Reagan’s campaign staff advised against such a strong antiabortion plank, but press secretary James Brady said the pro-lifers “were forces beyond our control.”¹²⁰ Reagan became the first of many Republican presidential candidates to mention abortion in his acceptance speech, telling delegates “we believe in the sacredness of human life.”¹²¹

The two parties remained polarized on abortion throughout the 1980s, but the Republicans were more willing to tout their position on the issue. Democrats were on the defensive; the pro-life movement was stronger than the pro-choice one; and abortion was more salient for pro-life voters than for pro-choice ones. But this changed in 1992: After the 1989 *Webster* decision allowed greater state restriction of abortion, Democratic gubernatorial candidates discovered a new phenomenon—the pro-choice single-issue voter. Now the Democrats not only supported abortion rights

but placed them at the center of the campaign: The Democratic platform called for the legislative codification of *Roe* and the inclusion of abortion in a new national health insurance plan. Six pro-choice Republican women made the speaker's list at the convention, while pro-life Democratic governor of Pennsylvania Robert P. Casey was excluded,¹²² and Bill Clinton became the first Democratic nominee to mention abortion in his acceptance speech (see table 5.2). There were also some stirrings of pro-choice sentiment in the Republican Party. In 1989, many congressional Republicans had crossed the aisle to override President George H. W. Bush's veto of a bill that mildly broadened the grounds for the funding of abortions for the poor, and in 1992, five East Coast state Republican parties declared their support for abortion rights. But pro-life forces continued to dominate platform committees and easily defeated their opponents. Convention organizers allowed Massachusetts governor William Weld to leave a pro-choice line in his speech, but some delegates booed him, and conservative Catholic presidential candidate Pat Buchanan told prime-time television viewers that there is "a religious war going on in our country for the soul of America."¹²³

Journalist William Saletan argues that after 1992, candidates from both parties converged around a "pro-choice and antigovernment" position. They supported a basic right to abortion but opposed public funding, abortions for minors who did not have parental consent, and so-called partial-birth abortions (intact dilation and extraction). As House Speaker Newt Gingrich put it, the public was "pro-choice but antiabortion." In 1996, all of the leading Republican presidential candidates, with the exception of Pat Buchanan, favored increased abortion restrictions but not an antiabortion constitutional amendment.¹²⁴ Nominee Bob Dole tried to write "big tent" language into the party's abortion plank, but the Christian Right would not allow it. They had been instrumental in the 1994 Republican landslide that brought many social conservatives to office for the first time. As Wisconsin's party chairman put it, the Christian Right was "no longer trying to get a nose under the tent anymore. They are the tent."¹²⁵ Members of the Christian Coalition dominated state convention delegations in as many as eighteen states and had a large team assembled for any floor fight on abortion.¹²⁶

For the rest of the 1990s and 2000s, the abortion positions of the two parties were virtually unchanged. The Republican nominee in 2000, George W. Bush, dissented slightly from his party's platform on abortion, saying that he would not seek an antiabortion constitutional amendment or pledge to appoint Supreme Court justices that opposed *Roe*. He said he dreamed of a world free of abortions but was "talking about an

Table 5.2 Statements on Abortion in U.S. Presidential Nomination Acceptance Speeches, 1972–2004

Year	Democratic Party	Republican Party
1972	McGovern—None.	Nixon—None.
1976	Carter—None.	Ford—None.
1980	Carter—None.	Reagan—None.
1984	Mondale—None.	Reagan—We believe in the sacredness of human life.
1988	Dukakis—None.	George H. W. Bush—Is it right to believe in the sanctity of life and protect the lives of innocent children? My opponent says no—but I say yes. We must change from abortion—to adoption. I have an adopted granddaughter. The day of her christening we wept with joy. I thank God her parents chose life.
1992	Clinton—George Bush won't guarantee a women's right to choose; I will. Listen. Here me now. I am not pro-abortion; I am pro-choice, strongly. I believe this difficult and painful decision should be left to the women of America. I hope the right to privacy can be protected and we will never again have to discuss this issue on political platforms. But I am old enough to remember what it was like before <i>Roe v. Wade</i> , and I do not want to return to the time when we made criminals of women and their doctors.	George H. W. Bush—I happen to believe very deeply in the worth of each individual human being, born or unborn.
1996	Clinton—We respect the individual conscience of every American on the painful issue of abortion, but believe as a matter of law that this decision should be left to a woman, her conscience, her doctor and her God. But abortion should not only be—abortion should not only be safe and legal, it should be rare. That's why I helped to establish and support a national effort to reduce out-of-wedlock teen pregnancy. And that is why we must promote adoption.	Dole—After decades of assault upon what made America great, upon supposedly obsolete values. What have we reaped? What have we created? What do we have? What we have in the opinion of millions of Americans is crime and drugs, illegitimacy, abortion, the abdication of duty, and the abandonment of children.
2000	Gore—And let there be no doubt: I will protect and defend a woman's right to choose. The last thing this country needs is a Supreme Court that overturns <i>Roe v. Wade</i> .	George W. Bush—I will lead our nation toward a culture that values life—the life of the elderly and the sick, the life of the young, and the life of the unborn. I know good people disagree on this issue, but surely we can agree on ways to value life by promoting adoption and parental notification, and when Congress sends me a bill against partial-birth abortion, I will sign it into law.
2004	Kerry—None.	George W. Bush—Because a caring society will value its weakest members, we must make a place for the unborn child. . . . And I will continue to appoint federal judges who know the difference between personal opinion and the strict interpretation of the law.
2008	Obama—We may not agree on abortion, but surely we can agree on reducing the number of unwanted pregnancies in this country.	McCain—We believe in a strong defense, work, faith, service, a culture of life, personal responsibility, the rule of law, and judges who dispense justice impartially and don't legislate from the bench.

Source: John Woolley and Gerhard Peters, American Presidency Project, <http://www.presidency.ucsb.edu/platforms.php>.

ideal world and we don't live in an ideal world right now."¹²⁷ In 2008, the Democrats made overtures to pro-lifers. Nominee Barack Obama asked abortion opponent Senator Bob Casey Jr. (D-PA) to address the convention. Casey's father had been denied a speaking role because of his pro-life views sixteen years earlier, in an enduring slight to Catholics and pro-life Democrats.¹²⁸ In 2006, the Democrats had taken over the House in part by recruiting moderate and conservative candidates, many of them pro-lifers, to win formerly Republican seats in the West. Still, the Democratic platform was stronger than ever on abortion: It said the party "strongly and unequivocally supports *Roe v. Wade*" and opposes "any and all efforts to weaken or undermine" abortion rights, but it also expressed support for programs to reduce the number of abortions.

Republican nominee John McCain had a long pro-life record, but he had earlier battled pro-life groups over restrictions on "issue advocacy" advertising and the Christian Right over its attacks on him during the 2000 presidential campaign. He had also criticized President George W. Bush for supporting an abortion funding ban with no exception for life, rape, or incest. Before the convention, McCain floated the idea of choosing a pro-choice running mate, Connecticut senator Joseph Lieberman, but he quickly dropped the idea in the face of pro-life outrage. Instead, he chose Alaska governor Sarah Palin, an evangelical Christian who opposed abortion even in cases of rape or incest and who endeared herself to the pro-life movement by continuing a pregnancy after finding out that her child would be born with Down's syndrome.¹²⁹

During the third presidential debate, McCain claimed that Obama was aligned "with the extreme aspect of the pro-abortion movement" while Obama called for "common ground" by preventing unwanted pregnancies, promoting adoption, and communicating to youth that "sexuality is sacred."¹³⁰ This approach won him the support of several prominent pro-life Catholics such as Pepperdine law professor and former Reagan appointee Douglas Kmiec.¹³¹

In sum, the two parties gradually polarized on abortion during the 1970s and then locked in those positions for the next three decades—though their candidates have varied in the degree to which they stressed the issue and have occasionally tolerated dissent within the party. Activists on both sides of the issue were quite successful at injecting the issue into party politics. They enshrined their positions in party platforms—often against the wishes of party nominees—and made abortion an issue in election campaigns. They were also successful in establishing litmus tests for presidential and vice presidential nominees, and in some cases, members of Congress. It is hard to distinguish "personal evolution" from

“flip-flopping,” but candidates typically brought their abortion positions into line with those of their party.¹³²

Abortion was also an issue in campaigns below the presidential level. In 1990, abortion was a major issue in twenty of thirty-four gubernatorial campaigns.¹³³ Of the ninety-six Senate campaigns from 1988 to 1992, abortion was mentioned in the newspaper coverage of all but five.¹³⁴ In eighteen races, the percentage of articles mentioning abortion was more than 10 percent, and in four it was more than 20 percent.¹³⁵ State party platforms also polarized over abortion. In 1990, Republican parties took no position in twenty-three states, and two states supported abortion rights (New York and Maine). Among Democrats, twenty-two state parties took no position.¹³⁶ But in 2006, all Republican parties but one opposed abortion, and all Democratic parties but six supported abortion rights.¹³⁷

The Christian Right and the GOP

Of the groups that sought to influence American political parties on abortion, the Christian Right was arguably the most successful. For a quarter century now, it has been a key player in the Republican Party coalition, and its power within the party has grown stronger with time. What explains this success? The Christian Right’s main strengths have been gaining control of state party committees, sending delegates to state and national conventions, and mobilizing voters. A 1994 survey of state party officials found that the Christian Right held a majority in the Republican state party committees of eighteen states and had a substantial presence (more than 25 percent) in thirteen others.¹³⁸ A 2000 survey of Republican county chairs who reported being recruited to their positions found that almost half had been recruited by evangelical and pro-life groups while only a quarter had been recruited by business or farm groups.¹³⁹ The percentage of Republican National Convention delegates who were members of religious political organizations rose from 4 percent to 37 percent between 1976 and 1996, and the percentage who were members of pro-life organizations rose from 9 percent to 31 percent during the same period. The number of states in which more than 20 percent of delegates were members of religious-political or pro-life organizations was nine in 1988, eighteen in 1992, and twenty-four in 1996.¹⁴⁰ In the 1994 elections, Christian Right organizations spent about \$20 million on voter contacting and mobilized about 200,000 volunteers.¹⁴¹ The Christian Coalition alone distributed 30 million voter guides by mail and by hand in local

organizations and churches. And a 1996 survey found that an astonishing 20 percent of Americans claimed that they had relied on Christian Right resources in deciding how to vote.¹⁴²

Many of the Christian Right's strengths were facilitated by low-turnout elections and meetings. Texas provides a good example of the importance of low turnout. Its primaries typically drew only 10 percent of eligible voters. But after the polls closed, the parties held precinct conventions that elected delegates to the county convention. Any primary voter could attend, but less than 2 percent of voters usually did so. With the aid of such low turnout, the Christian Right accounted for 60 percent of the delegates to the 1994 Texas Republican convention and 50 percent of Texas's delegates to the 1996 and 2000 national Republican conventions.¹⁴³

The Christian Right also excelled at matching its organizational structure to a federal polity. After being blamed for George H. W. Bush's loss in 1992, the Christian Coalition turned to the local level, increasing its local chapters from fewer than one hundred in 1990 to over two thousand in 1996, and providing training seminars for political candidates for state and local offices, including school boards. The Christian Coalition benefited from the low voter turnout in these state and local races. "In such contests," said the Coalition's director Ralph Reed, "boosting voter turnout was easy and competition from labor unions and pro-abortion groups tended to be lax. We discovered that our opponents on the left could target one or two school-board races and win, but it was impossible for them to focus on a thousand races at once." The Coalition used these state and local races as a training ground for political activism and campaigning at the federal level. Said Reed, "We needed practice. States and localities would become the 'laboratories' for testing our policy ideas, and for building a 'farm system' of future candidates, where locally elected religious conservatives could serve apprenticeships in government in a low-risk environment less exposed to the hostility of liberal lobby organizations." The Christian Coalition was often able to translate these local victories into power within the federated structure of the Republican Party.¹⁴⁴

The success of the Christian Right within the GOP was not only impressive but durable in the face of several dangers. One was that the Christian Right would become disillusioned with the GOP when the party took moderate positions or dragged its feet on the social conservative agenda. Members of the Christian Right have sometimes made such complaints, but for the most part, Christian Right organizations have been loyal members of the Republican coalition, supporting conservative candidates in

the primaries, but the party's nominee in the general election.¹⁴⁵ After losing the 1988 nomination, Pat Robertson lent his support to George H. W. Bush. And Christian Right leaders stuck with Bush in 1992 instead of joining Pat Buchanan's insurgency. The Christian Coalition put resources into defeating the Clinton health-care plan and campaigned for the GOP's 1994 "Contract with America," even though this meant its own "Contract with the American Family" would come second.¹⁴⁶

The Christian Right remained loyal for several reasons. First, it made some important policy gains under Republican administrations: various policies restricting abortion, the funding of abstinence education, faith-based social welfare initiatives, court cases rolling back affirmative action, increased regulation of "indecent" television content, and the appointment of conservatives to the federal bureaucracy and the judiciary. The Christian Right also made numerous symbolic gains such as platform statements and presidential mentions of abortion, gay marriage, and family values, the impeachment of Bill Clinton, and federal intervention in the end-of-life medical care of Terri Schiavo. These were not very costly for the GOP since they did not require government expenditures and involved issues that did not especially interest economic conservatives. They also did not cost many votes, with the exception perhaps of the Schiavo case, because they were often small and incremental enough to anger liberal voters but not moderates.¹⁴⁷

Some have argued that the economic right has used issues such as abortion and gay rights to appeal to Christian Right voters but without a sincere commitment to policy change.¹⁴⁸ This claim is slightly off target. No doubt the economic right is less concerned about abortion than the Christian Right, but this is typical of coalitions—not all members have the same priorities. In the 1970s, the mainly economic New Right recruited Christian Right leaders and donors using social issues such as abortion. They could plausibly be accused of "using" the Christian Right at that time, but it should be noted that many of the early New Right figures were religious themselves: Richard Viguerie, Paul Weyrich, Terry Dolan, and Phyllis Schlafly were all devout Catholics.¹⁴⁹ More important, the Christian Right eventually established its own power base within the party. To say that the economic right of today is "using" evangelical voters on social issues assumes that the economic right controls the party when it is in fact only one part of a coalition.¹⁵⁰

The Christian Right's satisfaction with the GOP was further aided by its hunger for legitimacy. The GOP incorporated Christian Right leaders into mainstream politics for the first time.¹⁵¹ When evangelicals received mailings containing photos of their leaders with the president, they felt

that they had become an accepted part of American culture.¹⁵² Conservative movement leaders also made a concerted effort to build cohesion among the movements' main coalition members—the Christian Right, business elites and neoconservative intellectuals—and to cement ties between movement activists and Republican politicians. Since the early 1990s, activists from the various camps attended weekly “Wednesday meetings” convened by Grover Norquist of Americans for Tax Reform, where they exchanged resources and constructed a collective identity. Norquist regularly asked politicians where they stood on “babies, guns, and taxes.” Norquist’s main interest, of course, was taxes, but his question stressed the necessity of holding together the conservative coalition’s multiple constituencies.¹⁵³ The Christian Right also tried to reach out to other factions within the party, as Reed explained: “Our goal was to unite social conservatives and economic conservatives by supporting traditional issues like welfare reform, a balanced budget, and tax cuts for families. We believed that most of the tension between moralists and libertarians was overstated. After all, conservative evangelicals who supported school prayer and pro-life laws were not in favor of higher taxes or deficit spending.”¹⁵⁴

Another danger was that the Christian Right would become an electoral liability for the GOP. Candidates that become too closely identified with the Christian Right tend to lose.¹⁵⁵ Christian Right leaders and activists tried to avoid such a backlash by practicing stealth politics—focusing on issues that were not clearly religious such as child tax credits, campaigning in churches rather than more traditional political venues, and supporting candidates that shared the movement’s views but were not closely associated with it. During his presidential campaign, Pat Robertson identified himself as a businessman rather than a religious leader, and played down religious language. In the Christian Coalition, Robertson spoke to the insiders while the more worldly Ralph Reed spoke to outsiders.¹⁵⁶ As Reed said, “I want to be invisible. I do guerilla warfare. I paint my face and travel at night. You don’t know it’s over until you’re in a body bag. You don’t know until election night.”¹⁵⁷ Unfortunately for Reed, these statements were widely publicized and were some of the least stealthy things he ever did.

Even when GOP leaders or candidates were embarrassed by links to the Christian Right, they found it hard to give up the grassroots activism that the Christian Right provided. Historically, Republicans lagged Democrats in grassroots mobilization: Republicans relied solely on local party organizations for campaign volunteers, while Democrats also drew volunteers from interest groups such as organized labor, and Republicans tended

to win elections with money and connections rather than grassroots labor. The Christian Right, with its voter guides and dedicated troops, changed all this.¹⁵⁸ Some Republicans blamed the Christian Right and the intolerant rhetoric of Patrick Buchanan for the party's losses in 1992 (even though evangelical Christians mainly supported Bush rather than Buchanan). Those who worried about the electoral liabilities of the party's association with the Christian Right could not deny that the movement had brought a novel and critical resource to the party: It was hard not to become addicted.¹⁵⁹

A final danger for the Republican coalition was the possibility that the Christian Right would simply run out steam, as most movements do. Scholars and journalists have proclaimed the death of the Christian Right again and again, but it has always revived. This endurance had three main causes: First, movement activists were kept in a continuous state of outrage by tales of their own persecution—the Christian Coalition's magazine *Religious Rights Watch* detailed monthly incidents of anti-Christian bigotry;¹⁶⁰ second, the Christian Right focused not only on politics, but on the broader culture and the individual morality of its members—when political victories were few, the movement sustained itself by spreading the gospel and following Christ's way; finally, the Christian Right's political, cultural, and religious missions were sustained by an extensive network of churches, schools, universities, broadcasters, bookstores, magazines, and book publishers that provided "abeyance structures" between moments of peak political activity.¹⁶¹

Religion and the Politicization of Abortion

In this chapter, I argued that abortion was a more important issue in parties and elections in the United States than in the other countries mainly because American parties were especially vulnerable to penetration by large new movements. Some journalists and scholars argue that religion is actually the key factor. The argument comes in two forms: One is that the main faith traditions that oppose abortion (Catholics and evangelical Christians) have more adherents in the United States than in other countries; the other is that Americans are more religious than citizens of other countries—they attend church more regularly, and are more likely to view religion as a central element in their lives.¹⁶²

In other rich democracies, high levels of religiosity or Catholicism have typically not produced high levels of abortion politicization. As I discussed in chapter 1, rich democracies with large Catholic populations

and/or Christian democratic parties mainly enacted “distress” abortion policies and did not experience much post-reform politicization or controversy afterward.¹⁶³ The main exceptions were Ireland, which never reformed its abortion laws, and Germany, where the issue was reopened twice by a constitutional court and once by reunification. (The East had a more liberal abortion policy than the West.)

Table 5.3 compares the Catholic and evangelical populations in the three countries under study: Canada has the highest percentage of Catholics, while the United States has the highest percentage of evangelicals; the United States has a higher proportion of the two groups combined, but the difference with Canada is small. There are three main ways in which these religious differences may have mattered to abortion politics: by affecting public opinion on abortion; by making religious and moral discourses and claims more publicly acceptable; and by providing recruits, resources, and elite allies for the pro-life movement.

The religious differences do not appear to have produced markedly different public opinion on abortion. As I described in chapter 2, at the time of the abortion reforms, strong majorities in all countries supported legal abortions for health grounds but opposed them for social grounds. This remained the case in the decades after the reforms. According to the World Values Survey (see appendix 5, table 1), in the early 1980s only about a quarter of Americans and Canadians and a third of Britons supported abortions because the “woman is not married” or because “a married couple does not want any more children.” A decade later, support for these types of abortions was only at 30 percent in all three countries. Gallup polls (see appendix 5, table 2) show a similar result for the United States and Canada and bring the trend to 2001. The American General Social Survey (GSS) and the British Survey of Attitudes (BSA) (see appendix 5, table 3) show a similar pattern of strong support for health grounds and weaker support for social and economic grounds. But they also show that by 1994, Britons were more supportive of “soft” grounds than were Americans. Finally, the World Values Survey (see appendix 5, table 4) asked respondents to choose on a scale of 1 to 10 whether abortion was “never” justifiable or “always” justifiable. Responses from the three countries were quite similar (in the middle but tilted toward the “never” end) and converged over time. These similarities should not be completely surprising as some studies have shown that the abortion attitudes of American Catholics do not differ markedly from those of the general public—though this is not true for American evangelicals.¹⁶⁴

Some have argued that the high religiosity of Americans has made religious and moral discourses and claims more acceptable and resonant

Table 5.3 Antiabortion Religious Groups as Percentage of Population

	United States	Britain	Canada
Catholics	23	13	37
Evangelicals	26	2	10
Total	49	15	47

Sources: European Values Study Group and World Values Survey Association, *European and World Values Surveys Four-Wave Integrated Data File, 1981–2004*, vol. 20060423 (Madrid, Spain; Tilburg, The Netherlands; Cologne, Germany: Análisis Sociológicos Económicos y Políticos, JD Systems, Zentralarchiv für Empirische Sozialforschung, 2006); “U.S. Religious Landscape Survey” (Washington, DC: Pew Forum on Religion and Public Life, 2008); Sam Reimer, “A Generic Evangelicalism? Comparing Evangelical Subcultures in Canada and the United States,” in *Rethinking Church, State, and Modernity*, ed. David Lyon and Marguerite Van Die (Toronto: University of Toronto Press, 2000); Rosie Waterhouse and Sarah Strickland, “Hungry for Souls,” *Independent* (London), Sunday Review, January 13, 1991, 3.

Notes: British evangelical percentage is the 1991 membership of the Evangelical Alliance divided by the 1990 population. The Alliance is an umbrella organization of congregations but also has individual members. Member churches come from a variety of denominations including Anglican, Baptist, Methodist, Pentecostal, Presbyterian, Church of Scotland, and small house churches. Catholic figures are for 1999. Evangelical figures are for 2008 (United States), 1991 (Britain), and 1996 (Canada).

in the United States.¹⁶⁵ This seems plausible but is a matter of dispute as others have argued that the United States is marked by individualist and libertarian values that actually inhibit such moral claims making.¹⁶⁶ Myra Marx Ferree and her coauthors argue that specifically religious discourses are actually a liability in the American context because of religious pluralism, the separation of church and state, the absence of religious parties, and the Supreme Court’s rejection of any consensus on when life begins. Catholic and evangelical abortion activists have in fact often taken pains to make their arguments in nonreligious terms.¹⁶⁷

A final possibility is that high levels of Catholicism and evangelicalism produced both larger pro-life movements and clerics with more political clout. This seems likely, but it should be noted that the mere presence of Catholics and evangelicals did not mean that they would be mobilized into the pro-life movement or that their clergy would devote themselves to pro-life advocacy. Catholics and evangelicals have had to decide both that abortion was an important priority and that political action was the best way to address it. These decisions have varied over time and across countries and, as a result, so has the mobilization of these groups.

The American Catholic clergy has been opposed to abortion since it first hit the agenda in the late 1950s, and it has been more active on abortion, and more supportive of the pro-life movement, than the clergy in any other country. But its attention to the abortion issue has varied over time. The church played a strong role in the early pro-life movement, but its commitment seemed to wane during the Reagan administration, only to revive

again in the 1990s and 2000s. When the Catholic clergy threw its resources into the abortion debate, it was a powerful actor. The U.S. Conference of Catholic Bishops employs more than four hundred people in its Washington office, and there are Catholic Conferences in thirty-three states. The bishops also provided extensive support to the pro-life movement.¹⁶⁸

This fluctuation largely resulted from the fact that the church's policy preferences cut across party lines; the church is closer to the Republicans on abortion but closer to the Democrats on social welfare, nuclear weapons, peace, and immigration. As a result, the bishops have debated constantly about which issues should have greatest priority and which party is most hospitable to Catholic concerns. In addition, Catholic voters were solidly Democratic during the first half of the twentieth century, but as they became more prosperous and as the Republicans embraced the abortion issue, they increasingly voted Republican. Since 1972, Catholic voters have been up for grabs. The two parties have taken turns winning the most Catholic votes, and the margin of victory has usually been less than 15 percent.¹⁶⁹ Just as the bishops have argued about which party best serves Catholic interests, so have lay Catholics. Within the pro-life movement as well, some conservative Catholics have been extremely critical of liberal bishops, whom they accuse of being soft on abortion.

The bishops supported the Republican Ford over the Democrat Carter during the 1976 election because they believed that Ford was more opposed to abortion. But Reagan's 1980 election prompted a debate among the bishops over what priority to give abortion. In 1983, the bishops issued a highly publicized pastoral letter that criticized Reagan's nuclear weapons policies and supported a nuclear freeze. Archbishop Joseph Bernardin, the chair of the committee that drafted the letter, soon outlined a "consistent ethic of life" or "seamless garment" that treated abortion as one of many "life" issues; he argued that pro-lifers must be "equally visible in support of the quality of life of the powerless among us: the old and the young, the hungry and the homeless, the undocumented immigrant and the unemployed worker"¹⁷⁰ and that "no one is called to do everything, but each of us can do something."¹⁷¹ This position seemed to condemn alliances between Catholics and Reagan, while letting liberal Catholics and Democrats off the hook for inactivity on abortion. If liberal Catholics did not work to oppose abortion, they could work to diminish some other threat to life. Archbishops Bernard Law of Boston and John O'Connor of New York were not convinced. Said O'Connor, "if the unborn in a mother's womb is unsafe it becomes ludicrous for the bishops to address the threat of nuclear war."¹⁷² In 1986, the bishops followed up their antinuclear letter with one on economic justice.

Many Catholic conservatives were outraged by Bernardin's "consistent ethic of life." Liberal and conservative Catholics have been at war within the church at least since Vatican II. One source of this conflict was Pope Paul VI's 1968 encyclical *Humanae Vitae*, which reinforced the church's position against contraception and abortion. Many Catholics had expected the Pope to allow contraception and were shocked and disappointed when he did not,¹⁷³ and some, especially liberal academics in Catholic colleges and universities, publicly dissented. Many Catholics today ignore the church's teachings on divorce, contraception, and extramarital sex.¹⁷⁴ Even on abortion, the opinions of Catholics are not that different from those of Protestants.¹⁷⁵

Catholic conservatives, led by groups such as Catholics United for the Faith, have defended *Humanae Vitae*, and conservatives also have their own wing within the pro-life movement. Organizations such as the American Life League, Human Life International, and the Pro-Life Action League have sometimes squared off against the bishops and the NRLC. The NRLC has focused on legislation and education, has compromised at times, has attempted to argue in secular terms, and has focused only on abortion, remaining neutral on contraception. The conservative Catholic pro-life groups, by contrast, have used direct action tactics and civil disobedience, have refused all compromise, have based their arguments and protests on Catholic faith and rituals, and have argued that the "contraceptive mentality" leads to abortion.¹⁷⁶

The cross-cutting agenda of the Catholic Church was not the only reason that the bishops' antiabortion commitment seemed to wane. According to Father Edward Bryce, who ran the NCCB's Office of Pro-Life Activities during the late 1970s and early 1980s, some bishops had privately concluded that the church was wasting political and social capital on a losing battle. Said Bryce, "These were people who could build cathedrals, and they knew that you don't do something like this halfheartedly. The skills were there. But some of them made a determination early on that this battle was lost, and decided they would not devote extraordinary resources to it."¹⁷⁷ Some of the bishops' reticence also had to do with concerns about the church's tax-exempt status.¹⁷⁸ Indeed, pro-choice activists sued the church over its electioneering, and the case lasted nine years and went to the Supreme Court three times before a federal appeals court ruled that the activists lacked standing to sue.¹⁷⁹

In November 1989, in the wake of the *Webster* decision that further restricted abortion, the bishops renewed their commitment to the abortion fight, declaring that Catholic politicians were obligated to take a pro-life stand. Some bishops denied Holy Communion to public officials or

threatened them with excommunication. In 1990, the NCCB announced that it would spend several million dollars on an antiabortion public relations campaign. Timothy Byrnes argues that there were still differences between bishops who considered abortion the most important of all issues and those who advocated a “seamless garment,” but the bishops would no longer let pro-choice Catholic politicians hide behind this disagreement.¹⁸⁰

In the 2000s, the bishops became more involved with the abortion issue once again. In 2003, one week before the thirtieth anniversary of *Roe v. Wade*, the Vatican released a document reiterating that Catholic lawmakers had a “grave and clear obligation” to oppose “any law that attacks human life.”¹⁸¹ That same year, lay Catholics picketed the bishops’ annual meeting and demanded that they deny communion to pro-choice Catholic politicians. Several bishops obliged, and one even denied communion to Democratic presidential candidate John Kerry. In 2004, the bishops made a statement on “Catholics in Political Life” that prohibited Catholic institutions from honoring pro-choice political officials. In 2009, some Catholics objected when the University of Notre Dame invited President Obama to give the commencement address and receive an honorary degree, but an editorial in the Jesuit magazine *America* complained that such criticism was motivated by political partisanship.¹⁸²

Of the three countries, Canada has the highest percentage of Catholics. In Canada too the involvement of the Catholic Church in abortion politics has varied over time. The pro-life movement was dominated by lay Catholics, individual parishes, and groups such as the Catholic Women’s League and the Knights of Columbus, but bishops, priests, and members of religious orders have provided only minimal support.¹⁸³ During the late 1960s, the bishops distinguished between divine and civil law on such issues as contraception, divorce, and abortion. The Canadian Catholic Conference (CCC) opposed the 1969 abortion reform but did “not believe that our moral principle must be enshrined in criminal law.”¹⁸⁴ Many newspapers agreed, arguing that opposition to abortion was a doctrinal position that the bishops should not try to force on other Canadians.¹⁸⁵ During the 1970s, the Coalition for the Protection of Life tried to present its arguments in a nondenominational way and thus preferred that the bishops stay out of the fray. But once the more radical Campaign Life came to dominate the movement at the end of the 1970s, it was increasingly critical of the bishops, and they returned fire.¹⁸⁶

In 1981, Campaign Life criticized the archbishop of Toronto, Cardinal Emmett Carter, for endorsing the *Charter of Rights and Freedoms* despite the fact that it did not contain protections for the unborn, and suggested that

he had done so in exchange for public funding of Catholic schools. In reply, Carter prohibited parishes from distributing Campaign Life literature or mentioning the organization in church bulletins. In February 1985, Carter made a brief foray into pro-life activism, instructing pastors to turn out parishioners for four days of protest. But only about two thousand of the one million Catholics in the diocese showed up, and two days later, a pro-choice protest drew five thousand participants. The cardinal was embarrassed by the low turnout, and both the media and non-Catholic clergy criticized his involvement.¹⁸⁷ Six months later, Carter made a deal with the Ontario attorney general to limit the number of protesters in front of the Morgentaler clinic to five. Campaign Life denounced this “sleazy agreement” and refused to abide by it. One protestor complained that “it seems that the unborn are close to the bottom of the bishops’ list of priorities. As for us, they probably just wish we’d piss off into the wind, and that way save them a lot of aggravation and embarrassment.”¹⁸⁸ During their 1990 testimony on the Mulroney Government’s abortion bill, the bishops again distinguished between divine and civil law. They restated the Catholic position on abortion, but “recognized that there are strongly held views which differ from ours” and argued that “authentic pluralism” means “that no one group has the right to impose its particular point of view.”¹⁸⁹

Just as the involvement of the Catholic Church with abortion varied over time in the United States and Canada, so did the involvement of American evangelicals. Most evangelicals retreated from politics after the repeal of prohibition and the humiliating 1925 Scopes trial over the teaching of evolution; it was not until the 1970s that they began to engage either politics or the abortion issue.¹⁹⁰ Many saw politics as a distraction from spiritual life, distrusted worldly governments, or did not wish to interfere with the chaos to come before the Rapture. “We became so heavenly-minded,” said Operation Rescue leader Flip Benham, “that we were no worldly good.”¹⁹¹ Initially, many evangelicals saw abortion mainly as a concern of the heretical Catholic Church, and some avoided the issue precisely for that reason. Theologian O. J. Brown said many evangelicals felt that “if the Catholics are for it, we should be against it.”¹⁹² But beginning in the mid-1970s, evangelicals began to join campaigns against the ERA, gay rights, abortion, and especially the taxation of racially segregated religious schools.

The first evangelical pro-life organization, the Christian Action Council (later Carenet), was founded by Brown and future surgeon general C. Everett Koop in 1975. Koop had delivered a commencement address against abortion at Wheaton College in 1973, and Brown had written

editorials on abortion for *Christianity Today*.¹⁹³ Many evangelicals also reentered politics for the first time when they supported fellow evangelical Jimmy Carter in the 1976 presidential elections—though many were badly disappointed by his presidency.¹⁹⁴ Another key event was the book and film *Whatever Happened to the Human Race?* by Koop and evangelical theologian Francis Schaeffer, who toured twenty cities in 1979, drawing thousands. Said Koop, “I think it was the first time that most Christians even knew what the issue was.”¹⁹⁵ Schaeffer preached a turn away from “rapture theology” that isolated evangelicals from politics and American culture and argued that Christians had a duty to engage in civil disobedience to stop abortion. Many evangelicals, including Jerry Falwell and Southern Baptist leader Richard Land, credited Schaeffer and Koop with opening their eyes about abortion.¹⁹⁶ Phyllis Schlafly was also an important bridge between Catholics, the New Right, and evangelicals. Once evangelicals mobilized on abortion, they focused mainly on education and crisis pregnancy centers in the late 1970s and early 1980s, and turned to street protest only later, most notably with the founding of Operation Rescue in 1986.¹⁹⁷

This discussion of the role of Catholics in the United States and Canada and evangelicals in the United States suggests that religious explanations for the stronger politicization of abortion in the United States are not fully convincing. Differences in the religious makeup of the three countries did not produce strong differences in public opinion, and the claim that the United States is more open to religious and moral claims than the other countries is a matter of dispute. The presence of Catholics and evangelicals in the United States and Canada contributed to the larger pro-life movements in these countries, but religious denominations did not automatically mobilize against abortion; there were strong variations in mobilization over time and across countries. In addition, the larger movements in the United States cannot alone explain the higher levels of politicization and controversy there. First, politicization and controversy of abortion were much weaker in Canada than in the United States, even though Canada had a larger Catholic population. Second, the differences in the size of religious populations across the countries were differences of degree while the differences among abortion politicization and controversy were absolute; there was not just *less* politicization in Britain and Canada, but virtually none. Finally, the particular way in which the abortion issue was constructed in the United States probably contributed to the higher level of controversy and religious mobilization over abortion in the United States. Abortion on request for a woman’s own reasons and on grounds of privacy was more threatening to conservative Catholics

and evangelicals than abortion with medical gatekeeping for grounds of medical necessity.

Conclusion

In this chapter, I examined abortion *politics* (in parties and elections) after the reforms of the Long 1960s. I argued that the openness of American political parties allowed feminists, the New Right, and especially the Christian Right to gain influence within the Democratic and Republican parties and move abortion to the center of American politics. By contrast, the sizable pro-choice and pro-life movements in Britain and Canada never made much headway in closed party and electoral systems.

In the next chapter, I examine post-reform abortion *policy making*. There were many more policy changes in the United States than in the other countries, and these mainly reduced the quality and availability of abortion services. In Britain and Canada, policy change was rare and mainly expanded the quality and availability of abortion services. Most of this difference is the result of the American politicization of abortion and the electoral success of the Republican Party outlined in this chapter, but there were some other factors at play as well, in particular the differing policy venues of abortion policy making and the differing involvement of medical associations in the abortion issue.

passing as officials at all levels claim that they are not responsible for a given issue.

As I show in the next chapter, during the abortion reforms of the Long 1960s, prolonged state-level policy making in the United States provided opportunities for policy learning and interaction, and eventually alliance between abortion reformers from law and medicine and feminist and civil liberties groups. The lengthy policy-making process also meant that the national reform did not occur until 1973, when second-wave feminism, which swept all three countries at the end of the 1960s, was at its peak. As a result, feminist and rights-based definitions of the abortion issue played a stronger role in the United States than in the other countries. After the American reform, the abortion issue was kept alive and heated by the multiple venues for contesting abortion policy; the Supreme Court set the broad parameters of abortion law, but state and federal legislatures worked out the details. The court was forced to revisit the issue repeatedly as state enactments came into conflict with its rulings. Federalism also provided opportunities for buck passing in both the United States and Canada. In the United States, federal officials often avoided the abortion issue by reminding their constituents that it was a matter of state jurisdiction. In Canada, the federal government had jurisdiction over crime policy and the provinces had jurisdiction over health policy. Since abortion involved both, the two levels of government repeatedly blamed each other for problems with the abortion law.

***Agenda Control and Nonpartisan Legislative Procedures Help
Parliamentary Parties Avoid Issues and Blame***

Agenda control and nonpartisan legislative procedures also affect the character of public policies. In the parliamentary systems of Britain and Canada, the vast majority of legislation is heavily partisan: Most bills are introduced by the Cabinet (party leadership) rather than by individual MPs, and MPs from the governing and opposition parties are required to vote as party leaders instruct (that is, votes are “whipped”). But some bills are handled in a less partisan fashion, usually in one or all of three ways: The Cabinet allows party members to vote as they please (a “free vote”), the Cabinet declares its “neutrality” on a bill, or an individual MP rather than the Cabinet introduces a bill (a “private member’s bill”).⁹⁴ These private member’s bills may be introduced only by backbench MPs (MPs who are not party leaders) and typically involve free voting.⁹⁵ The bills are subject to severe time constraints for debate and voting, and, as a result,

they typically fail before reaching a final vote if they are the least bit controversial.⁹⁶ In Britain and Canada, MPs secure the right to introduce a private member's bill through a lottery. Until recently, Canadian Governments could choose which private member's bills would be eligible to be considered by Parliament.⁹⁷

In addition, some issues are labeled "issues of conscience," and these are typically handled through nonpartisan procedures such as private member's bills or free voting.⁹⁸ In Britain and Canada, such conscience issues have included abortion, contraception, stem-cell research, capital punishment, homosexuality, prostitution, censorship, divorce, fox hunting, Sunday commerce, disability rights, and seatbelt laws. There are no clear criteria for defining conscience issues, and in Britain, some issues, such as homosexuality, Sunday commerce, and divorce, have been unwhipped at some times and whipped at others. Even when the Government says that it is providing a free vote and remaining neutral, it may still pressure its members. As one Government spokesperson put it, "[there are] free votes and free votes."⁹⁹ The existence of "issues of conscience" allows Governments to avoid controversial issues, but it also allows them to use ostensibly nonpartisan processes to enact policies that they favor while avoiding blame for them. Even when votes are "free," most MPs vote with their party. Moreover, Governments can ensure that their favorite private member's bills come to a vote by providing extra time.¹⁰⁰ Thus the Government has it both ways; it is not responsible for a bill because it did not introduce it and declared neutrality, but the bill passed only because the Government gave it extra time and MPs from the governing party voted for it.¹⁰¹ The MPs who take those free votes do not get blamed either. Because MPs in parliamentary systems have little power (given their obligation to toe the party line), voters tend to vote for parties rather than individual candidates at election time.¹⁰² As one MP put it, "unless you were running a gynaecologist versus a priest, no by-election would be affected by a vote on abortion."¹⁰³ This creates a situation of democratic unaccountability on "issues of conscience."¹⁰⁴ A final notable feature of private member's bills and free voting is that once an issue is addressed through these processes, and especially if it is deemed an "issue of conscience," it tends to be addressed in the same way thereafter. As a result, policies made through private member's bills or free votes are difficult to change; they cannot be changed without extra time from the Government, yet the Government is not considered responsible for them.

Abortion has been treated as an "issue of conscience" in Britain and Canada, and, as a result, private member's bills and free voting have been

central to abortion policy making. The British Parliament enacted the 1967 abortion reform through a private member's bill and free voting. The Labour Government allowed extra time for debate, and its MPs were the main supporters of the bill. After this reform, successive Governments, Conservative and Labour, claimed that abortion was a "issue of conscience" and refused to introduce abortion bills or allow extra time for private member's bills—ensuring their failure. Over thirty years, Parliament considered more than a dozen private member's bills on abortion, and all failed for lack of time. Only twice, in 1990 and 2008, did Conservative and Labour Governments, respectively, provide time (as part of Government embryology bills) for free votes on the narrow question of reducing the upper time limit for abortion. In both instances, the Government supported the status quo and it prevailed. In Canada, Parliament enacted the 1969 reform as part of an omnibus bill that decriminalized victimless crimes. Under pressure from its own MPs, the Government allowed a free vote on the abortion section of the bill. For the next twenty years, Canadian Governments did not initiate a single abortion bill, and private member's bills on abortion were declared ineligible for consideration ("unvotable"). Only after the Supreme Court created a legal vacuum in abortion law did the Conservative Government introduce a new bill. After it failed, successive Governments returned to avoiding the issue.

Some readers might wonder how private member's bills and free voting differ from normal legislative processes in the U.S. Congress. After all, most congressional bills are introduced by individual legislators rather than by the White House, and, because party discipline is weak, legislators are free to vote as they please. But there are a couple of key differences between the American system and the parliamentary systems of Britain and Canada. First, while parliamentary leaders remain neutral on private member's bills, congressional leaders often take formal positions on bills and try, however unsuccessfully, to whip the votes of their members. Second, MPs are less accountable to the electorate for their free votes than are members of Congress. In contrast to MPs, who are elected mainly on the basis of their party's platform, members of Congress are held accountable for their issue positions, at least to some degree, by the voters.

Looking Ahead

This chapter has outlined some of the main differences in the abortion policies and politics of the United States, Britain, and Canada; situated

those differences among the rich democracies; and introduced an institutional approach to explaining them. I finish the chapter with a few words about my research strategies and a preview of the chapters to come. This study is an example of “comparative historical analysis,” in which I select a small number of cases and move “back and forth between theory and history in an effort to identify the causes of a clearly defined outcome” (or several).¹⁰⁵ But I have goals that extend beyond causal analysis. I use interpretive methods to analyze the ways in which social actors have constructed and understood their identities, interests, and issues.¹⁰⁶ I also seek to draw the attention of comparative analysts of the welfare state to reproductive policies and politics. A great deal of work on gender and the welfare state has emerged in the last two decades. Most of that work has acknowledged the significant involvement of the state in its citizens’ reproductive lives, and yet comparative work on the development of state policies relating to reproduction has been surprisingly sparse.¹⁰⁷

A key challenge of research on a small number of cases is that the analyst usually hypothesizes more causal factors than there are outcomes on which to evaluate them. An analyst might wonder whether the main cause of high welfare spending is high union density, left-wing control of government, supportive capitalists, or a multiparty system. If the analyst tests these hypotheses by examining spending outcomes in only two countries—high-spending Sweden and low-spending United States, he or she cannot evaluate which of the four factors is most important because Sweden beats the United States on all of them. I try to address this problem in three main ways. First, I select my cases based on a “most similar systems” research design.¹⁰⁸ I have purposely chosen cases that have as much in common as possible to reduce the number of potential causal factors. The three countries in this study are all members of what Francis Castles has called the “English-speaking family of nations.”¹⁰⁹ They cluster together on a wide range of socioeconomic, political institutional, and policy indicators.¹¹⁰ They share a common language (except for Quebec), historical and geographic ties, and similar legal, political, cultural, and religious traditions. The United States and Canada are former British colonies, the three countries remain close allies, and their elites are in close communication and often imitate each other. The countries also share traditions of classical liberalism (individualism, voluntarism, anti-statism) and legal systems based on the common law (though Quebec has a civil law system). All are majority Protestant countries with significant Catholic minorities but no strong religious party. All have weak or moderate labor movements and majoritarian party systems that tend toward two major parties. Canada and the United States are both federal polities.

Canada and Britain both have parliamentary systems in which the upper house is subordinate to the lower house. Finally, as I discuss earlier in the chapter, the three countries have all experienced the “secular majoritarian” type of abortion politics—though the United States moved toward the negotiated type in the 1980s.

However, the countries also have important differences, some of which play a role in my analysis. Pro-life and pro-choice movements are largest as a percentage of the population in the United States, followed by Canada, and then Britain. Judicial review is strong in the United States, weak in Britain, and was weak in Canada until the Supreme Court gained new powers in 1982. American parties are factional while British and Canadian parties are cohesive and disciplined. Britain has a national health service, Canada has national health insurance, and the United States has national health insurance only for the poor and elderly—though the government will soon provide subsidies to help middle-class Americans buy private insurance.¹¹¹

Another way of dealing with the problem of a small number of cases is through within-case analysis. Theories of policy making not only predict particular outcomes *across* cases but also have implications *within* those cases.¹¹² To evaluate the theory that welfare state generosity varies with public support for “big government,” the analyst does not merely measure public opinion and welfare spending across several cases. The analyst also determines *within* each case whether the individuals and groups that support big government are the same ones who support generous welfare state policies, whether opponents of big government oppose welfare spending, whether supporters and opponents of welfare state programs justify their actions publicly and privately in terms of the role of government, and whether opponents of big government also oppose non-welfare policies that expand the role of government. Moreover, the analyst can determine these things for a variety of different policies, during numerous episodes of policy making, and at different stages of the policy-making process.¹¹³ Thus, although there are only a few cases, there are a large number of potential observations within each case that can be used to evaluate theories.

A final strategy for dealing with a small number of cases is longitudinal analysis or “process tracing,” which analyzes “a case into a sequence . . . of events and show[s] how those events are plausibly linked given the interests and situations faced by groups or individual actors.”¹¹⁴ In addition to providing leverage for testing theories, process tracing allows the analyst to identify causal mechanisms that link explanatory factors with outcomes—a key component of persuasive causal arguments.¹¹⁵ Michael

Coppedge argues that longitudinal analysis is the ultimate “most similar systems” design because “every case is always far more similar to itself at a different time than it is to any other case.”¹¹⁶

The book relies on data from records and reports of social movement organizations, interest groups, political parties, and government officials; from press accounts and government statistics; and from the accounts of movement activists. I also conducted several interviews with former officials of the AMA and the British Pregnancy Advisory Service (BPAS). The study draws too on the extensive secondary historiography of abortion politics. Most of these works are case studies of single countries. I reinterpret the data contained in these studies in light of cross-national patterns, correcting under- or overemphasis on particular factors, and presenting data from disparate sources in a new theoretical context.¹¹⁷ I have triangulated these sources, attending to discrepancies among them, noting the sources that they use, and referring to primary materials to resolve disputes.

The remainder of the book is divided into two parts. The first part (chapters 2 and 3) describes and explains the abortion reforms of the Long 1960s. The second part (chapters 4 to 6) describes and explains abortion policies and politics in the years after those reforms. Chapter 2 looks at political struggles over the initial reforms and shows that differences among them are best explained by the differing participation of feminists, judges, political parties, and medical interest groups—all mediated by political institutions. Chapter 3 examines the ways in which medical organizations constructed their interests and priorities on abortion. Chapter 4 describes and explains the organization, funding, and quality of abortion services. Chapter 5 examines the differing degrees to which abortion has been politicized and partisanized in the three countries—a key factor in post-reform policy change. Chapter 6 explains policy change after the reforms of the Long 1960s. The concluding chapter summarizes the main ways in which my account challenges conventional understandings of American abortion policy and discusses the utility of my institutional approach for understanding policy making more generally.

The attentive reader will notice that the order in which I discuss the three countries changes throughout the book. I do this intentionally to heighten contrasts and present my arguments in the most accessible way. It is easier to describe a factor in the country where it is present before discussing the consequences of its absence in another country, and it is clearer to discuss the two poles of a comparison before discussing the case that falls in the middle.