

PGM: The Making of an Abortion Icon

by

Sara Eismont
Class of 2018

A thesis submitted to the
faculty of Wesleyan University
in partial fulfillment of the requirements for the
Degree of Bachelor of Arts
with Departmental Honors in Sociology

Acknowledgments

First, I would like to thank my advisor, Jonathon Cutler! Without you, this thesis would have not been possible (or certainly would have been far more rocky). I always left our meetings with far more questions than answers, which in the context of this project was a very good thing. Also, I want to give a great big thank you to the Wesleyan Sociology Department for giving this transfer student a place to call home for the past three years and letting me explore all of my interests and get credit for it!

Thank you to my beautiful, amazing friends who made helped keep thesis writing (and senior year) fun: Natalie for our thesis workdays and geeking out over data science with me, Brenda for being the best housemate/friend and telling me when I needed to be less stressed, and Dominique for sending virtual words of encouragement and postcards with your unbelievably perfect handwriting. Thank you to Emily, Saadia, Jenna, Julia, and many, many others who listened to me talk incessantly about my grandmother and gave me so much love and support throughout this process.

Thank you to my family! You've always pushed me to do my best and been my support system when things got hard. Thank you for being on this long journey with me and understanding when I needed to spend all night digitizing cassette tapes instead of joining in on family game night.

Finally, the biggest thank you ever to my grandmother. You've always been my biggest inspiration and best friend and I am so grateful that you let me pester you with endless questions about your life throughout this process. I hope that this thesis helps you remember how many amazing things that you've done. Like you always say, "When I'm as old as you are, will I be as smart?" I love you!

Table of Contents

The Now

<i>Introduction</i>	3
<i>The Situation and the Story</i>	7
<i>Self-Reflection</i>	9
<i>Generational Positioning</i>	10

The Before

<i>Childhood Through College</i>	17
<i>Colorado</i>	23
<i>Pittsburgh Beginnings</i>	28
<i>Shapp Abortion Law Commission</i>	35
<i>Women’s Health Services & Anti-Abortion Legislation</i>	43
<i>Discrimination Case & Moving Forward</i>	58
<i>The Worst of Times</i>	66
<i>The Legal Eagle</i>	70
<i>Special Master</i>	73

The Future

<i>Good Girl Politics of Abortion</i>	76
<i>The State and the Law</i>	79
<i>On the Ground</i>	85

The Now

Introduction

When I'm home from college, every few days I drive across the city to visit my grandmother in her semi-detached townhouse in Highland Park, a small and friendly neighborhood in eastern Pittsburgh. She lives here alone (except for her two cats), and has managed to do so despite her decreased mobility and lack of a car, mainly due to the support of her neighbors and community members. Her favorite place in the world would easily be Tazza D'Oro, a bustling coffee shop where outside there are many dogs to pet and her rapport with the baristas inside includes them knowing her special order (a "heroin brownie" due to their allegedly addictive nature). After retiring from her position as a Special Master in the Allegheny County Court of Common Pleas at eighty years old, my grandmother's day-to-day routine consists mainly of television watching, card playing, book reading, and cat petting. These things might seem to be normal activities for someone her age, but there are many things that separate my grandmother from any semblance of normalcy.

After hearing the doorbell, my grandmother slowly descends the stairs, cane in hand, one step at a time. The bottom floor includes a tiny foyer, a door to the one-car garage, and a back room that is home to the cats' litter boxes and her seemingly ever-expanding collection of canned foods. On the right side of the stairway hang *molas*, panels of Panamanian handmade material, brought back by her mother after a trip to the San Blas Islands when they were living in the Central American country. On the left, four posters, created as part of the 1982 Pay Equity Campaign by the Service Employees International Union and 9to5, National Organization of Working

Women juxtapose anti-labor quotes with photos of labor organizing and injustices. This might seem like quite the hodgepodge of decor for a tiny, stooped-over, eighty-four-year-old in the steel-town reincarnated city of Pittsburgh, but we are just getting started.

I have always known that my grandmother did not look like the depictions of grandmothers that I saw on television shows or in movies. To start, when my mother was pregnant with me, the first grandchild in my family, my Grandmother decided that she would go by “Grammy,” as the alternative of “Grandmother” seemed to have too much of an “elderly” connotation. After my birth, Grammy refused to modify any of her preferred activities just because there was this new, tiny family member. Photos from this time frequently depict Grammy playing cards, reading, or sitting outside her house with me swaddled against her chest. Though this may at first glance seem removed and antithetical to the innate nurturing ability expected of maternal familial figures, it makes perfect sense to me. Grammy has lived all of her adult life headstrong and determined in personal, professional, and political arenas, so contextually a new baby really is just a minor detail.

Growing up, my grandmother and I have always been incredibly close. For as long as I can remember, I have been in awe of her even if some of the details of her life were a bit fuzzy in my head. I knew that she worked as a sort of judge (but not exactly), and that she had written a book about abortion (never a taboo topic in our household). She was my first feminist role model and was therefore incredibly important in my personal formation of identity and sense of social justice. One of our primary bonding activities has always been sitting on the couch, me listening raptly as

she regales me with stories of her life, squeezing my hand at the really exciting parts. She has many favorite tales, all of which I can recite verbatim at this point. One that brings her a great deal of glee when recounting is how, when she was one of the few women attending the University of Pittsburgh law school in the mid-1970s, the law library was located in the Cathedral of Learning, a large Gothic structure that looms over the college neighborhood of Oakland. While the male bathrooms were near the library, the female bathrooms were on a much higher floor. When studying at night, female law students who were fearful of venturing high up into darkness would be forced to leave once their bladders had reached capacity. My grandmother, being the spunky go-getter that she is, marched into the dean of the law school's office and demanded that this issue be rectified. Specifically, she told him "you either think that there are no women in law school or that women do not urinate. I am here to tell you that you are wrong on both counts."¹ Her determination resulted in the conversion of the nearby men's restroom into a women's restroom. After a "WO" was painted on before the printed "MEN," the dean himself planted artificial flowers in the urinals.

Through stories such as this one, I had gained a very rough idea of the narrative of my grandmother's life. Though, as I started this project, I realized that there was so much about which I had absolutely no clue. It was as if I had amassed a punchy highlight reel of eighty plus years with little indication about where or how to fill in the blanks. This project has had a sort of split existence, as every time I asked my grandmother about a particular commission, piece of legislation, or rally, I simultaneously built a network of secondhand sources that supported her recollection

¹ Patricia Goyette Miller, in discussion with the author, November 2017.

² Sally Kalson, "Abortion-Rights Family Feud Helps Opponents," *Pittsburgh Post-Gazette*,

before I could affirm its accuracy. There never was a situation where she remembered something about which I could find no other record, yet the inverse happened semi-regularly, where I told her about an event or person in her life that she could no longer recall.

In doing this work, I have become incredibly grateful that, for all intents and purposes, my grandmother was a relatively famous, public figure in Pittsburgh during the second half of the twentieth century. Not only have I been able to rely on her friends and our family members, but also over a hundred newspaper articles, a state commission report, organization mailings, others' books and dissertations and her own book. As has become abundantly clear over the many months of researching my grandmother's life, she is indeed not your typical idea of a grandmother. In fact, she is not your typical anything. Grammy is, in every regard, exceptional. In a time when women were facing major pressure to remain in the domestic, private sphere, my grandmother was not only able to pursue an advanced degree and have an established and lucrative professional career, but also organize for decades on women's rights issues, playing a critical role in abortion politics at a local, state, and federal level. My guiding question is this: how did my grandmother become, as she was referred to as in a 1998 *Pittsburgh Post-Gazette* article, "a icon of the local pro-choice movement"?² If I have learned anything as a student of sociology, it is that nothing just happens in our lives. We all act on and against various social controls and pressures that then shape us into the people that we become. This is the icon-ification of Patricia Goyette Miller.

² Sally Kalson, "Abortion-Rights Family Feud Helps Opponents," *Pittsburgh Post-Gazette*, March 9, 1998.

The Situation and the Story

It appears to be almost expected in today's world for anyone of a certain level of fame or importance to publish a memoir. It may seem to the casual observer that the only truly necessary ingredient would be a life full of exciting and impressive stories. However, according to Vivian Gornick, this is not actually the case. Gornick is a veteran writer who first became known for her writing in New York's *Village Voice* during the 1960s and 1970s, largely in terms of her coverage of the women's movement. In 2001, Gornick published *The Situation and the Story: The Art of the Personal Narrative*, in which she explains her philosophy about what makes engaging writing, focusing specifically on the essay and the memoir. The title is drawn from her central point: that in every piece of writing, there is both a situation and a story. The former is that which we can usually most quickly articulate about something that we have just read, the plot, what is explicitly happening. The really captivating and yet unsung part, however, is the story, which Gornick characterizes as "the emotional experience that preoccupies the writer: the insight, the wisdom, the thing one has to say."³ In the context of my project, initially it seemed that the situation was made up of the facts of my grandmother's life and the larger abortion rights movement, while the story was my personal connection to my grandmother and her life.

There are two difficulties that arose when working in this framework. The first was learning what the story looks like. In academic spaces, we operate almost exclusively in an analytic mode, where we are tasked with dissecting sources and then

³ Vivian Gornick, *The Situation and the Story: The Art of Personal Narrative* (New York: Farrar, Straus, and Giroux, 2001), 13.

presenting an argument. Any emotional connection of mine is largely irrelevant in that context. Combine this with the difficulty present in articulating any close, complicated family bond, and this was totally new territory. The second difficulty was learning that good writing is not as simple as smashing the two components together and presenting the product as instantly captivating. It is here that Gornick introduces the importance of having a persona. She describes this narrator as simultaneously the author and yet also not the author, empowered and slightly removed. In struggling to write about her own mother, Gornick realized that her difficulty was rooted in her judgment of her mother's life choices, coupled with acknowledgment that she was, as all daughters seem to eventually realize, slowly becoming her mother. It was through the usage of a persona, which she calls the "instrument of my illumination", that she was able to overcome what was holding her back and find her voice.⁴

At first, it felt really awkward to apply Gornick's framework to my project. After all, how can you definitively know your story if your situation is a living, breathing person about which you can never know everything and even about everything you know, you can never fully understand? However, I later came to the understanding that it is not even my grandmother's life that is the situation, but instead the way that she conceives of and communicates about her life. There are several different threads of the story that I have come to know: what it means personally for me to be my grandmother's granddaughter, what it means for me as a millennial woman to come to know the fights that my grandmother and other women

⁴ Gornick, 23.

fought for themselves and for future generations, what the process of teasing out from my octogenarian grandmother details of her life that she had long forgotten or dismissed as unimportant looks like. Just as uncovering the situation and the story of my project have taken time and careful consideration, so too has the process of situating together the two components. At first, I felt compelled to weave the story into the biographical narrative itself. After much consideration, I decided to frame the biographical piece by first contextualizing my relationship with my grandmother and the experiencing of doing this work and then ending with a pivot towards the future, now armed with the lessons of my grandmother's life.

Self-Reflection

The first surprise of this project came when I realized how disorienting it could be to try to contextualize someone whom you have known your entire life. In my consciousness, Grammy existed as a vague feminist icon, but I did not know why. I had met all her friends at various birthday parties and dinners, and I absolutely loved them. They seemed to embody an almost mythical power. These women were all at least sixty, and embodied this aesthetic that seemed to scream: "I'm a fierce woman who's survived a revolution!" They had all worked together or organized together (or both). I would sit among them and listen to their war stories, eager to demonstrate that I too could match their commitment to feminist values. They were also completely intimidating, with their brashness and confidence that seemed to fill a room. Ever since my grandmother retired, she sees her friends much less frequently. Their once consistent gathering is the Liberal Ladies lunch, a monthly meal at the

Silk Elephant, a local Thai restaurant where my grandmother orders a tiny appetizer and calls it a meal.

I knew that my grandmother and her friends were important women's rights activists back in the day, but this belief encompassed the depth of my understanding. I am incredibly fortunate that my biographical subject is a) alive and b) always willing to talk about her past. However, Grammy would much prefer that I play cards with her instead of spending hours digging through her personal files. There were many afternoons in December and January when I had to promise that we just needed to look for one more thing, and then we could watch Jeopardy or play Five Hundred, her favorite card game. I am incredibly lucky that that my grandmother, despite her Spartan tendency to keep an immaculately clean home and get rid of anything that lacks an immediately clear usefulness, has kept a detailed and comprehensive record of her life. This has proved to be invaluable in my research. In the late 1970s, she developed a strong interest in genealogy, and traced both her maternal and paternal lines at least five generations back. Additionally, she kept a detailed account of all the major historical events in her lifetime, and the valuable heirlooms in her house and how they came into her possession. Her proclivity towards record keeping is almost prophetic, as if she knew that one day I would need them in order to tell her story.

Generational Positioning

The relationship between a girl and her grandmother is a unique one. I obviously cannot possibly speak to a universal relationship among all families and family structures, however I do believe that there is a powerful dynamic at play here

in many cases. This is the woman who raised the woman who raised you. Now, position this within the historical context of American generations. My grandmother was born in 1933, her childhood benchmarked between the Great Depression and World War II. Eating dinner with my grandmother, as we often do with trays in front of the television while watching *Jeopardy*, she is always insistent that I finish the food on my plate. Nothing can go to waste. She herself tries to eat minuscule portions, though usually with my urging they can become slightly less minute. This betrays a bittersweet truth of womanhood. My grandmother, raging feminist that she is, still will refuse carbohydrates telling me, “I’m horribly obese today!” She doesn’t notice the inconsistency here, or how her words could impact my own body image, as someone who had a severe eating disorder in high school.

It is easy for me to struggle with the fact that the things that I take issue with are not the same as those that bother her. She was fighting for abortion, female participation in politics, and other issues at a time when the expectation was that women should be seen and not heard. She was a progressive parent, living in an egalitarian partnership with her second husband and raising three children. After beginning law school in the fall of 1973, my grandmother came home one day and informed her family that she would no longer be doing all of the cooking in the household. She and her husband, Richard, would each cook two dinners a week, leaving each of the kids responsible for preparing one meal. At this time, my aunt Jennifer was thirteen, my mom was eight, and my uncle John was four. John’s “recipes” consisted of a lot of directions that started with “find a grownup to...” Though my mom remembers feeling like this change was totally unfair, as none of

her friends had to cook, this shift allowed my grandmother to free up additional time each day that she could then spend studying or organizing. There is much about her that is contextually so radical, which is vital for me to always keep in mind.

My generation is coming of age at a pivotal movement in history. In school, we learn all about these revolutionary social justice movements: the Civil Rights Movement, second-wave feminism, anti-war demonstrations during the Vietnam War. However, we have no lived experience of this activism, as opposed to our parents and grandparents. In a time of increasing technological innovation, where we can be immediately connected to organizing happening all over the world, it is easy to feel like we immediately know all that has come before us. However, what cannot be communicated through textbooks, photographs, or even stories told to us by those who were present there, is how incredibly different times were back then. A disturbing number of things have certainly stayed far too much the same, but major societal seismic shifts have also taken place.

I attend arguably one of the most liberal colleges in the country, an institution to which almost no one from my high school applies, given its extremely left-leaning nature. Female student leadership is in abundance here, and most of my friends do not hesitate to call out any patriarchal nonsense that they observe. However, Wesleyan, for all its progressiveness both performative and actualized, has a very complicated history of inclusion and exclusion of female students. After first admitting female students in 1872, forty years after the school's founding, the coeducation decision was reversed in 1909.⁵ It would not be until 1968 that women would be invited again

⁵ "Wesleyan's First Women," Wesleyan University, accessed February 15, 2018, <http://www.wesleyan.edu/fgss/firstwomen.html>.

to attend Wesleyan.⁶ In that same year, my grandmother was running the Abortion Justice Association, the first of many abortion rights organizations that she founded and led. This thesis is about my grandmother and certainly not Wesleyan, but I conceptualize this thought experiment as similar to one of those fun and unbelievable facts that you can read about in listicles on the Internet, where two events that seem to take place at radically different times actually happened in the same year! For example, did you know that the first fax machine was invented in 1843, at the same time as the massive migration westward along the Oregon Trail?⁷

This slight diversion has been an exercise in perception, misperception, and how we remember the past. My grandmother is a feminist icon; that is pretty much an undeniable fact in my mind at this point. So how much does it matter that she is not always perfect in her feminist politics? That she is critical of her own appearance and that of others, or that she has been known to scoff at women who did not relish the opportunity to work as passionately as she did? I think for a long time I felt personally wronged when my grandmother exposed herself as imperfect. After all, I tell everyone (really, everyone) that she is a feminist icon. What would I do if the feminist police appeared, holding up her mistakes and blemishes as proof of some intrinsic falsehood in my words? I also found myself becoming frustrated when I would explain a concept like body positivity and my grandmother failed to totally grasp it. I figured that she had tackled abortion, a controversial topic and a

⁶ “History of Women’s Studies and FGSS at Wesleyan,” Wesleyan University, accessed February 15, 2018, <http://www.wesleyan.edu/fgss/history.html>.

⁷ Todd Van Luling, “8 Surprising Historical Facts That Will Change Your Concept of Time Forever,” *Huffington Post*, last modified December 6, 2017, https://www.huffingtonpost.com/2014/02/26/historical-facts-time_n_4832325.html.

heavyweight issue in feminism. Why would something simpler or more mundane be trickier for her to understand?

Though my grandmother had organized for causes like school integration and the end of the Vietnam War, she has always been a largely one-issue voter, on women's rights and specifically abortion. Today, any millennial, even one who did not pay a ton of attention to social justice, could probably tell me what intersectionality means (or hazard an educated guess). Why would the same question be so difficult for Grammy, who has a demonstrated track record of the applied sort of activism, before it was as simple as sharing a five minute video to your Facebook friends, the "slacktivism" practiced by many today?

I was first drawn to writing a biography of my grandmother as she has always fascinated me. Foundationally, I love her very much and admire her more than anyone. However, these aforementioned questions and frustrations have always been there, though it took me a long time to be able to concretely identify them. We have lived very different lives several generations apart, and therefore each see the world drastically differently, despite having a multitude of common interests and shared opinions. Part of the magic of our relationship is our divergences from one another. This does not mean that we never have conflict. My grandmother is a hurricane of a person: I would not advise standing in her way. She is also incredibly rigid in terms of her daily activities, and has been known to throw a fit if my mom has to move their bimonthly grocery store trip, even by a few hours. I pride myself on being the one person who can convince her to take a walk around the block or visit the Heinz History Museum. However, there have been times where even my impeccable skills

of persuasion have been no match for her headstrong personality. While there many days when I wish that she would just get in the car already so that we could go someplace like the cat coffee shop (an instance in which I was eventually victorious), I can always recognize that this is the same willful stance that allowed for her to be such a unbending advocate for women's reproductive rights and a formidable foe to anyone who got in her way of doing so.

In addition to simply sharing the story of my grandmother's amazing life, I also have a secondary goal that requires action of you, the reader. Speaking as a young adult entering the world with shiny eyes and big dreams, it can be so easy to lose sight of all of the hard work that has come before me. We know the big names of those who have fought for social justice: Martin Luther King Jr., Gloria Steinem, Harvey Milk. However the tireless work of many normal Americans has been largely excluded from historical memory. I always had a preliminary understanding of my grandmother's activism, however I certainly did not know its full extent. The impetus behind my grandmother writing her oral history *The Worst of Times* was the realization that stories of illegal abortion had been silenced and soon would be lost to us forever. Clearly, we cannot rely on institutional memory or mass media to capture all stories and lives for us. In her initial proposal for her book project, she included the maxim of George Santayana, "Those who cannot remember the past are doomed to repeat it," afterwards acknowledging its clichéd nature.⁸ However, she found it still relevant on the topic of abortion. I agree with her, and additionally find it still pertinent in acknowledging all histories of activism. We must preserve these stories

⁸ Patricia Goyette Miller, "*The Worst of Times* Book Proposal" (book proposal, in author's possession, 1991), 3.

so that we can learn from them and imbue our own work with the lessons that are there, waiting to be gained.

Lastly, I just want to share that the intimate knowledge of my grandmother's life that I have gained through this project, strengthening our already close relationship, is a gift for which I am so incredibly appreciative. Besides the more practical focus on what can be learned, I am also just completely overcome with gratitude for my grandmother and the women with whom she organized. It is impossible to quantify the impact of an individual's actions on the shifting tides of history, but given all of the pushback that these women faced, it is likely that the tides would not have changed as quickly (or even at all) without their hard work and constant fervor. I could not fathom waging my own fights if I did not have all of their progress upon which to stand. We should not forget their stories. Actually, it is more that we cannot afford to do such a thing.

The Before

Childhood Through College (1933–1957)

“You must never forget what you are about to see here,” my great-grandfather Edwin Matthew Goyette told my then four-year-old grandmother one day in early July 1938. They were living in Carlisle, Pennsylvania, where Edwin was stationed as an Army doctor. After graduating with a medical degree from the University of Vermont in 1932 with a special recognition for his aptitude for obstetrics, Edwin had begun practicing medicine in a private practice.⁹ However, as it was the middle of the Great Depression, his patients paid him with produce and other goods, which impeded his ability to provide for his wife, Eleanor May Hutchinson, and infant daughter, Patricia. He had decided to enter into the army for its financial stability.¹⁰ After driving for what seemed like an eternity, my grandmother and her parents arrived at some sort of reunion, made up of almost exclusively elderly men and their nurses. This gathering was not terribly exciting to my grandmother at the time and she wondered why her father had made such a big deal about it. It was not until fifty years later that she was hit with a wave of realization. She had been an attendant at the seventy-fifth anniversary of the 1863 Battle of Gettysburg! The old men that she saw had been very young boys when they fought in the Civil War. According to coverage of the event in the *Eugene Register-Guard*, both Union and Confederate soldiers were in attendance, totaling 1,800 veterans of the war, whose average age at the time was reported to be ninety-four years.¹¹ President Franklin Delano Roosevelt

⁹ “University of Vermont, College of Medicine Bulletin” (1932), *University of Vermont College of Medicine Catalogs*, Book 78, <http://scholarworks.uvm.edu/dmccatalog/78>, 53-54.

¹⁰ Patricia Goyette Miller, text message to author, February 18, 2018.

¹¹ “Veterans Reunion at Gettysburg Closes Monday,” *Eugene Register-Guard*, July 5, 1938.

was the major speaker at the event, however my grandmother has no memory of him. All that she has now are pictures of the very old men, many of them dressed in tattered uniforms that hung off of their bodies, safely tucked in her mother's old photo album and hidden deep in her dining room desk.

After Carlisle, Edwin was assigned to Walter Reed Hospital in Washington, D.C. This relocation was brief, only a year or so. During this time, the one notable story that my grandmother remembers is that, upon getting an ear infection before the widespread adoption of penicillin, she had to have mastoid surgery. Apparently during the procedure, the doctor got so frustrated about my grandmother's pigtail, he snipped it off. My great-grandmother was not pleased and had to cut my grandmother's hair very short to make it symmetrical again. This is not the only story where Eleanor had to take it upon herself to make things right. Once, my grandmother came home from school with a stutter. Upon pressing her to discover what was wrong, my grandmother told her mother that the teachers in school were trying to force her to write with her right hand instead of her dominant left one. Eleanor marched into that school and made it clear in no uncertain terms that no one was to do such a thing again. No one ever did. A final story of my great-grandmother's fiery demeanor comes when she and my grandmother were taking a bus trip somewhere. The bus was very crowded, so Eleanor sat near the front of the bus while my grandmother sat much farther back. At this time, *Wizard of Oz* had just been released and though my grandmother was eleven years younger than Judy Garland, the girlish nature of Garland's character Dorothy meant that they appeared to be complete doppelgängers. As the bus began its journey, an excited buzz started to brew in the

back of the bus and slowly work its way forward. Imagine Eleanor's surprise when her seatmate turned to her and shared the exciting news that the one and only Judy Garland was on the bus! Apparently a fellow passenger had mistaken my grandmother for Garland and my grandmother, capitalizing on the opportunity, had modestly began giving people what they wanted, Judy Garland's signature. Eleanor was not pleased and promptly gave Grammy a spanking upon reaching their final destination.

In 1939 or 1940, my great-grandfather received notice that he was to be stationed in Panama, so the family relocated there. Panama is the setting for many of Grammy's stories, starting with the fact that she had both a pet monkey and a parrot. The latter would impersonate Eleanor, and would call out to my grandmother when she was playing in the yard, screeching "Patty! Get inside this instant!" Once my grandmother came running into the house, the bird would look at her and cackle, "Ha ha ha!" World War II had just begun, and my grandmother's memories of heightened tensions and talk of war are childlike reflections of what the war must have meant for the adults in the room. Her father had applied to be sent to the Philippines like his good friend Bill Ruth. Apparently Edwin's status as a captain was not enough to warrant such a placement and instead to Panama he and his family went. Bill ended up being taken as a prison of war and suffered through the Bataan Death March in 1942, which led to his own death shortly afterwards. As Grammy wrote in an autobiographical account of historical events that she sent to her children in 2007, "Sometimes not having clout can be a good thing."¹² Although no actual fighting took

¹² Patricia Goyette Miller, "The Historical Events of My Life" (personal account, in the author's possession, 2007), 2.

place in Panama, the Panama Canal and its impact on travel between the Allied Powers and the Pacific Ocean meant that the United States had a major interest in keeping it out of the hands of the Axis Powers. My grandmother remembers German submarines floating in her “watery front yard,” and once when her mother was playing bridge at a neighbor’s house, Grammy heard planes flying overhead.¹³ She naturally went running outside to wave hello to the planes, and admired the beautiful Rising Sun on their underbellies. Her mother came sprinting down the street, yelling at her to get back in the house immediately. She recalls, “I got a spanking for either waving or not going to the air raid shelter or both.”¹⁴ Their time in Panama came to an end with the Japanese attack on Pearl Harbor on December 7, 1941, after which they were evacuated by early 1942. Their next-door neighbor had collected beautiful Japanese artwork that had always been off limits to children. However, the day after Pearl Harbor, the neighbor let her daughter and my grandmother tear apart the beautiful paintings. Grammy remembers her father saying that if they had decided to bomb the Panama Canal instead of Pearl Harbor, the Axis Powers would have won the war.

After Panama, the family moved to Little Rock, Arkansas briefly before Edwin was stationed in North Africa for the remainder of the war. My grandmother and her mother then moved to Oneonta, NY to live with Eleanor’s parents. The defining memory from these years for my grandmother was the death of President Franklin Delano Roosevelt on April 12, 1945. She remembers running out to the backyard and sobbing. My great-great grandmother, Mabel Ann Paine, brashly

¹³ Ibid., 2.

¹⁴ Ibid., 2.

snapped at my grandmother, “Why are you crying? He was a Democrat!” My grandmother’s parents were not very political as Edwin’s position in the Army and the associated frequent relocations impeded their ability to vote with any consistency. However, my grandmother’s maternal grandparents were staunch, active Republicans. My grandmother replied through her tears that he was the only president that she had ever known.

Though my grandmother does not clearly remember the details about the next part of her life, her mother was dealing with some personal demons. My grandmother was living with her father again, in either Denver or Indianapolis, when her mother was institutionalized at the Hartford Retreat, a posh psychiatric facility in Hartford, CT with an outdoor landscape designed by Frederick Law Olmsted.¹⁵ There, Eleanor died on October 15, 1948 at the age of thirty-eight, from acute alcoholism. My grandmother was fourteen years old.

The next impressionable event was the firing of General Douglas MacArthur in April of 1951, when my grandmother was seventeen. She was living with her father in Denver at the time. Despite being re-elected for a second term, President Harry S. Truman was not terribly popular with the American people and well, a Democrat. MacArthur on the other hand, was generally regarded as a war hero by her father. When my grandmother asked her father what he thought of MacArthur’s firing, she expected him to answer disapprovingly. As she remembers, “to my amazement, he said Truman was correct because MacArthur disobeyed his

¹⁵ “About Us,” *Institute of Living*, accessed January 9, 2018, <https://instituteofliving.org/about-us>.

(admittedly civilian) commander-in-chief.”¹⁶

Meanwhile, Edwin was rapidly ascending the ladder in his military career, which connected him politically with some pretty influential figures. In the late summer of 1951, President Truman sent my great-grandfather overseas to treat Mohammad Reza Pahlavi, the last Shah of Iran. In a letter Truman sent to Edwin on September 20, he thanked him for his successful execution of “the highly confidential mission,” and especially for his “demonstration of diplomacy, military bearing, and professional brilliance which contributed so definitely to the success of this special mission.”¹⁷ Later, in the fall of 1954, Edwin treated President Dwight D. Eisenhower when he visited Fitzsimons Army Medical Center, outside of Denver, CO, for a medical examination. When the President first saw Edwin, he laughed. He explained that during the war, like all generals, he had a “body double” as a safety precaution. Edwin looked just like the double! President Eisenhower sent Edwin a thank you note afterwards, and the following May, he was invited to an “informal stag dinner” at the White House.^{18,19} Though it is not clear from the framed letters that hang in my grandmother’s kitchen if the dinner was for any specific occasion, Eisenhower implored in his invitation that Edwin keep the event details confidential until the event had passed. Though it seems that Edwin met these presidents through necessary medical business, he clearly was also well regarded enough to interact socially with

¹⁶ Patricia Goyette Miller, “The Historical Events of My Life,” 3.

¹⁷ Harry S. Truman to Edwin Matthew Goyette, print letter, in the author’s possession, September 20, 1951.

¹⁸ Dwight D. Eisenhower to Edwin Matthew Goyette, print letter, in the author’s possession, October 15, 1954.

¹⁹ Dwight D. Eisenhower to Edwin Matthew Goyette, print letter, in the author’s possession, May 5, 1955.

them afterwards.

When my grandmother was beginning to consider college, she confessed to her father that she dreamed of becoming a doctor. Edwin replied that if she were to study medicine, she would just be taking the place of a man, a completely foolish and selfish decision. He told her that there were three professions available to her: teacher, nurse, or medical technologist. She went with the third option since she did not know what it really meant, and she absolutely knew that she did not want to choose either of the first two choices. She then attended the University of Colorado in Boulder, graduating with a degree in medical technology in 1957. She remembers her college experience as incredibly sexist, with clearly delineated gender roles. University of Colorado was a big party school at the time, and “3.2 beer” (named for its low alcohol content) was the drink of choice. There, my grandmother met her first husband, Dee Sowl. After graduation, they married and she worked full-time while putting him through medical school. It seemed that he was the man whose spot she had graciously left open on the advice of her father.

Colorado (1958–1967)

Apparently this strategy (leaving space for men) was not going to work for my grandmother nearly well as Edwin had intended. For a while, everything was okay. Their daughter, Jennifer, was born in 1959, and suddenly my grandmother had the perfect little nuclear family, and with a doctor for a husband no less! She stopped working and settled into the housewife routine that was the social norm for middle-class women at the time. However, three years later Dee informed my grandmother

that he had never loved her and that he was having an affair with a nurse that he had met at the hospital. With a two-year-old daughter and nowhere near enough financial resources to pay for childcare, my grandmother was stuck.

Several years earlier, a young journalist named Betty Friedan had been tasked with creating and analyzing a survey of her fellow Smith College alumni at their fifteen-year reunion.²⁰ Deeply struck at how dissatisfied the respondents felt about how their lives had turned out and determined to figure out the cause, Friedan expanded her research and five years later, *The Feminine Mystique* was published in 1963. In the opening chapter of the book, Friedan wrestles with what she called “the problem that has no name,” which she describes as:

A strange stirring, a sense of dissatisfaction, a yearning that women suffered in the middle of the twentieth century in the United States. Each suburban wife struggled with it alone. As she made the beds, shopped for groceries, matched slipcover material, ate peanut butter sandwiches with her children, chauffeured Cub Scouts and Brownies, lay beside her husband at night—she was afraid to ask even of herself the silent question—“Is this all?”²¹

As the book quickly became a national bestseller, my grandmother remembers sitting down with her own copy, lost and unfulfilled in her own life and eager to find out what was so amazing about this surprise success. She nestled into an overstuffed armchair in her living room and could get through only a few pages at a time, before putting the book down and considering the truth of Friedan’s words that she saw mirrored in her own life. It was then that she “realized all of the mistakes that I’d

²⁰ Betty Friedan, interview by Ben Wattenberg, *The First Measured Century*, PBS, <http://www.pbs.org/fmc/interviews/friedan.htm>.

²¹ Betty Friedan, *The Feminine Mystique* (New York: W.W. Norton & Company, [1963] 2001), 57.

made as a young woman, blithely accepting standard roles for women.”²² She was able to gain clarity for the first time about the sociological underpinnings of her life, realizing that it was not her fault that her picture perfect life had not worked out in the way that she intended. If she wanted to pursue more than what was expected of her, she would have to work incredibly hard. This newfound knowledge did not deter her. Instead, it lit a fire in her belly. This was one of two events that drastically changed the way that my grandmother saw the world.

Around this time, my grandmother’s best friend Nancy discovered that she was pregnant, which she definitely did not want to be at the time. Abortion was illegal in Colorado except in cases where the pregnant woman was likely to die, so my Nancy could not seek out any sort of aboveboard procedure.²³ After frantically exploring any avenue that she could think of with little success, she eventually found someone with some peripheral medical training who agreed to perform the procedure. It was not a simple, safe procedure like it is today, and had to be performed outside of any medical establishment, shrouded in secrecy. Nancy felt scared and alone but she survived relatively unscathed. In this way she was exceptionally lucky, as many women died from illegal abortions and those who survived often faced substantial medical complications after the procedure. My grandmother was the only person that Nancy told about her experience, and knowing what her friend had gone through and that she had been unable to do anything to help her tormented my grandmother for many years. She was about twelve or thirteen the first time that she had heard the

²² Patricia Goyette Miller, text message to author, March 16, 2018.

²³ “It’s Been 50 Years since Colorado Passed This Groundbreaking Abortion Law,” *Time*, April 25, 2017, <http://time.com/4753918/colorado-abortion-law-50-year-anniversary/>.

word “abortion,” in a conversation with her mother and father, a nurse and doctor respectively. She had asked why was abortion so bad and had been told that it was because it was illegal. But as she questioned her father about why this was the case if it was a medical procedure just like her mastoid surgery, her mother had grabbed her hand and told her, “It isn’t that easy. Be careful. Be safe. Don’t get caught. You could die.”²⁴ This answer was puzzling to my grandmother and her underlining confusion about why the world was like this felt even more frustrating given her personal connection to illegal abortion through Nancy.

The next year, through her job working at a lab in the University of Colorado Medical Center, she met Richard L. Miller. The first Democrat that she had ever really known, Richard pushed her to explain her Republican viewpoints to him. Realizing that she had never before had to consider why she held her opinions and still processing *The Feminist Mystique* and Nancy’s illegal abortion, my grandmother began to radically shift in her politics, blossoming into the totally unapologetic liberal that I know and love today. Richard and my grandmother were married in January 1965 and my mother Gretchen was born in November.

In January 1967, my grandmother was taking a political science course in pursuit of a master’s degree at the University of Colorado. The class was given a somewhat unorthodox assignment: to try to introduce a piece of legislation into the Colorado General Assembly and follow any progress that might happen. According to my grandmother, the goal was to “have us gain some understanding of the legislative

²⁴ Patricia Goyette Miller, “*The Worst of Times* Book Proposal” (book proposal, in author’s possession, 1991), 4–5.

process and citizen involvement in that progress.”²⁵ My grandmother had some interest in abortion law and policy so she decided to look for an already existing piece of abortion legislation that could serve as a model for her assignment. At that time, California was considering a bill that, if adopted, would become the first modern abortion law in the United States. The bill was generating a great deal of buzz, but it was unclear at the time if Governor Ronald Reagan would actually sign the bill upon its passage in the California State Legislature. My grandmother then called her good friend Richard Lamm, who was serving as a freshman senator in the Colorado General Assembly. She and my grandfather knew Lamm well as they were all in Young Democrats of America, the youth division of the Democratic Party, together. Using the California bill as a guide, Lamm and my grandmother adapted the bill, found enough cosponsors, and Lamm introduced the bill into the Colorado General Assembly as House Bill 1426, where it passed easily with minimal pushback on April 25, 1967.²⁶ Since this was two months before Governor Reagan signed the Therapeutic Abortion Act into law, Colorado can claim the first modern abortion law, narrowly beating out California for the distinction.

The Colorado law was, in all respects, pretty conservative. It legalized abortion before sixteen weeks of pregnancy in cases of rape, incest, fetal deformity, or if a woman’s health was seriously at risk. Additionally, if a woman was younger than eighteen, she had to have parental approval, and/or if she was married, then her husband had to agree with her decision.²⁷ The law also served to criminalize any

²⁵ Patricia Goyette Miller, “Abortion Story Credentials” (book proposal, in author’s possession, 1991), 1.

²⁶ H. B. 1426, 46th Colorado General Assembly (1967).

²⁷ H. B. 1426, 46th Colorado General Assembly (1967)

other methods of abortion outside of the authorized medical space. Both illegal abortionists and *pretend* illegal abortionists (“who internally pretends to end the real or apparent pregnancy of a women”) risked both a fine and jail time.²⁸ Still, all this is not to diminish the absolutely mammoth triumph of this bill becoming law. Media coverage cited Lamm and Governor John Love as brave and progressive visionaries, which of course they were.²⁹ However, such a narrative misses the fascinating beginning of the story, that the class assignment of a thirty-three year old housewife could have been the starting point of it all.

Pittsburgh Beginnings (1967–1971)

In Colorado, my grandfather had been working as a journalist for the International Union of Mine, Mill, and Smelter Workers newspaper. When the union merged with United Steelworkers in 1967, he was able to maintain his job in the new union. That summer, my family relocated across the country from Denver to Pittsburgh, Pennsylvania. Once they had arrived, my grandmother quickly became a bit of a celebrity among the city’s activists, who were impressed with her role in passing the abortion law in Colorado. At the same time, women’s rights organizations such as the newly formed National Organization for Women (NOW), with their focus on issues like workplace discrimination and contraception, were nervous about taking on such a controversial topic as abortion.³⁰ They decided that it would be best for new, local organizations to be started whose sole focus would be legalization of

²⁸ H. B. 1426, 46th Colorado General Assembly (1967)

²⁹ “It’s Been 50 Years since Colorado Passed This Groundbreaking Abortion Law,” *Time*, April 25, 2017, <http://time.com/4753918/colorado-abortion-law-50-year-anniversary/>.

³⁰ Mary Ellen Tunney, in discussion with the author, January 2018.

abortion. This suggestion was the additional push that my grandmother needed to start her own organization in Pittsburgh, the Abortion Justice Association (AJA), taking on the position of vice-chairperson. The other vice-chairperson, Dr. Maurice Cerul, secretary Mrs. Jay Schiegg, and treasurer Malvern Powell, served in the other titled positions, with two additional doctors and a reverend completing the organization's executive committee.³¹ Malvern Powell's wife Ann, upon hearing that the organization was looking for a more visible male presence so as to gain legitimacy in the male-dominated spheres of politics and news, had volunteered her husband for treasurer. At the time, the standing abortion law in Pennsylvania had been first enacted in 1860 and criminalized anyone who intentionally unlawfully performs an abortion on a woman. The subsequent 1939 Act did very little to make this phrasing more clear, simply adding the word "and" to the description of the criminal penalty.³²

Though my grandmother was heavily focused on local organization, she recognized that if legislative change was the eventual goal, statewide communication would be necessary. Towards the end of 1969, she formed Pennsylvanians For Choice. This group mainly seems to have served as a communication channel between the Abortion Justice Association and Philadelphia's Pennsylvania Abortion Rights Association (PARA). However, according to Rosemary Nosiff's dissertation "Abortion Policy in New York and Pennsylvania: 1965–1972," differences in organizational focuses and structures prevented this cooperative effort from becoming

³¹ Maggie Patterson, "Reform of Abortion Laws Group's Goal," *The Pittsburgh Press*, June 4, 1969.

³² "Report of the Pennsylvania Abortion Law Commission" (commission report, Harrisburg, 1972), 35.

politically significant.³³

In the infancy of AJA, there is not a great deal of coverage on the organization, save for announcements of a panel or talk that they were sponsoring. The tides turned at the end of 1969, with a four day series called “Abortion: Murder or Mercy?” written by journalist Ann Curran in the *Pittsburgh Post-Gazette*. Curran was really invested in highlighting the antagonistic nature of her posed title question, in each of the first three days profiling a pro-choice and pro-life figure across a variety of spheres. Day one: two doctors³⁴, day two: a reverend and the attorney/leader of the Pennsylvania branch of the American Civil Liberties Union³⁵, and day three: “two housewives.”³⁶ I’ll let you take one guess at who the pro-choice housewife happened to be.

“Mary Winter and Pat Miller look like average housewives,” began the article, entitled “Willy-Nilly Breeding Knocked.” “They are young, enthusiastic, and obviously pressed for time, as they juggle the many needs of their families and their own outside interests.”³⁷ So as to really illustrate the perceived normalcy of the two women, half of the article space was taken up by two pictures: Winter helping her daughter color and my grandmother making a phone call. However, as the dramatic foreshadowing of the *Post-Gazette* set up heavy-handedly, things are not always as they appear. The women are revealed to deviate from normalcy is in regards to their

³³ Rosemary Alise Nossiff, “Abortion Policy in New York and Pennsylvania: 1965–1972” (doctoral dissertation, Cornell University, 1994), 78.

³⁴ Ann Curran, “Doctors Disagree on Rights of Mother and Fetus,” *Pittsburgh Post-Gazette*, December 30, 1969.

³⁵ Ann Curran, “Fetus Is Child in Its 27th Week,” *Pittsburgh Post-Gazette*, December 31, 1969.

³⁶ Ann Curran, “Willy-Nilly Breeding Knocked,” *Pittsburgh Post-Gazette*, January 1, 1970.

³⁷ *Ibid.*

roles in the so-called “abortion battle.” My grandmother made it quite clear that Pennsylvania’s conservative abortion law was not keeping women safe; in fact the complete opposite was true. “People are not deterred by the law...if they want an abortion, they are going to get one,” she warned.³⁸ She had seen Nancy face an illegal abortion back in Colorado and was continuing to meet more women through her activism with similarly terrifying tales. Winter, on the other hand, told the paper that though women oftentimes are unsure about a pregnancy at first, feeling the fetus move inside their stomach was enough to quell any concerns that they might have. In the decades to come, my grandmother and Winter would continue to spar ideologically in the Pittsburgh newspapers.

At this point, my grandmother was heavily involved in abortion rights organizing in Pittsburgh. She had become the “it girl” of the local movement, and any article written in the newspapers always included a quote from her. She knew that legislatively, it made little sense to have a strictly local focus. While waiting for national tides to change (and who know how long that would take), she needed to turn her attention to statewide efforts. Three hundred miles away, in Philadelphia, abortion was treated much differently by bureaucratic figures. Due to the vague nature of the 1939 Act, which prohibited illegal abortions yet failed to clarify how an illegal abortion indeed differed from a legal one, Philadelphia District Attorney Arlen Specter was choosing to focus his prosecution on abortionists outside of the medical space instead of any doctors who were providing abortions.³⁹ On the other side of the state, doctors performing abortions in Pittsburgh did so at great personal risk. Though

³⁸ Ibid.

³⁹ Rosemary Alise Nossiff, “Abortion Policy in New York and Pennsylvania,” 78–79.

the number of therapeutic abortions (those performed for the health of the pregnant woman or due to fetal inviability) had been increasing exponentially in local hospitals, at an astounding 1100% percent between 1966 and 1969, the procedure was still illegal and the bounds that necessitated a therapeutic abortion frequently came into question.⁴⁰ In October 1970, three Pittsburgh doctors, Wilfred Finegold, Louis Meyers, and Felix Miller, were arrested and charged with conspiracy to commit abortion.⁴¹ Pittsburgh District Attorney Robert W. Duggan claimed that arrests were a necessary part of his quest to investigate hospital abortions, however when it was revealed that he would be subpoenaing patient records, three women sued in order to stop his ability to do so.⁴²

In April 1970, New York had legalized abortion, and was quickly becoming a destination for women to travel to in order to have safe, legal abortions. According to the Center for Disease Control's Abortion Surveillance Report for the April-June quarter of 1971, 59.8% of all abortions in New York were performed on women who lived in another state.⁴³ When an article was published in the *Pittsburgh Post-Gazette* noting the dramatic decrease in abortion-related deaths among New York women, my grandmother pointedly pivoted to sharing that she was "shocked to read about the death of a Pittsburgh girl who had had an illegal abortion. If she had only known she could go to New York for an abortion, her life might have been saved."⁴⁴

⁴⁰ Maggie Patterson, "Abortions in County Hospitals Up 1100% in 4 Years," *The Pittsburgh Press*, August 2, 1970.

⁴¹ "Three Doctors Are Charged In Abortion Probe," *Pittsburgh Post-Gazette*, October 6, 1970.

⁴² "3 Women Sue to Halt DA's Abortion Probe," *Pittsburgh Post-Gazette*, October 24, 1970.

⁴³ Center for Disease Control, "Abortion Surveillance Report, April-June 1971" (government report, Atlanta, 1972), 2-8.

⁴⁴ "Fewer Abortion Deaths," *Pittsburgh Post-Gazette*, April 7, 1972.

In June 1970, my grandmother approached Gerald Kaufman, a freshman Democratic member of the Pennsylvania House of Representatives from the Squirrel Hill neighborhood of Pittsburgh. She asked if he would be interested in sponsoring an abortion reform bill. Kaufman agreed and delegated the roles of answering incoming mail on and organizing support around the topic to the AJA.⁴⁵ The bill, HB 2393, was introduced on June 16, 1970. It ingeniously focused on criminalizing abortion performed by anyone who was neither a physician nor someone acting under the supervision of a physician, therefore leaving room in the Pennsylvania legal code for physicians to continue to perform therapeutic abortions.⁴⁶ Pennsylvanians in Support of House Bill 2393, created by my grandmother, “concentrated its attention on building legislative support by coordinating letter-writing and petition campaigns to demonstrate constituents’ support for reform.”⁴⁷ Unfortunately, the bill did not make it out of the Judiciary Committee.⁴⁸ The next piece of pro-choice legislation was HB 536, again introduced by Kaufman. This was a repeal bill, demonstrating an escalation from earlier reform efforts. The bill, introduced on March 29, 1971, sought to legalize abortion for any woman seeking one before sixteen weeks of pregnancy. However, protections were included that allowed any doctor or hospital with a religious or moral justification to refuse to perform abortions.⁴⁹ Perhaps unsurprisingly given the fate of the less radical HB 2393, this bill also did not pass. In response, anti-abortion legislators countered with HB 800 less than a month later,

⁴⁵ Rosemary Nossiff, *Before Roe: Abortion Policy* (Philadelphia: Temple University Press, 2001), 117.

⁴⁶ H. B. 2393, Pennsylvania General Assembly (1970)

⁴⁷ Nossiff, *Before Roe*, 125

⁴⁸ Rosemary Alise Nossiff, “Abortion Policy in New York and Pennsylvania,” 82.

⁴⁹ H.B. 536, Pennsylvania General Assembly (1971).

which sought to ban all abortions except those in circumstances where “all of the members of a special hospital board [have agreed] that continuation of the pregnancy, in their opinion, with reasonable medical certainty, will result in the death of the woman.”⁵⁰

The recently formed Pennsylvania Abortion Coalition (PAC), a second attempt at statewide organization, pooled together the information and resources of a variety of organizations across Pennsylvania, including both AJA and PARA but also other groups in less populous areas of the state, such as the Lehigh Valley Abortion Rights Association (LEVARA) and Northwestern Pennsylvanians for the Right to Choose. In PAC’s mailings, they provided information to interested citizens about how they could impact abortion policy in the state. In their second newsletter, PAC outlined the voting record of all legislators for both HB 536 and HB 800, and explained how constituents should reach out to their representative based on his or her voting pattern to best push for more progressive abortion policy.⁵¹

After the rejection of these three bills, the abortion debate in Pennsylvania had stalled as a result of polarization. In December 1971, Governor Milton Shapp announced that he would be taking a step that surely came as a shock to the politicians in gridlock. It was now time for him to fulfill a campaign promise that he had made during his gubernatorial race in 1970.⁵² A commission was to be formed, comprising those who fell on all sides of the abortion debate: in support, against, and neutral. The commission members would study statewide attitudes and then make a

⁵⁰ H.B. 800, Pennsylvania General Assembly (1971).

⁵¹ Pennsylvania Abortion Coalition mailing, vol. 1, no. 2, in the personal collection of Dr. Patricia Ulbrich.

⁵² Rosemary Alise Nossiff, “Abortion Policy in New York and Pennsylvania,” 82.

policy recommendation to the governor himself. One additional detail: this group would be made up entirely of women.

Shapp Abortion Law Commission (1972)

After Governor Shapp announced the formation of the Pennsylvania Abortion Law Commission, the AJA and Pennsylvania Catholic Conference, an anti-abortion group, began to internally consider who could best represent their interests on the commission.⁵³ Ultimately, my grandmother was one of the twenty-three women chosen by Shapp. Three of the participants were from explicitly pro-abortion organizations: Grammy, Marilou Theunissen of the Clergy Consultation Service, and Elizabeth Shipley of PARA⁵⁴. The latter two women were from Philadelphia, making my grandmother the only participant from Pittsburgh serving specifically in a role as abortion rights activist. There were other openly pro-choice woman from Pittsburgh, most notably Dr. Rose R. Middleman, but they had other professional roles to negotiate and consider. Once the commission was formed, it was then instructed to make its recommendation by May 1st.⁵⁵ This meant that the women had just over three months to get a sense of what Pennsylvania's women wanted, and negotiate with each other in order to craft a proposal that could be agreed upon despite their major differences in opinion. This was a momentous task and it certainly would not be easy.

One established task of the commission was to hold public hearings across the state. My grandmother and her fellow abortion rights activists in PAC recognized the

⁵³ Rosemary Alise Nossiff, "Abortion Policy in New York and Pennsylvania," 88.

⁵⁴ Rosemary Alise Nossiff, "Abortion Policy in New York and Pennsylvania," 89.

importance of ensuring participation in these events by a variety of pro-abortion voices. To accomplish this, my grandmother, the organization's director, networked with abortion rights proponents across the state to find testifiers for the hearings.⁵⁶ In the PAC's first statewide mailing, the dates of the four public hearings (in Harrisburg, Philadelphia, Pittsburgh, and Erie) were printed followed by the plea, "We strongly urge you to attend a hearing in the city nearest you! It may be the most important step you ever take the secure safe abortions for all Pennsylvania women who seek them!"⁵⁷

When I asked my grandmother what these hearings were like, she described them as some of the most powerful things that she has ever experienced. Approximately two hundred and fifty people testified in total: doctors, clergymen and women, social workers, and most importantly, the women themselves.⁵⁸ Some of them shared stories that they had never told anyone, of their scariest moments and greatest periods of doubt and uncertainty. In Erie, the commission sat on brightly lit stage, with the testifiers all waiting in the audience, cloaked in darkness. The two sides of the issue were so fervently in opposition to each other, but in that fleeting moment, they appeared the same. As my grandmother describes, "despite my perceived smugness about the extent of my abortion knowledge, those public hearings were the first time I had any detailed realization of the suffering of other people as a

⁵⁵ "Shapp Selects Abortion Probers," *The Pittsburgh Press*, January 21, 1972.

⁵⁶ Rosemary Alise Nossiff, "Abortion Policy in New York and Pennsylvania: 1965–1972," 94.

⁵⁷ Pennsylvania Abortion Coalition mailing, vol. 1, no. 1, in the personal collection of Dr. Patricia Ulbrich.

⁵⁸ Patricia Goyette Miller, "The Worst of Times Book Proposal" (book proposal, in author's possession, 1991), 6.

result of the laws criminalizing abortion.”⁵⁹

The powerful testimonies could not transcend in-fighting among members of the commission. As early as February, an accusation of profiteering, brought by commission member Judy Fink against the four commission members who worked at hospitals or health centers and therefore supposedly would be profiting from a pro-abortion recommendation, rippled across the newspapers. When asked about this by *The Pittsburgh Press*, my grandmother coolly responded, “they are scared of what the commission’s recommendations to the governor will be and are trying to discredit us now.”⁶⁰ Fink provided suggestions of additional women that she wanted to be added to the commission to fix this perceived disparity. Ultimately, instead of getting personally involved, Governor Shapp told the commission that the members were to vote in order to determine whether to change or maintain its current composition. They overwhelmingly voted against adding any new members and affirmed the desire to “maintain the commission as it is presently constituted and continue with the business at hand,” which I may be mentally imbuing with more bite than was actually present.⁶¹

In her letter to the Governor at the conclusion of the commission in June 5, 1972, Co-Chairwoman Dr. Emily H. Mudd, explained that, on April 23, the commission had unanimously decided that the final report would be composed of three sections: Consensus Commission Report, Majority Report, and Minority Report. However, due to irreconcilable differences, no sort of consensus was

⁵⁹ Ibid.

⁶⁰ Lawrence Walsh, “Profiteering Charge Sparks Feud In Shapp’s Abortion Commission,” *The Pittsburgh Press*, February 13, 1972.

⁶¹ Ibid.

possible.⁶² Ultimately, fifteen women signed the Majority Report, and eight signed the Minority Report. In my grandmother's recollection, the neutral women did not participate in the opinion writing, instead signing onto the side that they agreed with the most after reading both positions. My grandmother tells me that all of the initially neutral women ended up supporting the majority report, but as the original personal positions of those involved were never published, it is impossible to find any sources supporting or denying this.

Also on June 5, a lawsuit was filed against the governor, state treasurer, and commission members by seventeen men who alleged that the makeup of the commission unfairly discriminated against men, basing their claim on a recent amendment in the state constitution protecting against gender discrimination.⁶³ They did this of course while totally ignoring the fact that a) women alone could be forced to physically carry an unwanted pregnancy to term if they could not procure an abortion and b) that the government forming laws on abortion across all levels was almost exclusively made up of men at the time. Suspiciously, fifteen of the seventeen men were clearly supporters of the anti-abortion movement, either being members or having wives who were members of Pennsylvanians for Human Life and/or Women Concerned for the Unborn Child.⁶⁴ In addition to their clear partisan leaning, the men also had less than stellar logic, citing that not only are 51.4% of babies born in the state male, but so are "exactly half" of all parents, and the majority of obstetrics and

⁶² "Report of the Pennsylvania Abortion Law Commission" (commission report, Harrisburg, 1972), v.

⁶³ "Abortion Panel Faces Sex Bias Suit," *The Pittsburgh Press*, June 5, 1972.

⁶⁴ *Ibid.*

gynecology doctors.⁶⁵ In a not so surprising twist, nothing substantially consequential came of this lawsuit.

In the actual commission report, a variety of different issues were touched upon in both the majority and minority opinions: morality, law, medicine, socioeconomics, and public opinion.⁶⁶ My grandmother personally served on the legal committee of the commission, and therefore worked on the “Abortion and the Law” section of the majority report. Though she had no formal legal training at the time, her work in Colorado had convinced her of the powerful potential of the law to shape public opinion, and she took to the work with great enthusiasm. In their analysis, the majority faction of the legal committee made the seemingly unbelievable claim that Pennsylvania had the most restrictive abortion laws in the entire country. They cited a Department of Health, Education, and Welfare report that categorized thirty-one states as having more restrictive abortion policy than Pennsylvania. However, Pennsylvania had a vagueness in its statute in terms of what constituted an illegal abortion: all illegal abortion was, as the name suggests, illegal. There was no mention of any exceptions for the health of the pregnant woman. The only other state whose law did not permit abortion even in this case was, somewhat shockingly, Massachusetts. However, the ruling in a Massachusetts court case allowed for abortion in cases where the health of the pregnant woman was at stake.⁶⁷

After establishing that, under their framework, Pennsylvania did indeed have the most restrictive abortion law in the country, the writers then provided an overview of what they saw as the four possibilities for state abortion policy, divided into the

⁶⁵ Ibid.

⁶⁶ “Report of the Pennsylvania Abortion Law Commission,” i.

two categories of generally restrictive and liberal. The first type, “highly restrictive,” was defined as only allowing abortion in instances to save a woman’s life. At the time of the report, highly restrictive policies were in place in two-thirds of all states.⁶⁸ The majority writers problematized this position in a number of ways. It impeded on the privacy of private citizens, under the Fourteenth Amendment could be construed as forcing women into “involuntary servitude for a nine-month duration with an eighteen-year commitment,” and in no way actually makes women’s lives safer.⁶⁹ At the time, the Pennsylvania abortion law would be even more restrictive than the highly restrictive possibility, given its absence of any written exclusions, however the issues identified in this position type are still applicable to the state.

Moving in a more liberal direction, the writers then cover the “reform” type of state abortion policy. Based upon the American Law Institute’s (ALI) Model Penal Code, this framework was in usage in twelve states at the time.⁷⁰ This sort of policy included a variety of exceptions under which abortion would be permissible: health of the pregnant woman, fetal deformity, rape, and incest. First, the writers highlighted issues with the definition of each of these categories that would impede a women’s ability to have an abortion even if she fit into one of these exceptions. However, their main issue with such a stance was that it prevented a woman from being an active decision-maker in her own life, categorizing the ALI code as one that:

Sees a woman only as a “victim”— of rape, rubella, of mental illness — never as the shaper of her own destiny. Moreover, she must prove her worthiness, sincerity, etc. to people who are unaffected by her pregnancy. In this way, the ALI position when passed into law, serves

⁶⁷ “Report of the Pennsylvania Abortion Law Commission,” 36–37.

⁶⁸ *Ibid.*, 38–39.

⁶⁹ *Ibid.*, 40.

⁷⁰ *Ibid.*, 41.

to reinforce as inferior status for women by forbidding to them a decision concerning themselves.⁷¹

The next type of policy was the first to be categorized as liberal, one with elective abortion before a certain specified time limit, after which the state was free to impose restrictions. There were four states with this law type: New York, Washington, Alaska, and Hawaii.⁷² Though this was certainly more empowering than the first two policies, the writers were unsatisfied with the existence of any time limit. Asserting based on medical testimony that abortion did not suddenly become significantly more hazardous at a specific stage of gestation, nor was it at any time more dangerous than birth itself, they dismissed the time limit as simply a mechanism for states to exercise some sort of regulation, a reflex that the state felt compelled to exercise.⁷³

The issues outlined in these three types of abortion position left the majority faction of the legal committee to conclude that states must take a neutral stance on abortion, the last remaining option, leaving it to a pregnant woman to make the choice herself. If keeping women safe was truly the motivation for a state to heavily regulate their access to safe and legal abortions, then this could be better done through regulation of medical practices in order to ensure that women were receiving the best medical abortions possible. Acknowledging that abortion is a highly controversial topic, the writers asserted that “a pluralistic society is precluded from resorting to criminal proscription of conduct about which substantial segments of the problem are

⁷¹ Ibid., 43.

⁷² Ibid., 44.

⁷³ Ibid., 44–45.

in basic disagreement.”⁷⁴ In their concluding recommendation, the majority in the legal committee recommended removing any sort of criminal sanctions tied to abortion that were not explicitly related to improving women’s access to safe and legal abortions within the medical sphere.⁷⁵

After the release of the full commission report, Governor Shapp was careful not to show his own personal views on abortion, responding “let the report speak for itself...regardless of my personal views on the subject, I (will) be guided by the views of the entire commission.”⁷⁶ Though both sides of the commission urged lawmakers to consider their portions of the report and vote accordingly⁷⁷, there was no subsequent legislative process in either direction. In later reflection, my grandmother recalls the overwhelming disappointment that she felt after it seemed that the legislature had dismissed all of the hard work that she and her fellow commission members had put into their assignment to determine if and how Pennsylvania’s abortion policy should change. This, coupled with a law review article that she read around the same time about how a woman’s right to abortion could be argued as falling within her constitutional right to privacy, solidified her decision to apply to law school.⁷⁸

Before starting this project, I had no idea that my grandmother had served on this commission, or even of its existence in the first place. In today’s political system, we see bodies of government disproportionately made up of older white men

⁷⁴ Ibid., 46.

⁷⁵ Ibid., 46.

⁷⁶ “Shapp Silent on Report of Abortion Law Panel,” *The Pittsburgh Press*, June 13, 1972.

⁷⁷ Lawrence Walsh, “State Lawmakers Hear Pros, Cons in Abortion Showdown,” *The Pittsburgh Press*, June 20, 1972.

⁷⁸ Patricia Goyette Miller, “Abortion Story Credentials,” 1–2.

making decisions about women's reproductive rights. The fact that, in the 1970s, the governor of Pennsylvania would appoint a commission made up entirely of women to make a recommendation about abortion legalization is incredible to me. It allowed my grandmother the opportunity to work with women from all across the state who held a wide spectrum of political opinions. She attended grueling, heartbreaking days of hearings, where she heard stories that jostled her assumptions and further fueled her passion for abortion rights. Her work on the legal pieces of the commission report was the final push that she needed to enroll in law school a year later, at almost forty years old. The transformative power of the stories of illegal abortion in the hearings would compel her to write a book twenty years later. She was unwavering in her beliefs and unafraid to let this be known. This is the sort of thing that I point to when my grandmother asks in disbelief, "You mean that you're really writing a whole thesis all about me?" After hearing her story, the better question is how could I not?

Women's Health Services & Anti-Abortion Legislation (1972-1992)

While the Shapp Abortion Law Commission was deliberating, the abortion question was also playing out in the judicial sphere. Obstetrician Dr. Richard McGarvey sued Magee-Womens Hospital, claiming that fetuses were entitled to rights of personhood, using Fourteenth Amendment of the U.S. Constitution and the Civil Rights Act as his justification.⁷⁹ District Judge McClune dismissed McGarvey's assertion, and somewhat shockingly wrote in his ruling on March 17 that "abortion, if

⁷⁹ "U.S. Judge Rules Unborn Children Not Legal Persons," *Pittsburgh Post-Gazette*, March 18, 1972.

not favored, is at least condoned where the mother wants it, requests it and has some plausible reason upon which to base her decision.”⁸⁰ Though this did not legalize abortion definitively for all, it did continue to push Pennsylvania towards a more liberal stance on abortion.

The big wave of change began on January 22, 1973, when the Justices of the Supreme Court found in favor of the appellant “Jane Roe” in the *Roe v. Wade* case, allowing a woman the right to terminate her unwanted pregnancy without state intervention through the end of her first trimester, with increasing levels of intervention after this point.⁸¹ *Roe* was obviously a huge victory for the pro-abortion movement, but a legal decision, even from the highest court in the country, would not prevent the pushback and challenges that awaited my grandmother and her fellow activists in the coming years. After the *Roe* decision, those in Pittsburgh wasted no time in organizing around opening an abortion clinic. Just three days later, a doctor at the local West Penn Hospital, Leonard Laufe, told the *Pittsburgh Post-Gazette* that a new organization, Women’s Health Services, would be starting a non-profit abortion clinic as soon as possible. At the time of *Roe*, West Penn was the only location in Pittsburgh performing outpatient abortions. An additional change that was expected immediately in the wake of *Roe* was the reduction in the cost of an abortion, from \$500 to an expected \$125 or \$150, according to Dr. Donald Hutchinson, of Magee-Womens Hospital, the only other place in Pittsburgh that had been performing

⁸⁰ McGarvey v. Magee-Womens Hosp., 340 F. Supp. 751, 753 (W.D. Pa. 1972), aff’d sub nom. McGarvey v. Magee-Womens Hosp.-McGarvey, 474 F.2d 1339 (3d Cir. 1973).

⁸¹ Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973), holding modified by Planned Parenthood of Se. Pennsylvania v. Casey, 505 U.S. 833, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992).

abortions on any scale at the time.⁸²

On April 17, less than three months after abortion was legalized nationally, Women's Health Services opened its doors in downtown Pittsburgh, one of the first non-profit clinics in the country.⁸³ Ten of the thirteen scheduled abortions on the clinic's first day were performed.^{84,85} True to the Dr. Hutchinson's prediction, Women's Health Services initially charged \$150 for an abortion (soon reduced to \$140), and additionally offered free pregnancy testing.⁸⁶ My grandmother took on the role of educational director in the summer before she was set to begin law school at the University of Pittsburgh. She was thirty-nine at the time. The clinic only offered abortions until the twelfth week of pregnancy, the limit at which the Supreme Court protected abortions from state intervention.⁸⁷ A woman whose pregnancy had progressed past this point would need to seek more advanced care at a nearby hospital. The executive director of the clinic, Leah Sayles, had worked closely with my grandmother in the AJA and the two continued to be lifelong friends until Sayles' death in 1991 at age sixty-one. When explaining the perhaps unexpectedly colorful decorations of the clinic: yellow walls and orange doors, Sayles told the *Pittsburgh Post-Gazette*:

We feel very strongly that there must be nothing backroom about this. A woman must feel she's not doing anything surreptitious. She must feel that she's being given respect and that she's being treated with dignity. So we consider our furnishing a very, very important part of

⁸² Henry W. Pierce, "Abortion Clinics Here May Be Reality Soon," *Pittsburgh Post-Gazette*, January 25, 1973.

⁸³ "Abortion Clinic to Open Downtown," *Pittsburgh Post-Gazette*, March 19, 1973.

⁸⁴ "Clinic Opens for Abortions," *The Pittsburgh Press*, April 16, 1973.

⁸⁵ "City Clinic Performs 10 Abortions in Day," *The Pittsburgh Press*, April 17, 1973.

⁸⁶ "Abortion Clinic Cuts Its Charge to \$140," *Pittsburgh Post-Gazette*, September 22, 1973.

⁸⁷ Dave McConnell, "45 Operations in First Week Planned by Abortion Clinic," *Pittsburgh Post-Gazette*, April 17, 1973.

the whole procedure.⁸⁸

Initially, the clinic had predicted to perform about six hundred abortions a month, a figure calculated by accounting for the local women who would no longer have to travel to New York or Washington, D.C. for the procedure, as well as an influx of women from West Virginia and Ohio.⁸⁹ Apparently when the phone lines were being installed in preparation for the clinic's opening, as soon as the line was connected, all eight call lights were immediately busy.⁹⁰ In its first fiscal year of operation (June 1973 through June 1974), the clinic performed an astounding 9,500 abortions.⁹¹ This breaks down to almost eight hundred a month, or twenty-six per day. This number is all the more incredible when compared to local hospitals: in 1973, Magee performed 1,740 abortions and West Penn, a mere 1,250 abortions.⁹² Quickly, Women's Health Services established itself as the largest abortion provider in the city, which in turn would soon make it a huge target in the eyes of anti-abortion organizers and politicians.⁹³

When talking about abortion politics after *Roe v. Wade*, my grandmother laments how the pro-choice movement, feeling that they had succeeded in their goal of national legalization of abortion, became negligent in guarding against how the anti-abortion movement could and would organize post-Roe. In her analysis, the goal

⁸⁸ Robert Voelker, "Abortion Clinic Is Kept Busy," *Pittsburgh Post-Gazette*, October 22, 1973.

⁸⁹ Dave McConnell, "45 Operations in First Week Planned by Abortion Clinic," *Pittsburgh Post-Gazette*, April 17, 1973.

⁹⁰ Robert Voelker, "Abortion Clinic Is Kept Busy," *Pittsburgh Post-Gazette*, October 22, 1973.

⁹¹ Douglas Smith, "New Abortion Ban Opposed," *Pittsburgh Post-Gazette*, July 25, 1974.

⁹² "Capital March Rallying Foes of Abortion," *The Pittsburgh Press*, January 20, 1974.

⁹³ Dolores Frederick, "State Abortions Up 17% to 52,261 in '76," *The Pittsburgh Press*, March 22, 1977.

of those with an anti-abortion stance shifted towards pushing measures on the state level, “finding those constitutionally permissible limits, impediments, and deterrents” that while technically legal, greatly impede women’s access to safe and legal abortion.⁹⁴ In July 1974, Governor Shapp vetoed the conservative Abortion Control Act, naming provisions that required the male partner’s support and hindered government funding of abortions for poor women as his justification.⁹⁵ Despite this executive challenge, the Pennsylvania legislature was able to override the veto on September 10, 1974.⁹⁶ In the days following this upheaval, the editorial staff of the *Pittsburgh Post-Gazette* published a scathing piece criticizing the “moral absolutists who insist on imposing their views on everyone else,” citing the parental and spousal consent requirements and the bans on abortion advertisement and abortion subsidization by local government as infantilizing, foolish, and short-sighted.⁹⁷ The Planned Parenthood Association of Southeastern Pennsylvania immediately sued in Philadelphia and asked for the implementation of a three-judge federal court to reassess the act’s legal validity.⁹⁸ Two days before the act was to go into effect, the Women’s Health Center brought its own lawsuit. Two pseudonymous plaintiffs testified that their lives would be destroyed if parental and spousal consent were to be mandated, with the clinic and its two full-time doctors additionally claiming that the new law would impact their ability to do their jobs.⁹⁹ On October 10, the day that the

⁹⁴ Patricia Goyette Miller, *The Worst of Times* (New York: HarperCollins Publishers, 1993), 318.

⁹⁵ Press Harrisburg Bureau, “Shapp Abortion Veto Fight Vowed,” *The Pittsburgh Press*, July 26, 1974.

⁹⁶ “Abortion Control Law Challenged,” *The Pittsburgh Press*, September 21, 1974.

⁹⁷ “Abortion-Law Vindictiveness” (editorial), *Pittsburgh Post-Gazette*, September 16, 1974.

⁹⁸ “Abortion Control Law Challenged,” *The Pittsburgh Press*, September 21, 1974.

⁹⁹ “Abortion Clinic Fights Law,” *The Pittsburgh Press*, October 8, 1974.

Abortion Control Act was due to go into effect, it did but with two key provisions stipulated by the federal judge overseeing the Women's Health Services suit: the parental-spousal consent mandate and the Department of Health's oversight and management of all abortion facilities would be excluded from the enforcement of the act.¹⁰⁰ In response to the failed prevention of the law in its entirety, the Abortion Rights Coalition was formed in Pittsburgh, made of thirteen diverse groups focused on abortion, race, and sexuality. Though abortion was not their main priority, they all recognized the intersectional threats posed by the act. In explaining their mission, the Coalition gave the following statement: "Abortion is a woman's choice. No government should be allowed to tell us what to do with our bodies."¹⁰¹

Though it was not highlighted in the newspaper coverage at the time, the main point of contention about the act became its insistence that, before an abortion could be performed, the fetus must be determined to be unable to live outside of the womb and if this was not the case, then the physician should attempt to preserve the life of the fetus so that it could hopefully be delivered alive, as long as this did not endanger the mother's health.¹⁰² If a physician did not do this, he or she would be guilty of a first-degree misdemeanor.¹⁰³ A year later, on September 4, 1975, the U.S. District Court for the Eastern District of Pennsylvania, utilizing a "severability clause," ruled that some certain aspects of the act were constitutional while others were not. Importantly, the spousal and parental consent requirements, determination of viability requirement, prohibition of advertising requirement, and the prohibition of

¹⁰⁰ "Abortion Rights Groups to Rally," *The Pittsburgh Press*, October 10, 1974.

¹⁰¹ Ibid.

¹⁰² H. B. 1318, Pennsylvania General Assembly (1974).

¹⁰³ Ibid.

government subsidization of abortions not deemed to be necessary to the health of the pregnant woman were all ruled to be unconstitutional.¹⁰⁴ Notably, the court found the burden of proof necessary to conclude that a fetus is not viable to be “vague and overbroad.”¹⁰⁵ Both the plaintiffs and defendants, disheartened by not receiving all that they wanted due to employment of the severability clause, appealed the case to the Supreme Court, which upheld the Pennsylvania district court’s decision in its ruling in 1979.¹⁰⁶

Another tactic utilized by anti-abortion forces was the attempted criminalization of doctors who performed abortions. In March 1974, Dr. Leonard Laufe, the West Penn doctor who first mentioned the opening of Women’s Health Services to the *Pittsburgh Post-Gazette* in the days following the *Roe v. Wade* decision, found himself in a difficult medical situation. A pregnant woman had contacted Dr. Maurice Cerul, who had served as the co-chairperson of the AJA with my grandmother. She was frantic and suicidal as a result of another doctor’s refusal to perform the late-term abortion that she so desperately needed. Her pregnancy was the result of rape, and she claimed to have already tried to induce her own abortion using a coat hanger.¹⁰⁷ Cerul had contacted Laufe to let him know about the woman’s situation. After being turned away from Magee-Womens Hospital after an ultrasound revealed that she was at least twenty-five weeks pregnant (one week past the Magee cutoff point), she deliberately misled Laufe so that he would think that she was only

¹⁰⁴ Planned Parenthood Ass'n v. Fitzpatrick, 401 F. Supp. 554 (E.D. Pa. 1975), aff'd sub nom. Franklin v. Fitzpatrick, 428 U.S. 901, 96 S. Ct. 3202, 49 L. Ed. 2d 1205 (1976).

¹⁰⁵ Ibid.

¹⁰⁶ Colautti v. Franklin, 439 U.S. 379, 99 S. Ct. 675, 58 L. Ed. 2d 596 (1979).

¹⁰⁷ Henry W. Pierce, “MD Tells of Aborted Baby’s ‘Gasp’,” *Pittsburgh Post-Gazette*, October 31, 1974.

twenty to twenty-two weeks along in her pregnancy (when at this point she was really twenty-seven to thirty-one weeks pregnant).^{108,109} Based on her reported gestation timeline, Laufe agreed to the abortion. The vaginal hysterectomy that had been planned became more complicated when the uterus seemed bigger than Laufe had anticipated and the fetus was discovered to be breech (upside down).¹¹⁰ Once the procedure was over, the fetus was revealed to not be viable, and a coroner's inquest began to determine if the fetus had in fact been born alive. If so, then the next question would be whether it was intentionally allowed to die, an act that, if District Attorney John J. Hickton had his way, meant that Laufe would be charged with murder.¹¹¹

During the abortion procedure, a film was being made that would then be used for educational purposes.¹¹² This would become a major piece of evidence in the inquest. On the film, the fetus seemed to give a single breath upon leaving the woman's womb. In his testimony, Dr. Jules Rivkind, head of obstetrics and gynecology at Mercy Hospital, a Catholic institution, characterized this along with some arm and finger movement as indicative that the fetus had been alive when delivered.¹¹³ However, Dr. Rudy Sabbagha of Magee-Womens Hospital did not agree

¹⁰⁸ Henry W. Piece, "Abortion Jury May Hear Doctor on Baby Heartbeat, See Film" *Pittsburgh Post-Gazette*, November 4, 1974.

¹⁰⁹ Richard F. Fontana and Dolores Frederick, "Aborted Baby Dead, Dr. Laufe Testifies," *The Pittsburgh Press*, November 6, 1974.

¹¹⁰ *Ibid.*

¹¹¹ Henry W. Pierce, "MD Tells of Aborted Baby's 'Gasp'," *Pittsburgh Post-Gazette*, October 31, 1974.

¹¹² Richard F. Fontana and Dolores Frederick, "Aborted Baby Dead, Dr. Laufe Testifies," *The Pittsburgh Press*, November 6, 1974.

¹¹³ Richard F. Fontana and Dolores Frederick, "Baby Born Alive, Film Indicates," *The Pittsburgh Press*, November 4, 1974.

with this assertion. According to Sabbagha, this “one gasp” would fall into the “fleeting efforts at breath or gasps” that the American College of Surgeons had characterized as normal for a stillbirth.¹¹⁴ In his own testimony, Laufe relayed to the jury the vaginal hysterectomy in great detail, including an additional hysterotomy, or incision in the uterus, that he had to make after the uterus was unable to be removed through the vagina in an intact state. At the end of coroner’s inquest, the jury determined that the fetus was stillborn and therefore Dr. Laufe was not charged with any crime.¹¹⁵ Despite how terrible this whole situation seemed to me, my grandmother said that she was never seriously scared for Dr. Laufe. He was so well respected in the community that he could never really be convicted of anything.

Even though my grandmother keeps trying to downplay the severity of the coroner’s inquest, it did have significant consequences. After the trial, West Penn Hospital amended their gestation limit for abortions from twenty-two weeks to twelve weeks, the same limit as Women’s Health Services.¹¹⁶ This meant that Magee became the only medical facility in left in Pittsburgh that performed late-term abortions, which understandably meant that it soon became swamped with requests. Additionally, Dr. Laufe’s case was not unique at the time. In February 1975, Boston obstetrician Dr. Kenneth C. Edelin was convicted of manslaughter in the possible death of a fetus as a possible result of a late-term abortion that he had performed

¹¹⁴ Henry W. Pierce, “MD Tells of Aborted Baby’s ‘Gasp’,” *Pittsburgh Post-Gazette*, October 31, 1974.

¹¹⁵ Henry W. Pierce, “Boston Conviction Likely to Reduce Late Abortions,” *Pittsburgh Post-Gazette*, February 18, 1975.

¹¹⁶ Henry W. Pierce, “Demand for Late Abortions Swamping Magee Hospital,” *Pittsburgh Post-Gazette*, February 22, 1975.

before the conviction was overturned in December 1976.¹¹⁷ Using fear as a motivating factor, anti-abortion forces were able to control hospitals' willingness to perform abortions, restricting access with no legislation necessary.

Similar to a major point of contention today, anti-abortion organizers hated the idea that any taxpayer money could be funding abortions for women who otherwise would be unable to afford the procedure. By 1976, Women's Health Services had become not just the biggest abortion provider in the Pittsburgh, but in all of Pennsylvania. And much to the chagrin of opponents, almost a third of all abortions provided there were for low-income women.¹¹⁸ This was especially unthinkable when they were "those which are medically unnecessary but performed *merely* at the woman's request" [emphasis added].¹¹⁹ The 1974 Abortion Control Act had originally tried to prevent these "unnecessary" abortions but the Eastern District Court of Pennsylvania had found this part to be unconstitutional.

One of my favorite chapters of the Women's Health Services, albeit a minor one, was a tiny pilot program in the summer of 1976 that was mentioned in the *Pittsburgh Post-Gazette*. You might guess that this program covered contraception methods or the medical mechanics behind an abortion. In a move far before its time, the five-person program, led by two social workers and both sponsored by and located at Women's Health Services, instead focused on helping women understand

¹¹⁷ Emily Langer, "Kenneth C. Edelin, Physician in Noted Abortion Case, Dies at 74," *The Washington Post*, January 1, 2014, https://www.washingtonpost.com/national/kenneth-c-edelin-physician-in-noted-abortion-case-dies-at-74/2014/01/01/45adf9d6-723a-11e3-8b3f-b1666705ca3b_story.html?utm_term=.c7c689d7edee.

¹¹⁸ P. J. Boyle, "Taxpayers Footing Bill for 210 Abortions Here Monthly," *The Pittsburgh Press*, February 6, 1976.

¹¹⁹ *Ibid.*

and reach female orgasm. During each week of the ten-week program, the women were given homework assignments on topics such as relaxation and body image. Husbands concerned about the nature of their wife's program were given the opportunity to attend their own special session with a male therapist. I just love the fact that, though a focus on "preorgasmic women," as they were called in the piece, was not paramount to the abortion and contraceptive work that Women's Health Services was doing at the time, the clinic was forward-thinking and bold enough to publicly connect the relationship between a woman feeling empowered in her sexuality and feeling empowered in her reproductive decisions.

Not only were Women's Health Services and other clinics fighting against anti-abortion organizers and politicians, but they also faced...telephone companies? In 1977, after three years of negotiations with the Pennsylvania branch of the America Telegraph and Telephone Company ("Ma Bell" colloquially), the *Pittsburgh Post-Gazette* published an article detailing the ongoing dispute. Apparently, Women's Health Services was asking for two things: to be listed under the heading "Abortion–Service and/or Referral" and for their description to state that they performed abortions. Up until that point, they had fallen under the heading "Birth Control Information Centers." Ma Belle claimed that Pennsylvania telephone book policies were already more liberal than those in other states, however this only went as far as allowing abortion to be listed as an adjectival noun, as in "Pregnancy Termination Counseling" (1975 description) or "Abortion and Alternative Counsel" (1976 description). The best part of the article is when Leah Sayles, still working as the Executive Director of Women's Health services, responded to Ma Bell's

reluctance with the retort, “We do abortion services. It’s not counseling. It’s the service they’ve left out (in the add). It’s not just one of our services, it’s the main service.”¹²⁰

Up until this point, it seems that abortion rights activists and politicians had been moderately successful in holding off the onslaught of anti-abortion challenges. However, beginning in the 1980s, substantially damaging legislation began to shape abortion access in Pennsylvania. After many of the stipulations in the Abortion Control Act of 1974 were ruled unconstitutional by the U.S. Supreme Court in 1975, the next effort to enact a more restrictive Abortion Control Act began in 1981. When the bill was in session, my grandmother was quoted in the *Pittsburgh Post-Gazette* as remarking that the bill was terrible but “probably, mostly constitutional.” She maintained the hope that the public’s outrage would be able to keep the bill from being enacted, despite what she clearly perceived as its prior failings, saying, “the public out there is so complacent, so apathetic, but this is the end.”¹²¹

After Governor Dick Thornburgh vetoed the bill in December, he signed a slightly revised version into law on June 11, 1982.^{122,123} The Abortion Control Act of 1982 imposed a variety of impediments onto both pregnant women and doctors, requiring that all individuals who wish to have abortion first receive counseling from their physician at least twenty-four hours before the procedure about such things as “risks and alternatives to the procedure or treatment that a reasonable patient would

¹²⁰ Stuart Brown, “Abortion Clinic, Bell at Odds On Ad Listing in Yellow Pages,” *Pittsburgh Post-Gazette*, January 12, 1977.

¹²¹ Bohdan Hodiak, “Abortion Fight,” *Pittsburgh Post-Gazette*, September 18, 1981.

¹²² “Veto Abortion Bill” (editorial), *Pittsburgh Post-Gazette*, December 17, 1981.

¹²³ Lawrence J. Haas, “Thornburgh OKs Abortion Curbs,” *Pittsburgh Post-Gazette*, June 12, 1982.

consider” and details about the “probable gestational age of the *unborn child*” (emphasis added, my grandmother shrieking in my head that the proper term is “fetus”).¹²⁴ Additional stipulations included that all abortions occurring after the first twelve weeks of gestation must take place in a hospital, a second doctor must be present if there is any chance of fetal viability, fetal material must be sent to the Department of Health, the reinstatement of the parental consent requirements, and necessitation of spousal notice.¹²⁵

Around this time, my grandmother also recognized the national threat to abortion rights in the 1988 election between George H. W. Bush and Michael Dukakis. Seeking to move past rhetoric of conservative pundits that abortion would simply cease to happen if made illegal, my grandmother asserted in an op-ed two days before the election that:

The ‘abortion debate’ is ultimately only about what quality of medical care is to be available to women seeking abortions. Will it be the back alley, dangerous procedures by motorcycle mechanics and other non-medical people, which was all that was available to American women of my generation, or will it be the safe medical care available for the past fifteen years? Women of my daughters’ generation have no memory of the bad old days. I do and I am frightened.¹²⁶

Of course, the elder Bush was the victor of the election, and his two conservative appointments to the Supreme Court would directly impact one of the biggest Supreme Court cases on abortion since *Roe v. Wade*.

On the state level, Bob Casey, an outspoken pro-choice Democrat, had won the gubernatorial election in 1987. Having a governor who, unlike his predecessors,

¹²⁴ 18 Pa. Stat. and Cons. Stat. Ann. § 3205 (West).

¹²⁵ 18 Pa. Stat. and Cons. Stat. Ann. § 3201–3220 (West).

¹²⁶ Patricia G. Miller, “Abortion Ban Feared” (letter to the editor), *The Pittsburgh Press*, November 6, 1988.

would likely sign anti-abortion legislation presented the perfect opportunity for politicians who were used to a much bigger fight from the gubernatorial office. In March 1988, Act 31 was enacted, mandating that any woman who was a survivor of rape or incest must report the crime before she would be eligible to receive Medicaid funding for her abortion.¹²⁷ The next year, the Abortion Control Act of 1989 was enacted, which imposed the additional restrictions of a ban on abortion after twenty-four weeks except in cases where there is a serious threat to the woman's health. Notably, this does not include cases of "a claim or a diagnosis that the woman will engage in conduct which would result in her health or in substantial and irreversible impairment of major bodily function."¹²⁸ The conversation among those on both sides of the abortion debate centered around whether this law was essentially a "test case," a law drafted with the hope that an appeal would reach the Supreme Court and could result in a decision that could irreversibly undermine *Roe v. Wade*. After signing the law, Governor Casey released a statement claiming that his Abortion Control Act was certainly not a test case and was perfectly in line with the Constitution.¹²⁹

Whether it was his intention or not, Pennsylvania's various Abortion Control Acts would in fact take on the role of a test case, radically shaping state interpretation of the *Roe* decision. Planned Parenthood of Southeastern Pennsylvania challenged the constitutionality of the 1982 Abortion Control Act and its 1988 and 1989 amendments. In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the Supreme Court found in favor of Planned Parenthood in a 5–4 decision and affirmed

¹²⁷ "2 Suits Attack New Abortion Law," *The Pittsburgh Press*, April 19, 1988.

¹²⁸ 18 Pa. Stat. and Cons. Stat. Ann. § 3211 (West).

¹²⁹ Don Wolf, "Ramifications of State Abortion Law Debated," *The Pittsburgh Press*, November 19, 1989.

that the *Roe* decision should still stand. However, they also introduced the new element of an “undue burden” as the litmus test against which state abortion provisions must stand. In their decision, the Court defined an “undue burden” as a law where the “purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability.”¹³⁰ In the decision, all challenged elements in the Pennsylvania law were upheld save for the husband notification element, which was declared to be unconstitutional.¹³¹ The malleability of the “undue burden” standard has allowed for conservative state legislatures across the country to enact a variety of provisions that blatantly serve to impede a woman’s ability to have a safe and legal abortion, so long as the state attests that this burden is not substantially significant enough to be ruled as “undue.” Additionally, the ruling in *Planned Parenthood v. Casey* meant that state intervention can now take place in the first trimester of gestation, a period that was initially protected in *Roe v. Wade*.

Honestly, I had believed that after the *Roe* ruling, abortion was freely legalized before challenges later then began to impede on it. I realize now that this was incredibly foolish and naïve of me to assume. It is not as if *Roe* did nothing; the creation of Women’s Health Services was an incredibly important consequence that radically changed the landscape of abortion in Pittsburgh and surrounding areas. However, I was in no way expecting the absolute ferocity with which the anti-abortion movement regrouped and restructured in the following decades. In a way, they became almost more effective after abortion was legalized, now with a clear

¹³⁰ *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 837, 112 S. Ct. 2791, 2799, 120 L. Ed. 2d 674 (1992).

¹³¹ *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992).

target against with to push back.

Discrimination Case & Moving Forward (1978–1987)

After graduating from the University of Pittsburgh law school in 1976, my grandmother accepted a job working in the Community Advocate Unit as an assistant state attorney general, doing civil rights litigation. After almost two years, she was offered a job from Assistant County Solicitor Wayne Gerhold to work in his Senior Citizen’s Legal Aid Service, which had only recently been created.¹³² Working with the elderly seemed like a good deed in her eyes, and she was swayed by the opportunity to help such a large group of people. She also had some experience in this arena, serving on the Citizens Advisory Committee of the Allegheny County Adult Services of the Area Agency on the Aging.¹³³ She gave her boss, Mike Louik, her letter of resignation, attended her office’s farewell party, and left that job on April 28, 1978.¹³⁴ She felt proud of the work that she had done since graduating from law school, and was energized by the opportunity to transition into this exciting new role. However, it was not going to be that simple.

The next morning, my grandmother awoke to the news that two of the three county commissioners, Thomas Foerster and Jim Flaherty, had refused to sign her hiring papers. The reason behind this, according to the third commissioner, Robert Pierce Jr., was that, as he had been told, “Commissioner Foerster wouldn’t sign the

¹³² Kathy Kiely, “Attorney Says County Denied Job over Her Abortion Stand,” *The Pittsburgh Press*, May 8, 1978.

¹³³ Leah Sayles, “Woman Lawyer’s Job Loss Decried,” *The Pittsburgh Press*, May 14, 1978.

¹³⁴ “ACLU Urges Pro-Abortion Lawyer’s Hiring,” *The Pittsburgh Press*, May 11, 1978.

papers because – well, Mrs. Miller’s not exactly a pro-lifer.”¹³⁵ To provide context of the politics at place here, that year an amendment was in the Pennsylvania General Assembly that sought to protect a fetus from the moment of conception. Commission Foerster testified at a hearing in Pittsburgh for the bill as a private citizen, professing that he was there “to protect the rights of people who could not speak for themselves.”¹³⁶ Meaning no disrespect to the Commissioner, but I seriously doubt that a man so passionate about these unborn lives would happily hire a woman who had devoted her entire adult life to fighting for abortion rights and was currently the president of the board of directors at the Women’s Health Center. Additionally, even if Foerster himself is able to distance his personal opinions from his professional life, he seems to not believe that my grandmother would have the same capability. According to both my grandmother and newspaper, Foerster was the first to refuse to sign the hiring papers, and Flaherty followed suit in order to avoid conflict.¹³⁷

Clearly the three commissioners had not been working harmoniously, as Foerster categorized Pierce’s words about his motivations as mudslinging and “the big lie technique of Pierce.”¹³⁸ However, Pierce was not the only source alleging that Foerster was refusing my grandmother’s hiring on the basis of her abortion politics. My grandmother is quoted in the papers alluding to “courthouse insiders” who had told her similarly.¹³⁹ Being her activist self (now with the handy addition of a law

¹³⁵ Kathy Kiely, “Attorney Says County Denied Job over Her Abortion Stand,” *The Pittsburgh Press*, May 8, 1978.

¹³⁶ Alvin Rosensweet, “State Anti-Abortion Amendment Backed, Opposed,” *Pittsburgh Post-Gazette*, January 13, 1978.

¹³⁷ Kathy Kiely, “Attorney Says County Denied Job over Her Abortion Stand,” *The Pittsburgh Press*, May 8, 1978.

¹³⁸ Ibid.

¹³⁹ Ibid.

degree), she made it clear that she was considering legal action, not just for herself but also because of the dangerous precedent that she feared could be established. She told the *Pittsburgh Post-Gazette*, “The commissioners are denying me employment because of my personal moral and religious beliefs. That frightens me in this country.”¹⁴⁰

When I asked my grandmother to describe her emotional state at the time, I was expecting shock or indignation. Instead, she told me that what transpired was no big surprise. If anything she was frustrated at herself for having not seen it coming. However, just because the controversy had been predictable, it did not mean that she was going to go down without a fight. In a more surprising turn, Assistant County Solicitor Gerhold resigned in protest of Commissioner Foerster’s actions, claiming that one of Foerster’s own aides had relayed to Gerhold that my grandmother’s abortion politics were in fact the true reason that he had blocked her hiring¹⁴¹. Foerster’s explanation shifted, he now argued he did not think that any additional attorney was necessary in the county’s law department. However, when the *Pittsburgh Post-Gazette* followed up with the County Salary Board (the three commissioners plus Controller Jack Lynch), the newspaper discovered that the request for an additional attorney had passed unanimously only a few weeks earlier.¹⁴² So if Foerster was indeed telling the truth, his opinion that the law department had enough lawyers seems to have changed drastically, apparently randomly, once it was revealed that an abortion rights activist would be hired for the

¹⁴⁰ Ibid.

¹⁴¹ Kathy Kiely, “Jaffurs Assistant Quits in Women’s Job Fight,” *The Pittsburgh Press*, May 9, 1978.

¹⁴² Ibid.

job!

At this point, Foerster continued to dig himself into an even bigger hole. He claimed that he did not know about my grandmother's political background; in fact, he said that he knew nothing at all about her. My grandmother challenged this assertion, telling the *Pittsburgh Post-Gazette* that actually they had both been celebrated at a dinner for their respective civic contributions.¹⁴³ The Greater Pittsburgh chapter of the ACLU got involved, along with other social justice and legal organizations, all calling for the hiring of my grandmother.¹⁴⁴ In a similar spirit, the *Pittsburgh Post Gazette's* editorial board wrote an unsparing takedown on the actions of Foerster and Flaherty. Focusing on the two's "demagoguery," the paper advised that "unless they want county hiring procedures to be known for hidden agendas and political tests, the commissioners should allow Mrs. Miller to be hired. Otherwise, this manipulation of county personnel standards is bound to drive professionals from government and attract hacks."¹⁴⁵ Clearly, the only person who struggled to maintain a singular argument was Foerster himself.

The public was heavily divided on whether the commissioners were intentionally preventing the hiring of my grandmother based upon her pro-abortion stance. My grandmother has always been a polarizing figure but this conflict presented the perfect opportunity for people who had long harbored opinions to weigh in. Leah Sayles wrote an op-ed published on May 14, remarking that:

¹⁴³ Joyce Gemperlein, "Did Belief Cost Woman County Job?," *Pittsburgh Post-Gazette*, May 9, 1978.

¹⁴⁴ "ACLU Urges Pro-Abortion Lawyer's Hiring," *The Pittsburgh Press*, May 11, 1978.

¹⁴⁵ "The Commissioner's Blacklist" (letter to the editor), *Pittsburgh Post-Gazette*, May 11, 1978.

Our senior citizens in Allegheny County are the real losers in the political game which Commissioners Thomas Foerster and Jim Flaherty are playing – a game which not only abrogates the rights of the elderly but also fringes on the individual’s right to work regardless of race, religion, age, sex or personal belief.¹⁴⁶

Conversely, the headline of the Letters to the Editor section of the *Pittsburgh Post-Gazette* on May 17 asked the (always relevant) question, “What if Pat Miller Favored Euthanasia, Too?”¹⁴⁷ This seems to stem from the response of Paul E. Francis, who makes the dubious extrapolation that someone who supported a women’s ability to make her own decisions about her body automatically would support euthanasia. And honestly Mr. Francis, I’m pretty sure that my grandmother does in fact support euthanasia, at least in terms of a person’s ability to have the right to die if they are terminally ill or losing basic functioning.

The *Pittsburgh Post-Gazette* continued to not hide their support for my grandmother in this situation. The editorial board wrote yet another piece on May 18, this time expertly dissecting Foerster’s letter to the editor that had been published in their newspaper a few days prior. They looked into the claim that he had made about how hiring another attorney in the department would lead to an increased burden on taxpayers. According to the research of the newspaper, drastic budget cuts and layoffs in 1976 plus the substantial inflow coming into the county budget meant that taxpayers were currently contributing only a meager amount. This would not change substantially with the hiring of a single individual. Additionally, the Legal Services for the Elderly program where my grandmother would be working was federally

¹⁴⁶ Leah Sayles, “Woman Lawyer’s Job Loss Decried” (letter to the editor), *The Pittsburgh Press*, May 14, 1978.

¹⁴⁷ “Letters to the Editor,” *Pittsburgh Post-Gazette*, May 17, 1978.

funded, so Foerster's argument did not hold up at all. The newspaper's account also asserted that Foerster was completely aware of who would be filling the position of the new attorney when the Salary Board (including Foerster) approved the initial request, as my grandmother's name was included in the request itself. The *Post-Gazette* implored Foerster to reconsider his refusal, ending their piece with the conclusion that "Mr. Foerster started this mudslinging. Now the mud is all over his face. The best way out of this indefensible action is to retreat."¹⁴⁸

Mary Ellen Tunney, a longtime friend of my grandmother who worked at Women's Health Services, knew that they needed to change their tactics if they were going to get the national attention required to sway local public opinion. She wrote to Ellen Goodman, a nationally syndicated journalist based in Boston, telling her about my grandmother's situation. Goodman, in turn, published a frank and passionate piece on May 23 that used my grandmother's case as illustrative of a much larger phenomenon. On a national scale, those with any sort of visible pro-abortion politics were being shut out of any public office. My grandmother's case is actually a much more blatant example of the troubling bureaucratic patterns that Goodman had observed, as she was not even running for an elected position but instead being shut out of an appointed one.

If the position for which my grandmother had been hired for had included working directly on issues of reproductive access, the reactions of Foerster and Flaherty would have been, though not right, somewhat understandable. However, as Goodman makes the point with great comedic flair, "the elderly are not exactly

¹⁴⁸ "Commissioners' Bloated Charges" (editorial), *Pittsburgh Post-Gazette*, May 18, 1978.

notorious for clogging the abortion clinics.”¹⁴⁹ In this nationally circulated article, it is revealed that my grandmother would be filing a civil rights lawsuit against the two commissioners who had unethically barred her from assuming the position for which she had been hired. My grandmother’s motivation was bigger than herself: she wanted to make sure that it became abundantly clear that this sort of political move was not acceptable in any circumstance. In an article published the next day in the *Pittsburgh Post-Gazette*, she was quoted as saying “It’s clearly too late to change what has already happened to me, but I want to try to make sure this doesn’t happen to anyone else because of their moral or ethical views.”¹⁵⁰

As everyone following the drama in the newspapers waited to see what would happen next, my grandmother knew that she needed to figure out her next move professionally. At an Allegheny County Bar Association function, fellow lawyer Joanne Wilder approached my grandmother to ask if she would consider joining her to start their own family law firm. My grandmother had never before practiced family law but after getting caught up in the political antics of others, relished the opportunity become her own boss.

On June 7, 1978, it was announced that former Assistant County Solicitor Gerhold’s brief unemployment was over. After resigning less than a month prior in protest of the treatment of my grandmother, Gerhold was hired by Commissioner Pierce, as a legal advisor and investigator.¹⁵¹ In doing this, Pierce made his support of my grandmother even more blatant. Finally, in February of 1980, the county

¹⁴⁹ Ellen Goodman, “Lesson of the Pat Miller Affair: If You’re Not ‘Pro-Life,’ Forget a Public Job” (editorial), *Pittsburgh Post-Gazette*, May 23, 1978.

¹⁵⁰ “Pat Miller Sues Foerster, Flaherty,” *Pittsburgh Post-Gazette*, May 24, 1978.

¹⁵¹ “County Aide Gets New Job in Hiring Flap,” *The Pittsburgh Press*, June 7, 1978.

commissioners approved a \$12,000 settlement, with \$9,000 for my grandmother and \$3,000 to cover her lawyer fees. Foerster still refused to admit any culpability, explaining that the decision to settle out of court was simply due to a desire to avoid any extra legal costs, which would extend past the \$12,000 payout amount agreed to by the commissioners in December 1979.¹⁵² My grandmother lobbied back with the point that “getting someone to pay the money speaks louder than any statement.”¹⁵³

In January 1987, it was announced that my grandmother would be awarded the Clara Bell Duvall Award by NARAL Pennsylvania for all of her abortion rights activism.¹⁵⁴ Showing me her award, which now lives in the second bedroom where I sometimes sleep when I am home, my grandmother recalls that the award was certainly meaningful, however the fact that she had played a role in defending women’s access to safe, legal abortion was reward enough.

At this point, my grandmother was still working at Wilder & Miller, but was seeking a change. One day, while she was working as a master for Allegheny County, a position where a lawyer arbitrated as a judge and was paid their hourly rate, she presided over a case between Reed Smith Shaw & McClay and Thorpe Reed & Armstrong. She could sense how uneasy both firms felt with family law, and told them both that they either needed to hire a lawyer with experience or stop practicing in the field entirely. Both firms made her an offer immediately, and in June 1987 she left Wilder & Miller to become a partner with Reed Smith, as it was more prestigious

¹⁵² Matthew Kennedy, “‘Innocent’ Couty Out \$12,000 for Bias Suit,” *The Pittsburgh Press*, February 7, 1980.

¹⁵³ “Suit is Settled in Job Dispute,” *Pittsburgh Post-Gazette*, February 8, 1980.

¹⁵⁴ “Local Attorney Honored,” *Pittsburgh Post-Gazette*, January 20, 1987.

and offered her a significantly larger salary.¹⁵⁵

The Worst of Times (1990–1993)

In the early 1990s, my grandmother was comfortable in her position as a family lawyer with Reed Smith. However, she knew that she could not stay away from her activism. Through her now more peripheral role in abortion rights issues, she had come into contact with a young journalist who asked her about the realities of life before the *Roe v. Wade* decision. The journalist was incredulous when my grandmother explained the lengths to which women would go, putting their lives in serious danger, in order to get an illegal abortion. She implored my grandmother to record the stories of these women before it was too late. At this point, it was almost twenty years after the decision, and those who carried these secrets with them were getting older. My grandmother, coming to grips with the gravity of the situation, knew that it was her duty to collect these stories for a new audience.

To begin, she carefully considered the different groups that needed to be included in this project: the women, children of women who had died as a consequence of their abortion, medical and legal professionals, and the illegal abortionists themselves. If legal abortion is a topic that is difficult to talk about, this stigma is compounded in the case of illegality. She pursued a variety of avenues in order to find those who might be willing to speak to her: using her activist networks, friends, advertisements in the newspaper, and court records.¹⁵⁶ Occasionally, she

¹⁵⁵ “Lawyer Joins Reed Smith,” *Pittsburgh Post-Gazette*, July 4, 1987.

¹⁵⁶ Patricia Goyette Miller, “Project Methodology” (book proposal, in author’s possession, 1991), 1.

would get a call out of the blue from someone who had heard about her project and wanted to participate.

The women that she found were an incredibly diverse group: racially, socioeconomically, religiously, and politically. Their abortions had taken place as early as 1939 and as recently as 1970.¹⁵⁷ Despite their differences, they also shared overarching similarities. All women felt an absolute panic upon realizing that they were pregnant. Though some wanted children at some point or in another circumstance, they knew that they simply could not at that time. Most could not share their condition with their family, and many were able to keep their secret hidden, even in cases where there were serious medical complications following a botched abortion. Most of the women had no choice about whom they went to for the procedure, and they were so desperate that they would have gone to a motorcycle mechanic. Barry Graham Page, one of the illegal abortionists whose court cases are profiled in the book, was in fact, a motorcycle mechanic. In the case of Dr. Robert Douglas Spencer, a doctor in the tiny coal town of Ashland, PA who is thought to have performed over 40,000 illegal but safe abortions before his death in 1969, my grandmother utilized court records and interviewed his widow, Eleanor Becker Spencer.¹⁵⁸ All other stories in the book were told to her directly.

My grandmother was incredibly passionate about getting her project published, one that she was now calling *The Worst of Times*, which she meant without an ounce of hyperbole. Her friend Mary Ellen Tunney, who she had initially met

¹⁵⁷ Miller, *The Worst of Times*, 4.

¹⁵⁸ “Dear Doctor Spencer: Abortion in a Small Town,” Concentric Media, accessed February 15, 2018, <http://www.concentric.org/projects/spencer.html>.

though Richard and who had worked with her within the AJA and as one of the leaders of the affiliated Roman Catholics for the Right to Choose (RC/RC), was now living in New York City. My grandmother pressed her to use her connections in publishing to try to ascertain whether getting the book published was a feasible goal to have. Through mutual friends, Tunney came into contact with Sydelle Kramer, who became my grandmother's literary agent.¹⁵⁹ In a total surprise to my grandmother, HarperCollins picked up the book, a huge success for a first-time writer. She had worked on the book sporadically for a few years, but after the HarperCollins book deal, took a month off from work at Reed Smith to devote all of her attention to finishing the project. When she told her bosses that she was writing a book, they were incredibly enthusiastic that one of their partners would be a published author, presumably on the topic of divorce! It took my grandmother a long time to find the heart to correct them.

Locally, the book was beginning to generate a great deal of buzz, stirring up both a pro-choice and pro-life response in the newspapers. In an article published in the *Pittsburgh Post-Gazette* in April 1992, announcing the publication of *The Worst in Times* almost a year in advance of the book's publication, my grandmother made it clear that "the question isn't whether we're going to have abortions. The question is, as it has always been, what kind are we going to have?"¹⁶⁰ Judging by the major blowback that arose following the release of the book, many Pittsburgh residents did not believe this to be the case. My favorite example of this fervor is the Letters to Editor page in the *Post-Gazette* on Saturday, March 20, 1993, where half of the page

¹⁵⁹ Mary Ellen Tunney, in discussion with the author, January 2018.

¹⁶⁰ "History of Illegal Abortions to Be Published," *Pittsburgh Post-Gazette*, April 18, 1992.

is devoted to opinions on my grandmother's book with the huge title, "It was Patricia Miller who made me what I am today," taken from a piece written by Helen Cindrich, the Executive Director of People Concerned from the Unborn Child.¹⁶¹ I love the uncertainty that comes when you first look at the page, in the way that makes it impossible to initially tell from the title whether the author means it positively or negatively, but my grandmother certainly was integral to her formulation of self! In the case of Helen Cindrich, she writes, "I often tell audiences that I'm grateful to Pat Miller for her part in getting me into the pro-life movement. I hope that someday someone does the same for her."¹⁶² I am deeply sorry to disappoint you, Helen, but somehow I do not see my grandmother joining the anti-abortion movement anytime soon!

In reading *The Worst of Times*, I had the opportunity to be exposed to stories beyond my wildest imagination, in the most negative sense of the phrase. *Paula* had an abortion performed at her home while watching the Miss America Pageant on television and recalls thinking "Who were they kidding? Being a young female in America in those days wasn't white dresses, red roses, and crowns. It was quinine and illegal abortions, and something was horribly somewhere."¹⁶³ *Dr. James* completed his residency at a hospital that had an entire septic abortion ward, where women were treated for horrible medical complications stemming from illegal abortions, but received no training on how to perform a medical abortion.¹⁶⁴ *Gloria* said goodbye to her mother *Vivian* at age five, as *Vivian* lay in a hospital bed dying from

¹⁶¹ Helen Cindrich, "It Was Patricia Miller Who Made Me What I Am Today" (letter to the editor), *Pittsburgh Post-Gazette*, March 20, 1993.

¹⁶² Ibid.

¹⁶³ Miller, *The Worst of Times*, 225.

complications from an illegal abortion. It was not until she was eighteen and needed her mother's death certificate to redeem bonds that *Gloria* even learned what had been the true cause of her death.¹⁶⁵ These stories and the others in the book are from a time that is so hard for me to even fathom. Despite how strange they might seem to me, I am really only two generations apart from the some of the women who survived "the worst of times." I deeply fear that if conservative abortion restrictions continue we may soon be living in the reincarnation of my grandmother's biggest fears.

As part of my research, I digitized all of my grandmother's original interviews on cassette tapes. After reading the book, it was an extraordinary opportunity to hear the raw interview audio. The voice that I heard on those tapes was more than twenty-five years in the past, a time change that I can trace audibly in how my grandmother's vocal patterns have shifted. She speaks slower now, her tone more wavering. We were sitting on her couch one day, talking about the amazing story of Dr. Spencer and all of the brave work that he did. She was regaling me with tales of visiting Ashland to visit the widowed Mrs. Spencer, when I reminded her that I had all of the interviews on my computer. Quivering with excitement, she asked if we could listen to it together. Sitting there, watching her face as she remembered an additional detail of that visit or just reveled in how neat the whole experience had been for her was an afternoon that I will cherish forever.

The Legal Eagle (1993–2001)

Soon after the publication of *The Worst of Times*, my grandmother began

¹⁶⁴ Miller, *The Worst of Times*, 157.

¹⁶⁵ Miller, *The Worst of Times*, 196–199.

writing her own monthly column in the *Pittsburgh Post-Gazette*, called “The Legal Eagle.” In the Sunday Edition of the *Pittsburgh Post-Gazette* on October 10, 1993, under the headline “New P-G Columnist Lays Down the Law,” it was announced that since the “legal landscape is a-changin’,” my grandmother’s new column would exist as an easily accessible foray into the world of law that would hopefully empower readers through the acquisition of legal knowledge.¹⁶⁶ For eight years, from October 1993 until December 2001, her column appeared on the third Sunday of the month. Though my grandmother does not remember exactly how she came to have her own column, she assumes that it was the idea of Marylynne Pitz, a staff writer at the *Post-Gazette*. Between photo albums of family vacations to Avalon, New Jersey and documentation of all of my childhood firsts (perks of being the oldest grandchild), resides one giant blue scrapbook filled with all of her columns and personal correspondence relating to her writing.

Over the years, my grandmother covered various topics related to family law, based on a recent case, a topic of personal interest, or a letter than she had received asking for her expertise. Two recurring subjects over the years were female financial independence in marriage and custody issues. My grandmother says that she was drawn to the former because she saw that again and again during her time as a practicing attorney and later as a special master, many women would stop working upon getting married and then, after the divorce many years later, would have minimal marketable skills or experience when they tried to reenter the workforce to support themselves. In regards to the latter, though she never worked personally on

¹⁶⁶ “New P-G Columnist Lays Down the Law,” *Pittsburgh Post-Gazette*, October 10, 1993.

custody cases, she saw the absolutely destructive impact that custody battles could have on children in both her personal and professional life, as she told me, “money is only money but human beings are human beings.”¹⁶⁷

Included in the scrapbook are faxes and letters, mostly from other individuals working in the justice system. Her friend, lawyer Peter J. King, thanked her for her article about no-fault divorce in February 1996, letting her know that he was having copies made to pass out to his future clients.¹⁶⁸ The President Judge in the Court of Common Pleas, Judge Robert E. Dauer, wrote to my grandmother in August 1996, congratulating her on her piece about choosing the best divorce lawyer, adding that he would be putting a copy in her personal file.¹⁶⁹ However, she also received mail from those from outside of the legal sphere. One year after the brutal murder of Nicole Brown Simpson, my grandmother’s column in June 1995, entitled “Violence Begins at Home,” gave a brief overview about how survivors of domestic violence can seek assistance in the legal sphere, before transitioning into an interview with the Executive Director of the Women’s Center and Shelter, Martha Friday, who explained the cyclical nature of abusive relationships.¹⁷⁰ A few days later, the Director of Development at the organization, Maureen Hetrick sent my grandmother a letter thanking her for the informative article, which she said would surely benefit them during their capital campaign.¹⁷¹ Though her column was a minor side job

¹⁶⁷ Patricia Goyette Miller, in discussion with the author, March 24, 2018.

¹⁶⁸ Peter J. King to Patricia Goyette Miller, print letter, in the author’s possession, February 21, 1996.

¹⁶⁹ Robert E. Dauer to Patricia Goyette Miller, print letter, in the author’s possession, August 20, 1996.

¹⁷⁰ Patricia Goyette Miller, “Violence Begins at Home,” *Legal Eagle, Pittsburgh Post-Gazette*, June 17, 1995.

¹⁷¹ Maureen Hetrick to Patricia Goyette Miller, print letter, in the author’s possession, June

compared to her work as a lawyer or special master, my grandmother greatly enjoyed her monthly writing, as it was an opportunity to reach a larger audience.

Special Master (1994–2014)

In the Allegheny County court system, my grandmother and other lawyers served as “private” masters on an as-needed basis. As my grandmother loves to point out, the divorce rate is indeed fifty percent. If a judge was too busy to hear a case, they had the ability to appoint a master in their place. However, lawyers hired as masters charged their regular hourly rate, which meant that fees could quickly become astronomical for the litigants. Additionally, in Pennsylvania judges are elected not appointed, and my grandmother and her public abortion politics would never be electable in the state. In an attempt to better the system, the presiding judge created the position of “special master” specifically with my grandmother in mind, where she would be paid a salary and receive benefits. Instead of charging her going lawyerly rate, she would only be able to charge \$250 per day of work.¹⁷² When she was considering whether to accept the position, my grandmother asked my uncle John whether she could afford to take the significant pay cut that would come with accepting the position. John responded that she was asking the wrong question. Really, she should be wondering whether she could afford not to do it. To become a special master would allow my grandmother to work in a position where the goal would be to do the right thing, instead of what is best for her client.

She decided to accept the position, and became the first special master in the

19, 1995.

¹⁷² Patricia Goyette Miller, text message to author, February 8, 2018.

Allegheny County Family Court in 1994. In an article published a few months after she assumed her new position, my grandmother remarked, “I adore it...I’d like to think [the lawyers] are transferring to me because they think I’m wonderful, but it’s probably because it’s cheaper.”¹⁷³ Later others would join her as special masters, including her good friend Peggy Ferber. She chose not to preside over any divorce hearings involving custody because she never wanted to be the reason that a child lost a parent. Whereas judges in Pennsylvania faced a forced retirement age of seventy, there was no such requirement for a special master. My grandmother worked until she was eighty, retiring in the fall of 2014. She found the job to be incredibly satisfying, and her quips were legendary. For example, if litigant was not observing courtroom decorum, usually a hotshot doctor or real estate tycoon, my grandmother would quietly say, “There is only one person here who is in charge. Do you want to guess who is or shall I tell you?” Another favorite was wielded when someone was asked a rather obvious question. Before they could answer, my grandmother would tell them “Now just so you know, my cat knows the answer to that.” This usually helped them find the confidence to answer correctly. At her retirement party, the Allegheny County Bar Association Family Division presented her with a plaque engraved with the words, “Even her cat knows she was a great master and hearing officer, Patricia G. Miller 1994–2014.”

After her retirement, my grandmother transitioned into the first that she has been truly restful in almost sixty years. In doing this archival work, she frequently has

¹⁷³ Unknown Author, Unknown Journal Article, 1994, in possession of Patricia Goyette Miller.

turned to me with a look of astonishment on her face, partially genuine and partially playful. Never before has she been able to look over her life's work, to see all that she accomplished in professional, activist, and personal realms all sewn up together. She often tells me, "I used to be so cool, so respected!" Again, I'm not totally sure how sincere this remark is, but I hope that she knows in all seriousness that she still is that person. She raised a daughter who raised a daughter and here I am, a millennial who thinks that she is the bravest and most radical person I know.

The Future

Good Girl Politics of Abortion

If I asked you to name what it would mean to be a “good girl” according to the pro-life movement, you probably would not find it to be too difficult. Good girls are those who keep their legs closed until marriage and then only have sex for procreative purposes. Good girls can also be those who atone for their horrible abortive mistakes and come to the conclusion that the graphic, photoshopped signs waved outside Planned Parenthood clinics were right all along. Norma McCorvey, pseudonymously “Jane Roe” of the *Roe v. Wade* case, was a famous figure of the latter group.¹⁷⁴ Good girls in the pro-life movement get to be held up by the (usually male) politician speaking as a shiny example of piousness personified. A prime example of this is Marianne Donadio in President Trump’s recent address to participants in the 2018 March for Life. Donadio found out that she was pregnant at age seventeen, and with the support of her parents, “bravely chose life and gave birth to her son.”¹⁷⁵ Here, Trump unintentionally highlights the most important piece of the pro-choice movement, *choice*. Donadio made the choice that fit with her resources and beliefs, for which she deserves no criticism. However, in my opinion she is no braver than the woman who chooses to get an abortion.

So the “good girl” of the pro-life movement has now been clearly defined.

The murkier case exists in the other camp: what are the “good girl” politics of the

¹⁷⁴ Robert D. McFadden, “Norma McCorvey, ‘Roe’ in *Roe v. Wade*, Is Dead at 69,” *The New York Times*, February 18, 2017.

¹⁷⁵ “President Trump Addresses March for Life Participants and Pro-Life Leaders,” YouTube video, 12:48, a speech made on January 19, 2018, posted by “The White House,” January 19, 2018, https://www.youtube.com/watch?time_continue=13&v=4TNjvpzCpA0.

pro-choice movement? Initially, when I asked my grandmother why she had never talked about any personal experience with abortion, such as Nancy's story, in her organizing, I thought that it was in a move to be taken seriously as an unemotional strategist by the political actors with whom she was working. I had heard that some abortion rights activists shared details of their illegal abortions and some did not, and naïvely thought it to be a simple matter of preference. However, I mentally kicked myself for being so clueless when she told me that she kept her private life, well, private, in order to keep her family safe. The threat of someone lighting her house on fire was very real at the time, and she simply could not endanger those whom she loved in order to make a political statement.

Today, we still see the stigma and subsequent aversion to any personal admission of abortion, but the reasoning behind it has shifted. Through the threat of violence still exists for many women, other forces have taken an overall larger role in the national silence. In her eye-opening book *Pro: Reclaiming Abortion Rights*, writer Katha Pollitt makes the case that the apologetic stance that pro-choice proponents oftentimes find themselves taking (as in “we know that it is so unfortunate and terrible that abortion has to exist, but it really is necessary to keep it legal!”) only serves to bolster the pro-life movement's case against abortion. Instead, it is necessary to:

Talk about abortion in its full human setting: sex and sexuality, love, violence, privilege, class, race, school and work, men, the scarcity of excellent, respectful reproductive health care, and of realistic, accurate information about sex and reproduction.¹⁷⁶

Continuing to deny this multidimensional reality of the world in which abortion exists

¹⁷⁶ Katha Pollitt, *Pro: Reclaiming Abortion Rights* (New York: Picador, 2014), 17.

and is oftentimes necessary is incredibly detrimental to the pro-choice movement. Paired with this apologetic tone is the fallacy that if you are a smart, resourceful, and always prepared young woman, you will never accidentally get pregnant.¹⁷⁷ In reality, this is only the case if you are completely abstinent for the duration of your fertile years. Bad (or lack of any) sexual education and the surprisingly substantial failure rate of many different types of birth control makes an accidental pregnancy incredibly common for many sexually active women. The false notion that preparedness will overcome all this only serves to make a woman feel entirely responsible for something that has a statistically significant change of happening in many situations, despite her best efforts.

This framework means that abortion rights exist as something hypothetically supported by most liberals, as long as they can distance themselves far enough away from any person connection to it. Of course they still want abortion to be legal, but it would be astounding if a prominent Democrat admitted to having an abortion. There are some exceptions, but even in the rare case of someone who is pro-choice actually admitting that they had had an abortion, it usually is just that, an admission. There are no details of the procedure itself and if a rationale is included, it is apologetic. It would be groundbreaking for someone to announce that they had an abortion simply because it was the best choice for them at the time! It is fascinating thinking about my own position in the world right now, as a young woman about to graduate from an elite liberal arts college and start my professional life, one that I have been promised by the generations before me is mine for the taking. Any accidental pregnancy now would be dealt with swiftly and never spoken about again. It should be clear by now

¹⁷⁷ Pollitt, 103-104.

that the idea of the “good girl” in the pro-choice movement is really the “smart girl,” who is somehow intelligent enough to overcome the massive failures of public policy and modern medicine.

The “good girl” schemas on both sides of the abortion debate are so incredibly problematic and only have one certain result. Surprisingly, it is not a lack of unwanted pregnancies! It is a world where women are going to become accidentally pregnant, feel that it is completely their fault, and then struggle to find safe and affordable abortions due to the constant implementation of measures that have no medical justification and therefore only serve to impede women’s reproductive freedoms. I do not have some grand idea for how to stop abortion rights from coming under attack, however I do believe that Pollitt is correct in thinking that the current pro-choice framework really is doing more harm than good. Though there is a cyclical nature to stigma and silence that is hard to break, this is really our only hope.

The State and the Law

My grandmother’s greatest fear has always been a return to “the worst of times,” where women no longer have access to safe and legal abortion and are forced to turn to illegal and often dangerous avenues in order to exercise control over their own bodies and end their pregnancy. Well, even if the *Roe* decision is not overturned if (when) the Supreme Court has a conservative majority, the *Casey* decision with its implementation of the “undue burden” standard has made it so that states are able to implement provisions which seriously impede a women’s ability to procure an abortion, as long as they can argue that the burden is not undue. This is to say, we are

there, folks. Many parts of this county are now shrouded in “the worst of times,” even as *Roe* still stands.

So, what path is our best hope for moving forward? The answer to this question turns on whether there is a majority in the legislative body that supports expanding women’s access to safe and legal abortion. If so, then legislation would most likely be the best method. There is no need to worry about the decaying power of past judicial precedent; it is simply a numbers game. If this is not the case, then the only hope is using the judicial system to challenge already existing anti-abortion legislation. My grandmother used this logic: in Pennsylvania when she was met with an unyielding conservative General Assembly that had no interest in passing abortion rights legislation, she shifted her focus to the judicial sphere and argued that a woman’s right to privacy would be the best strategy moving forward.

We see this framework playing out on both sides of the abortion fight. Currently, there is a conservative majority in both the Senate and the House of Representatives, so the only legislation that is able to gain traction is that which threatens a woman’s right to choose. For example, Remember Governor Robert Casey, the liberal yet pro-life governor of Pennsylvania in the 1980s who played a large part in the multiple pieces of damaging legislation that led to *Planned Parenthood v. Casey*? His son Bob Casey Jr., the current senior senator for Pennsylvania, continues his father’s legacy of liberal anti-abortion politics. The younger Casey joined two other democrats, Joe Manchin of West Virginia and Joe Donnelly of Indiana, and forty-nine Republicans in voting yes on the January 29th, 2018 vote to end the Democrat-led filibuster of the Pain-Capable Unborn Child

Protection Act.¹⁷⁸ This piece of legislation, with the goal of banning abortion after twenty weeks of pregnancy, at which point the fetus can allegedly feel pain, has been introduced in the 113th¹⁷⁹, 114th¹⁸⁰, and 115th¹⁸¹ Congresses by Representative Trent Franks (R-AZ), who recently resigned in December 2017 following the announcement that the House Ethics Committee would be launching an investigation into alleged sexual harassment.¹⁸² Though the bill has passed in the House all three times, it has (so far) been unable to garner the majority in the Senate.

At the state level, two types of anti-abortion laws are being enacted in states with a conservative legislature. The first, in the form of mandated ultrasounds or wait periods, can be argued as not meeting the “undue burden” threshold and yet clearly just serve to make it harder for a woman to get an abortion. The second, obviously unconstitutional bills like a recently introduced one in Ohio that would ban all abortions and place criminal consequences on both the pregnant woman and doctor performing the abortion, serve as more “test cases” with the goal of leading to *Roe*’s

¹⁷⁸ “Roll Call Vote 115th Congress - 2nd Session: Vote Number 25,” United States Senate, January 29, 2018, https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=2&vote=00025.

¹⁷⁹ U.S. Congress, House, Pain-Capable Unborn Child Protection Act, HR 1797, 113th Cong., 1st sess., introduced in House April 26, 2013, <https://www.congress.gov/bill/113th-congress/house-bill/1797/text>.

¹⁸⁰ U.S. Congress, House, Pain-Capable Unborn Child Protection Act, HR 36, 114th Cong., 1st sess., introduced in House January 6, 2015, <https://www.congress.gov/bill/114th-congress/house-bill/36/text>.

¹⁸¹ U.S. Congress, House, Pain-Capable Unborn Child Protection Act, HR 36, 115th Cong., 1st sess., introduced in House January 3, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/36/text>.

¹⁸² Katie Rogers, “Trent Franks, Accused of Offering \$5 Million to Aide for Surrogacy, Resigns,” *The New York Times*, December 8, 2017, <https://www.nytimes.com/2017/12/08/us/politics/trent-franks-sexual-surrogacy-harassment.html>.

repeal.¹⁸³

When anti-abortion movement does not have the majority, they move to the courts. Currently, the Justices are considering the case of the *National Institute of Family and Life Advocates (NIFLA) v. Becerra*, where NIFLA, a legal organization serving the interests of crisis pregnancy centers, is suing the state of California over its Reproductive FACT (Freedom, Accountability, Comprehensive Care, and Transparency) Act. This Act, first enacted in 2015, largely serves to target crisis pregnancy centers (CPCs) in mandating that they share information about state programs for which their patients may be eligible, which include access to low-cost or free abortive care. CPCs are run with an anti-abortion agenda, and therefore have a strong interest in preventing such information from being communicated. These centers are so unregulated that a recent *Last Week Tonight with John Oliver* segment ended with Oliver and Rachel Dratch opening their real, legal mobile crisis pregnancy center, “Vanned Parenthood.” Dratch told the audience that based on New York law, she needed no training to operate the ultrasound machine, before brandishing all sorts of jam and jelly for ultrasounds, yelling “I got grape! I got raspberry!” In New York, this center would really, truly be tax-exempt and qualify to receive federal funding.¹⁸⁴

In *NIFLA v. Becerra*, the Brief for the Petitioners heavily draws on the *Casey* decision, making the case that the stipulation of “informed consent” that was upheld in Pennsylvania not only is not applicable to crisis pregnancy centers themselves, but also comes from an appreciation for the aim of preserving the life of the fetus,

¹⁸³ H. B. 565, 132nd Ohio General Assembly (2018)

¹⁸⁴ “April 8, 2018,” *Last Week Tonight with John Oliver*, season 5, episode 7, performed by John Oliver and Rachel Dratch, directed by Paul Pennolino, HBO.

referring back to the original *Casey* decision:

What is at stake is the woman's right to make the ultimate decision, not a right to be insulated from all others in doing so. Regulations which do no more than create a structural mechanism by which the State, or the parent or guardian of a minor, may express profound respect for the life of the unborn are permitted, if they are not a substantial obstacle to the woman's exercise of the right to choose.¹⁸⁵

The outlook of the case seems quite grim given the lack of regulation around crisis pregnancy centers (especially given that their alternative, abortion clinics, are super regulated) and the judicial hesitance that would come with enforcing a law that seems to target the “free speech” of these institutions.

Given our lack of much power in the legislature currently (with the exception of in liberal, progressive states), we must fight judicially. Recent successes in this arena have come when a lawsuit against a state has been able to succeed in the momentous task of demonstrating that the undue burden standard has been met. The best example of this is the 2016 Supreme Court case *Whole Women’s Health v. Hellerstedt*. In this case, Whole Women’s Health, a women’s health center, sued the state of Texas for what they saw as unnecessary regulations imposed on abortion clinics in the state’s omnibus House Bill 2, specifically the requirements that a clinic must have admitting privileges at a hospital within thirty miles and must meet the standards set for ambulatory surgical centers.^{186,187}

The first stipulation, a frequent tactic of anti-abortion legislatures since hospitals have the ability to simply refuse to grant such privileges, is a nearly surefire

¹⁸⁵ *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 877, 112 S. Ct. 2791, 2821, 120 L. Ed. 2d 674 (1992)

¹⁸⁶ Tex. Health & Safety Code Ann. § 171.0031 (West)

¹⁸⁷ Tex. Health & Safety Code Ann. § 245.010 (West)

way to force the closure of abortion clinics across the state. The second requirement is also problematic as ambulatory surgical centers, as the name suggests, are spaces equipped for surgery. With very few exceptions, abortions performed in the first trimester (which in 2013 when the law was first enacted, made up 91.6% of all abortions) never require surgery.¹⁸⁸ Making clinics adopt this new standard would be an expensive and unnecessary pursuit. Luckily, here the Supreme Court agreed with my analysis! In a 5–3 decision, the Justices found that both conditions did in fact violate the undue burden standard and therefore were unconstitutional.¹⁸⁹ Though the undue burden standard is clearly an imperfect one that in practice skews more in favor of state’s rights instead of the women that it is supposed to protect, the *Whole Women’s Health* decision illustrates that at a certain point (albeit an extreme one), the state can be found in violation of the standard.

Another example of potential hope comes in the response to the recent Mississippi Gestation Age Act, signed by Governor Phil Bryant on March 19, 2018 that bans abortion after the fifteenth week of pregnancy. Immediately after the bill was signed into law, Jackson Women’s Health Organization, the last abortion clinic in the state, filed a lawsuit claiming that the law was unconstitutional.¹⁹⁰ Now, the clinic has filed an amended complaint that additionally includes other aspects of Mississippi state law which they claim also threaten women’s access to safe and legal

¹⁸⁸ Dr. Tara C. Jatlaoui, Jill Shah, Michele G. Mandel et al., “Abortion Surveillance — United States, 2014,” *Center for Disease Control Morbidity and Mortality Weekly Report 2017: Surveillance Summaries* 66, no. 24: 28, <https://www.cdc.gov/mmwr/volumes/66/ss/ss6624a1>.

¹⁸⁹ *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 195 L. Ed. 2d 665 (2016), as revised (June 27, 2016)

¹⁹⁰ Richard Fausset, “Mississippi Bans Abortions After 15 Weeks; Opponents Swiftly Sue,” *The New York Times*, March 19, 2018, <https://www.nytimes.com/2018/03/19/us/mississippi-abortion-ban.html>.

abortion. Using the *Whole Women's Health* decision as legal precedent, the lawsuit claims that Mississippi's laws similarly violate the undue burden stipulation. If the clinic wins the lawsuit, it would mean that the majority of Mississippi's legal framework preventing abortion access would be destroyed.

On the Ground

Though action on the state and national level is certainly important, they are not the only places where the battle is taking place. Ever since *Roe*, the anti-abortion has worked incessantly on their branding and optics in order to be most impactful. When I first think of grassroots anti-abortion organizing, I immediately picture screaming protesters outside of abortion clinics, waving photoshopped pictures of bloody fetuses and piling shame on top of the women entering in the hope that they will perhaps change their mind. In this frame, it is easy to question the asserted moral superiority of the pro-life movement. Though the fervor with which they try to save the "unborn babies" is certainly evident, it does not seem like they are demonstrating care for the pregnant woman who is incubating the fetus.

However, times have changed and pro-life activism has adjusted accordingly. The new normal looks like blonde, bubbly Lisa Stover, speaking earnestly about her experience finding herself at an abortion clinic and questioning what kind of person she had become, before starting a pro-life club at her school.¹⁹¹ There is no shouting, only helpful information, smiles, and the occasional prayer outside of an abortion clinic. Live Action's online shop offers trendy tees emblazoned with "A Child, Not a

¹⁹¹ "The Impact of the Pro-Life Generation," YouTube video, 3:59, posted by "studentsforlife," December 26, 2016. https://www.youtube.com/watch?v=FuTZCa9o_nc.

Choice” and “Our Value Isn't Determined by Our Size” that would not look immediately out of place in an Urban Outfitters store.¹⁹² And they are not just nice: they are also super effective. According to Students for Life of America’s website, the organization has trained over forty thousand students and benefited from more than twelve million dollars worth of in-kind volunteer service hours and over fifty-one million dollars worth in terms of the publicity value of earned media.¹⁹³

For too long, we have discarded the grassroots tradition of abortion rights activism, trusting in the (currently crumbling) sanctity of our government. But here is where, no matter what is happening in the government, we can make a significant impact on the societal level. In the final chapter of *Pro*, Pollitt critiques the argument put forth by many pro-life groups that unexpected motherhood is no big deal. Nothing could be further from the truth. A woman who finds herself accidentally pregnant may decide to proceed with the pregnancy, but that is not a decision made on a whim, similarly to the careful consideration put forth before choosing to have an abortion. She writes:

To them, motherhood is more about hatching a baby, less about what comes after. *When the little one comes, you'll love it and everything will work out. Meanwhile, here are some secondhand clothes.* The trouble is this view is not just that a woman can't return to the crisis pregnancy center and get help with groceries for her five-year-old or go back to medical school when her baby starts kindergarten. It's that it presents having a child as no big deal.¹⁹⁴

If motherhood were no big deal like the anti-abortion movement would like us

¹⁹² “All Products,” Live Action, accessed March 20, 2018, <https://shop.liveaction.org/collections/apparel>.

¹⁹³ “Students for Life,” Students for Life of America, accessed March 22, 2018, <http://studentsforlife.org/>.

¹⁹⁴ Pollitt, 196.

to believe, then why would becoming accidentally pregnant be one of the biggest worries held by me and my friends? My own mother has always told my sister and I that we are her biggest accomplishments, but she has never withheld the fact from us that taking time off from work in order to raise us made it nearly impossible for her return to her professional life at the same level.

We know that the pro-life movement can relish the uncomplicated beauty and purity that they bestow upon “unborn babies,” they are allowed to grieve the loss of “unborn babies,” claim that their passionate love is what steers their case. They paint an abortion as a procedure of terror. Naturally, pro-choice activists must volley back with defensive rationality, returning photoshopped pictures of fetal development with facts and studies.

However, I want to make the case for a new emotionality inside of abortion rights activism. Not in terms of the abortion itself, which is a medical procedure upon which a multitude of emotions can be projected. I mean in terms of the emotionality of being a young twenty-something, about to graduate and make her mark on the word. I mean the depths of emotionality that allow me to practice emotional labor for my friends and family. How emotional I feel about being able to live my life and make my own choices without being forced to suddenly made an unwanted detour into motherhood, an exit from which it is difficult to return.

And as long as we’re being honest about what we enjoy about our lives, we should be honest about our feelings about sex! Undoing the heavily gendered shame and stigma around sexual activity would help open up dialogues that would be much healthier in a number of ways. We could talk about how many methods of

contraception fail at unacceptably high rates and/or have lots of nasty side effects that women are expected to just tolerate as penance for their wombs (hopefully) remaining empty. We could discuss socialized sexual norms that teach girls that they should prioritize their partner's pleasure over their own. We could focus on health conditions like endometriosis and vulvodynia that affect many women, yet go undiagnosed and under-researched as women's pain continues to be dismissed.

These individual-level actions and societal paradigm shifts will not fix everything immediately, of course. However, appealing to others on this level, making abortion into a personal, human issue and not a source of political morality, is how my grandmother and others compelled a sea of attitudinal change on the topic, resulting in a national legalization of abortion which would have been inconceivable a decade prior. If it has been done before, we can use this as our model to do it again. It is easy to be frightened, to turn away from doing anything because we are paralyzed by the fear of what might happen. However, we must remain strong and act. We must not listen to the conservative rhetoric that tells us that we should not want to control our own bodies, that if abortion is made illegal we will no longer have any need for it. As my grandmother warned more than twenty years ago in the wake of *Planned Parenthood v. Casey* and on the eve of her book being published, "We must look backward if we want also to be able to look forward. What kind of abortions will we have in the future? If we are thoughtful and very wise, our own¹⁹⁵ daughters will never have to experience the worst of times as their grandmothers did."¹⁹⁶ I will be brave, for myself and for Grammy.

¹⁹⁶ Patricia Miller, "Back to the Future," *Pittsburgh Post-Gazette*, February 21, 1993.