

Chapter Five

The City on a Hill

Victory in New York and the Clinic the Clergy Built

The New York Clergy Consultation Service on Abortion and the affiliated chapters that sprung up across America in the late 1960s and early 1970s were not intended to be permanent. Once the states' severe restrictions on abortions were repealed, or the courts recognized the injustices of the existing laws and overturned them, the CCS intended to go out of business. Rev. Richard Unsworth remembers, "The Service filled a gap. It was a service that we knew, all of us knew, that within the decade would [lead to] its own demise . . . and that was desirable." The reform of abortion laws, however, was slow in coming.¹

The American public was steadily warming to the abortion issue, and reform and repeal organizations of all kinds appeared across the country between 1967 and 1970. Religious organizations supported legal reform and repeal, and the growing women's liberation movement publicly clamored for an end to abortion restrictions. Despite the growing support for abortion rights by the public, however, state legislatures were still making slow progress. By the beginning of 1970, nine states had passed abortion reform bills along the lines proposed by the American Law Institute (ALI). Kansas and Maryland had come near to repealing their abortion laws altogether, but both had settled on ALI legislation. In states like Colorado and California, which were the first to enact liberalized abortion laws, only a very small percentage of women seeking legal abortions qualified for them, and most women were still forced to seek illegal abortions. Colorado State Representative Richard Lamm, the sponsor of Colorado's abortion reform bill, was so distressed at the failure of the legislation to ease the illegal abortion problem that he

¹ Unsworth, interview.

remarked, "We tried to change a cruel, outmoded, inhuman law, but what we got was a cruel outmoded inhuman law." In the winter of 1969, Larry Lader spearheaded the effort to establish the National Association for the Repeal of Abortion Laws (NARAL). Composed of many of the most prominent abortion activists in the country, NARAL abandoned the goal of abortion reform, which did not appear to be working, and lobbied to repeal abortion laws altogether.²

The New York Clergy Consultation Service had come to a similar conclusion. When it was launched in 1967, the CCS hoped to use its moral authority to pressure legislators to make New York's abortion restrictions far less severe. In 1966 and 1967, even mild reform bills had failed to make it as far as a floor debate. "We are deeply distressed that recent attempts to suggest even a conservative change in the New York state abortion law. . . have met with such immediate and hostile reactions in some quarters," the Service announced in a public statement. The New York CCS initially demanded the state's strict abortion statute be replaced with a more liberal law along the lines of the ALI reform. If any of the clergy demanded total repeal of the abortion law, their opinions were equalized by other members who preferred legal restraint. "My only quibble [with the Statement on Abortion Law Reform] would be the designation of the reform introduced in the Legislature as 'conservative,'" John Krumm wrote to Howard Moody after a debate among the members of the CCS. "I regard it as important to maintain the safeguards on the destruction of life which the proposed law allows."³

By the beginning of 1968, however, the members of the CCS had graduated from reform advocates to champions of repeal. "In six months of counseling, we knew that [reform] wasn't real," explains Moody. "We could not determine—*nobody* could determine that this woman should have an abortion and this woman shouldn't. There were too many complications." In

² Lamm is quoted in Lader, *Abortion II*, 85.

³ "Clergy Statement on Abortion Law Reform and Consultation Service on Abortion," May 1967, CCS Archive; John Krumm to Howard Moody, 7 April 1967, CCS archive. It is worth noting that despite this relatively conservative position, Krumm was one of the original creators of the CCS at the November 1967 luncheon with Moody, Lader, and Kinsolving.

February 1968, the clergy met to discuss their position on abortion law for the upcoming legislative session. In advance of the meeting, Moody distributed a list of arguments for and against abortion law reform and a four-point argument for abortion law repeal. There was little debate among the clergy: their experience counseling hundreds of women had already convinced them that reform was not the answer. Under the proposed reform bill, only five to seventeen percent (depending on how literally one interpreted the law) of the women they had counseled would qualify for legal abortions. "Liberalization doesn't mean nuthin'," Moody told a reporter. "Eighty percent of our cases wouldn't qualify under any of the proposed model abortion codes."⁴

Moody drafted a CCS position paper for the legislative session. Ironically part of the paper's argument for repeal was influenced by Boston University Law School Professor Father Robert Drinan, a prominent opponent of abortion. In a paper entitled "The Right of the Fetus to Be Born," Drinan had argued that abortion repeal was preferable to the evils of reform. "Abortion on request—or absence of law with respect to abortion has at least the merit of not involving the law and society in the business of selecting those persons whose lives may legally be terminated," wrote Drinan. The CCS paper echoed eerily, "The withdrawal of the law would avoid the odious position of 'legalized abortion.' The state then would not be approving or 'justifying' *certain* abortions, it would simply decline to regulate it." The CCS probably used the Drinan argument in the hopes of influencing the substantial number of Catholics in the New York State legislature. The rest of the paper included other arguments for abortion repeal and against reform along the ALI guidelines. "We believe that the case for withdrawing the law from the area is not only more ameliorative but is both morally and legally justifiable. . . ." it argued.⁵

⁴ Moody, interview, 13 October 97; Moody, telephone conversation, 20 February 1998; Brownmiller, "Abortion Counseling: Service Beyond Sermons."

⁵ Drinan is quoted in Carmen and Moody, *Abortion Counseling*, 39; "Position Paper on Proposed Change in Laws Governing Abortion," February 1968.

The clergy's demand for repeal was somewhat ahead of its time. In January 1968, New York Governor Nelson Rockefeller asked the legislature to *reform* the state's abortion law, and *The New York Times* reported that seventy-two percent of the state's population concurred. Perhaps to justify his position, Rockefeller appointed a committee of experts to study the abortion issue and determine which women should be eligible for abortion, and who should judge their eligibility. Six of the ten committee members were known reform advocates, and at least two, Dr. Alan Guttmacher and Cyril Means, had been "friends" of the CCS at its inception. By March, it appeared that the committee would make recommendations for even greater reforms than proposed in the recently reintroduced Blumenthal bill. Though the committee's recommendations would be non-binding, they were likely to make the Blumenthal bill look comparatively moderate, improving its chances for passage. On March 30, the committee released a report that urged the legislature to enact abortion legislation slightly more liberal than Assemblyman Al Blumenthal had already proposed. The New York CCS, however, did not embrace the recommended reforms. "The measures proposed have the effect of putting a band-aid on a cancer," lamented a CCS press release. "The genuine social problem of abortion requires more radical amelioration if it is to be of any real consequence."⁶

The recommendations of the Governor's committee and the criticism of the New York CCS both proved to be moot. The State Assembly debated Blumenthal's reform bill for five hours on April 3, and then called the roll. Though supporters had privately claimed they had four more votes than they needed to pass the bill, Blumenthal withdrew his legislation midway through the roll call. He claimed his "yea" votes had defected under heavy pressure from Catholic lobbying. Blumenthal told *The New York Times* that abortion reform was dead for the year. "I guess you could say we aborted the bill," he said. "The pressures were just too great for

⁶ Sydney H. Schanberg, "Rockefeller Asks for Abortion Reform", *New York Times*, 9 January 1968, sec. A; Sydney H. Schanberg, "Abortion Panel Expected to Ask Sweeping Change," *New York Times*, 20 March 68, sec. A; [Howard Moody], "Statement in Response to Governor's Committee Report on Abortion Law Change," 1 April 1968, CCS archive.

an election year."⁷

Nonetheless, in 1969, supporters of reform legislation were the most optimistic they'd been since the reform effort began in 1966. Early in the year, New York State Senate majority leader Earl Brydges announced that if the health and welfare committee proposed a reasonable bill, he would let it go to the floor. In the previous three years, the State Senate had ignored abortion legislation completely, but in 1969, Senate leaders claimed the political climate was right for reform. Abortion reformers in the State Assembly cleared a major hurdle when Republican Assemblyman Anthony Travia, an opponent of abortion reform, was succeeded as Speaker of the Assembly by Perry Duryea, a supporter of reform. With the support of Governor Rockefeller already assured, passage of some kind of reform appeared to be all but certain. The Blumenthal reform bill was reintroduced for the third time in as many years, and on April 17 it came up for a vote in the Assembly. Blumenthal was assured that he was six votes ahead of the seventy-six required for passage when the debate on the bill suddenly took a calamitous turn. Assemblyman Martin Ginsberg, a disabled victim of polio, delivered an impassioned plea against the bill. "If we are prepared to say that a life should not come into this world malformed or abnormal, then tomorrow we should be prepared to say that a life already in this world which becomes malformed or abnormal should not be permitted to live," he declared. He concluded his speech by claiming that God let him live with polio so that he could speak against the Blumenthal bill. Opponents of the measure treated him to a standing ovation. In the ensuing vote, thirteen of Blumenthal's supporters switched sides. After briefly considering an immediate revival of the bill, Blumenthal conceded defeat and vowed to try again in 1970.⁸

The involvement of the New York CCS in this legislative process was limited. The clergy

⁷ John Kifner, "Abortion Reform Dies in Assembly," *New York Times*, 4 April 1968, sec. A.

⁸ James F. Clarity, "Abortion Reformers Confident Albany Session Will Pass a Bill," *New York Times*, 15 January 1969, sec. A; Ginsberg is quoted in Sydney H. Schanberg, "Assembly Blocks Abortion Reform in Sudden Switch," *New York Times*, 18 April 1969, sec. A.

issued statements to the press and to legislators, but there is no evidence of any concerted efforts to lobby legislators. When the State Senate health and welfare committee held hearings on the abortion issue, it is quite possible that Moody and other prominent ministers went to Albany to testify, but neither Moody nor other Service members remember whether they did. In any event, the CCS made its political impact by garnering public support for reform through the media and the thousands of women it counseled.⁹

Despite failing to move the New York State legislature, the abortion rights movement in other parts of the United States was scoring some victories. On September 5, 1969, the California Supreme Court declared its old abortion statutes unconstitutional. An ALI reform law had been in effect in California since 1967, but the state court's largely symbolic decision was the first in the nation to strike down an abortion statute. Two months later, a similar decision was handed down by a Federal District Court in Washington, D.C., making Washington the first place in the country to have legal abortion. The positive court decisions and the progress of abortion reform in other states was a further indication of the warming climate surrounding the abortion issue. "Suddenly, the referral system, the prosecutions, the years of lonely organizing were producing a coherent pattern," wrote Larry Lader. "We had reached a new stage of development: a national mandate for repeal."¹⁰

The New York CCS had also been meeting with great legal success. It had escaped the Bronx Grand Jury hearings unscathed and successfully enlisted the support of the New York City Police Department when Moody was blackmailed. In late 1969 at a gathering of New York Chiefs of Police, New York Civil Liberties Director Aryeh Neier encouraged the police to institute a policy of making no arrests for "victimless crimes." A police chief replied that the police had made such a decision in the case of the Clergy Consultation Service. With abortion

⁹ Moody interview, 27 November 1997.

¹⁰ Lader, *Abortion II*, 109.

counseling enjoying such legal prosperity, the CCS decided it had a mandate of its own. "The next logical and meaningful step seemed clear: open an abortion facility in New York City in violation of the law," wrote Carmen and Moody. In 1968, Moody had entertained the idea of launching an "abortion ship" where abortions would be performed on-board while the ship, under a foreign flag, lay off the coast of New York in international waters. He and Carmen made a limited and unsuccessful fund-raising effort, but they abandoned the scheme as unsafe and "too complicated."¹¹

The plan for an abortion clinic, however, was a serious one. In late 1969, after receiving the unanimous consent of the New York CCS, Carmen and Moody consulted with Aryeh Neier and Ephraim London. The attorneys agreed that if the clergy acted "judiciously" they might be able to avoid prosecution. Carmen and Moody wrote that "'acting judiciously' meant that no one would profit financially from the clinic, and everything would be open and above board."¹² Not only would the clinic be completely public, but, by a loose interpretation of the law it would be legal. The New York State abortion law permitted a woman to have an abortion if carrying her pregnancy to term posed a vital threat to her mental health. To establish that her mental condition was in extreme jeopardy, a woman was required to submit letters of recommendation from two psychiatrists to a hospital's therapeutic abortion committee. If the committee approved her application, she could have a legal abortion. This loophole had proved so difficult to negotiate that it had seldom been used by the New York CCS. For their clinic, which they decided to call the Reproduction Crisis Facility, Carmen and Moody expected to find psychiatrists who "believed that *any* woman contemplating an *illegal* abortion was a threat to her own life and thus eligible for a therapeutic abortion." A medical committee of prominent abortion activists would indiscriminately approve each woman's application for a therapeutic

¹¹ Carmen and Moody, *Abortion Counseling*, 58, 67; Moody interview, 27 November 1997.

¹² Carmen and Moody, *Abortion Counseling*, 68.

abortion. Although the Reproduction Crisis Facility would violate the spirit of the law, it would not technically be illegal.¹³

In December 1969, Carmen and Moody drafted a confidential prospectus for the clinic. The Reproduction Crisis Facility had three expressed purposes. The first was to "establish a pilot project which would seek to prove the feasibility and safety of performing abortions prior to ten weeks in an out-patient, ambulatory, office procedure." Second, the clinic would provide medical service, counseling, and contraceptive education. Third, women would be able to get abortions regardless of their ability to pay. The plan for the Reproduction Crisis Facility was shared with several people outside the New York CCS. Prominent abortion activists like Dr. Guttmacher, Dr. Robert Hall, and Dr. Harriet Pilpel discussed the plan with Carmen and Moody, but none of them were willing to pledge their support for the clinic until the details were refined. Larry Lader was conspicuously absent from the group of high-profile activists included in the planning. His tendency to demand radical action and his habit of leaking information to the press made him untrustworthy. Carmen and Moody elected to proceed with their plan despite the concerns of their advisors. "Following the experience of the New York CCS, we were prepared to strike out with an imperfect effort that would in time be modified and/or improved," they wrote. "At the very least, women would be receiving abortion services which were superior in every way to those offered by 'illegal' abortionists."¹⁴

Carmen and Moody advanced with their plans with the help of a friend of Judson Church named Arthur Levin. Levin had worked with Moody on several projects over the past decade, having first met him in the reform Democratic movement. In early 1970, Levin searched the neighborhoods surrounding Judson for a 2,300 square foot space that could be rented for

¹³ Carmen and Moody, *Abortion Counseling*, 69.

¹⁴ Carmen and Moody, *Abortion Counseling*, 69-70. Until I questioned him about it in an interview, Lader had never heard of the plan for a semi-legal clinic. He contends that such a facility would have been impossible under New York's law. Lader, interview.

the clinic. The search did not go well. The planners anticipated that the clinic would be shut down by the police and be out of business while the case was tied up in court. Thus they did not want to sign a one-year lease, which was typically the minimum duration for renting office space. To recoup the \$40,000 they believed would be required to launch the clinic, they would have to remain in operation for a full five months. If they were shut down, they would not have the money to pay off their lease. Moody determined that their best option was to seek help from Judson yet again.

Judson owned a three-story brownstone located behind the church. The Judson House, as it was called, had been serving as a center for runaway youth, but that program had recently ended and the building stood unused. Moody asked the Church Board for permission to house the Reproduction Crisis Clinic on the second floor of Judson House in March 1970. He hoped to use the church "to provide cover and sanctuary for an illicit venture that we thought should not be illicit. We were betting a lot on what we thought was right." The Church Board agreed that the gamble was a good one, and it voted to allow plans for the clinic to proceed.¹⁵

Moody, Carmen, and Levin still had one major problem: they needed to find sympathetic psychiatrists and doctors willing to perform these semi-legal abortions. Psychiatrists immediately proved to be a problem. "To our disappointment we were able to find only one sympathetic psychiatrist, and even he wavered as time passed," Carmen and Moody later wrote. They attributed psychiatrists' lack of interest to the mundane nature of the task they were being asked to perform, i.e., "rubber stamping" abortion recommendations.¹⁶

Moody and Carmen had slightly better luck finding a gynecologist to act as medical director. Dr. Bernard Nathanson, who had been performing a small number of therapeutic abortions for the New York CCS in a New York hospital, agreed to manage the clinic at no

¹⁵ Moody, interview, 27 November 1998; Carmen and Moody, *Abortion Counseling*, 72.

¹⁶ Carmen and Moody, *Abortion Counseling*, 68.

charge. Nathanson would later prove to be one of the most baffling characters in the entire abortion rights movement. A founding member of NARAL and the chairman of its medical committee, Nathanson was one of the most prominent pro-abortion doctors in New York. In November, 1974, after years of commitment to both NARAL and the CCS, Nathanson published a shocking article in the *New England Journal of Medicine*. The piece, entitled "Deeper into Abortion," was an announcement that after supervising 60,000 abortions, he had come to realize that fetal life was human life. "I am deeply troubled by my own increasing certainty that I had in fact presided over 60,000 deaths," he wrote. Nathanson charged the abortion rights movement with obfuscating the real moral questions pertaining to abortion. He was harshly and immediately branded as a traitor to the movement, and he is so resented by his former comrades that it is difficult to discern what kind of man he was when he was still pro-abortion. Before his announcement, Nathanson was obviously held in high esteem. In 1972, Lader wrote of his "insistent courage" in his efforts to perform therapeutic abortions at St. Luke's hospital, while Carmen and Moody praised him as "one of the few advocates of abortion law reform who was willing to practice what he preached." At present he is not remembered so fondly. "Nathanson is the only sell-out we ever had," laments Lader. "I will take the blame for him . . . we had no choice." Moody remembers him as a "male chauvinist pig." Barbara Pyle remarked simply, "Nathanson was a good guy—until he went nuts."¹⁷

In March 1970, only Nathanson and Dr. Richard Hausknecht were willing to commit themselves to the Reproduction Crisis Facility. But after meeting with Nathanson to discuss the details of the clinic and the legal risks, Hausknecht wavered and withdrew. Nathanson persisted, planning the use of the space in the Judson House, making up lists of the necessary medical equipment, and interviewing nurses for the staff. He claims that the date for the clinic's

¹⁷ Bernard N. Nathanson, "Deeper Into Abortion," *New England Journal of Medicine* 291 (1974), 1189; Lader, *Abortion II*, 46; Carmen and Moody, *Abortion Counseling*, 68; Lader, interview. Moody, interview, 27 November 1997; Pyle, interview.

opening was originally set for sometime in April, but Moody, ever cautious, decided to postpone. At a meeting on March 25, they agreed the clinic would open on July 1, 1970. On April 9, however, the New York State legislature made the plan for the Crisis Reproduction Center prematurely obsolete.¹⁸

In January 1970, the New York state legislative agenda on abortion underwent drastic alterations that ensured that the previous four years' tired debate on abortion reform would not be played out again. On January 7, Assemblywoman Constance Cook and co-sponsor Assemblyman Franz Leichter introduced an abortion bill that proposed not a reform of New York's abortion statute, but a repeal.¹⁹ The bill's chances for success were laughably slim until one week later, when Governor Rockefeller unexpectedly remarked that he would approve repeal legislation. The Cook-Leichter bill was given a further boost by Al Blumenthal's announcement that instead of reintroducing his reform bill, he would give his full support to repeal. Despite this fortunate chain of events, the Cook-Leichter bill's chances for success remained minuscule.

On March 9, State Senate Majority Leader Earl Brydges allowed a Senate version of the Cook-Leichter bill to be scheduled for debate, making it the first abortion reform legislation of any kind to make it to the New York State Senate floor. Far from good news for Cook, Brydges' move was seen as a ploy to kill the bill before it had any chance of building up steam in the Assembly. "It's a hoax, a conspiracy by the archenemy of reform," deplored one pro-reform Senator. "[Brydges] wants to lead a funeral march for reform with this." If Brydges conspired to kill abortion reform by allowing debate, his plan backfired. After an intensely emotional floor debate, the State Senate passed the abortion repeal bill on March 18 by a margin of thirty-one

¹⁸ Nathanson, *Aborting America*, 67-68.

¹⁹ Cook was actually introducing the bill for the second time. She had first introduced it in 1969, and the CCS overwhelmingly supported it. The first Cook bill has been omitted from the history books, and apparently even from newspaper reports. It is safe to assume that its significance in 1969 was minimal. Cook, interview.

to twenty-six.²⁰

Yet the Cook-Leichter Bill was still far from success. On March 30, after eight hours of heated debate, the Assembly defeated the measure by three votes. A controversy flared up immediately. Assembly Speaker Perry Druyea had refused to count the votes of two assembly members who were not present at the time of the roll call, an act that supporters of the bill insisted was unusual. The missing votes brought Cook just one vote shy of victory. On March 31, Cook used a parliamentary maneuver to "table" the bill, keeping it alive for a second vote on April 9. "It will pass," Cook confidently announced.²¹

During the roll call on April 9, the fate of the Cook-Leichter bill looked very grim. Two assemblymen switched their March 30 votes to "yes," but they were canceled out by two others who switched to "no." The bill appeared to be headed for a seventy-four to seventy-four tie, with seventy-six votes required for passage. Moments before the bill was declared dead, Assemblyman George Michaels rose from his seat with tears in his eyes and asked that the roll-call be interrupted. "I realize, Mr. Speaker, that I am terminating my political career," he announced to the chamber, "but I cannot in good conscience sit here and allow my vote to be the one that defeats this bill—I ask that my vote be changed from 'no' to 'yes.'" Michaels had been swayed by his son, a Jewish seminarian, who insisted that his father not be the one who killed the bill. Following Michaels' announcement, Speaker Druyea voted "yes" and declared the legislation passed. The following day the Senate approved the Assembly version of the bill, and Governor Rockefeller signed it into law on April 10.²²

²⁰ Francis X. Clines, "State Senate to Act on Abortion Reform," 10 March 1970, *New York Times*, sec. A.

²¹ Bill Kovach, "Albany Measure Is Kept Alive," *New York Times*, 31 March 1969, sec. A.

²² Bill Kovach, "Abortion Reform Is Voted By the Assembly, 76 to 73; Final Approval Expected," *New York Times*, 10 April 1970, sec A.

The newly enacted Cook-Leichter bill would go into effect on July 1, 1970. It was the most liberal abortion law in the country to-date. Hawaii, the only other state to offer abortion on demand, limited abortions to hospitals and required women to be residents for ninety days. New York's abortion law had only two restrictions: the procedure had to be performed by a licensed physician, and unless a woman's life was in danger, her pregnancy could not be terminated after twenty-four weeks gestation.

The sudden success was a shock to the CCS, even though Moody had been in contact with Cook and Leichter. Carmen was sitting in a coffee shop when she heard the news, and she ran all the way back to Judson to share it. "I couldn't believe it," she remembered, "Nobody was ready for it." Shortly after the law passed, the New York Clergy Consultation Service canceled its plans for a Reproductive Crisis Facility. It is not clear whether the impetus for abandoning the plan was the sudden change in the law, or an exciting offer that Moody received just days after the Cook-Leichter bill was signed. "As soon as the law broke," remembers Moody, "Hale Harvey was right on the phone [to me] immediately." Harvey had been running a prosperous and highly-praised abortion practice for the New York CCS in New Orleans, and his offer in April 1970 was to move to New York and establish an abortion clinic for the CCS. He claimed he could be in operation by July 1. The start-up cost would be only \$30,000. Carmen and Moody later wrote that their answer was "an enthusiastic yes," but Moody now remembers being rather chary. "I was very cautious," he recalled. "[I told Harvey], 'If you want to set up a clinic here in New York, fine. You go ahead . . . [but] I don't want to be committed to it before it happens. If you get it going, we'll send women to it, but it's got to meet all of our qualifications.'" Moody's conditions included low-priced abortions, a willingness to make further allowances for low-income patients, and humane treatment of women combined with high-quality health care.²³

²³ Carmen is quoted in Gorney, "After Abortion Became Legal"; Moody, interview, 13 October 1997; Carmen and Moody, *Abortion Counseling*, 74.

Harvey moved to New York City and enlisted the help of Barbara Pyle, who was working on her Ph.D. in philosophy at New York University. Pyle, who was twenty-three years-old and, in Moody's opinion, an administrative "whiz," worked out the managerial details of the clinic while Harvey served as medical director. The two of them rented the entire top-floor of 133 East 73rd Street, a five-story building on the corner of Lexington Avenue that let offices to doctors at a daily rate. In the summer of 1969, Pyle had done extensive research on sex education and abortion provision in Europe, and she and Harvey had developed a health care model for an ambulatory abortion facility, which they employed in the development of the New York clinic. Most notably, in the model each woman had a forty-five minute session with a female counselor who would use a plastic model of the pelvic region to explain the abortion procedure and discuss and demonstrate birth control methods. In Harvey and Pyle's model, the counselors were women who were trained by Harvey himself. One counselor wrote:

Dr. Harvey gave us group and individual instruction for several weeks before we began working as assistants. . . . Since the doctor's part in the abortion procedure takes only a matter of minutes, each patient spends the major part of her hour-and-a-half appointment with an assistant. Most assistants have had abortions themselves, or like me, have suffered through one with a close friend.²⁴

The employment of female counselors was considered highly desirable by Moody, who had always hoped that the male clergy would be replaced in the counseling role.

Harvey's New York clinic was consistent with his New Orleans operation: the focus was on making the abortion experience as comfortable as possible for women. Each operating room, "commonly referred to as procedure rooms, contained only an operating table, a vacuum aspirator, and small sterilizer—all designed to be non-threatening to the patient, who in such a space could observe effortlessly everything that was happening." The clinic used only a local anesthetic, a paracervical block that could be ingested orally. Harvey continued his highly appreciated practice of putting flowered potholders on the operating table stirrups to prevent

²⁴ Anne Barry, "The Legal Abortion Mess," *Macall's*, January 1971.

cold feet. The entire facility was decorated in bright and cheerful colors to try to dispel any notion of a "cold, sterile hospital environment." Harvey believed that abortion was not a sickness, and thus the clinic should not feel like a hospital. "I'm glad to meet you," each counselor was instructed to greet her counselee. Before commencing with the abortion, doctors were directed tell their patients, "You're doing the right thing."²⁵

In conjunction with the clinic, Harvey operated a non-profit organization called the Community Sex Information and Education Service (CSIES). The CSIES was a telephone service staffed by volunteers who answered callers' questions about birth control, sexually transmitted diseases, abortion, and pregnancy.²⁶

True to his word, Harvey had his clinic ready for opening by July 1, 1970. Harvey named it the Center for Reproductive and Sexual Health, or CRASH. Whether the acronym was intended to be clever is not clear, but in any case it was not used. CRASH was almost always referred to as simply "Women's Services." On the first day of its operation, thirty-six abortions were performed at the clinic. By the end of month, seven hundred women had had abortions at Women's Services. All of them had been referred by Clergy Services. One counselor remembered that "the clinic was just inundated. There were lines of patients around the block every single morning we opened." Moody and Carmen were thrilled with the results of Pyle and Harvey's efforts. "Glowing reports began flowing in from patients who had returned home ecstatic about the humane and compassionate care they received. It was immediately clear that Harvey and Pyle had created the ideal setting for the delivery of a new kind of health care," wrote Carmen and Moody.²⁷

²⁵ Pyle, interview; Carmen and Moody, *Abortion Counseling*, 76; Edmiston, "A Report on the Abortion Capital of the Country."

²⁶ Pyle, interview.

²⁷ Pyle, interview; counselor quoted in Joffe, *Doctors of Conscience*, 136; Carmen and Moody, *Abortion Counseling*, 76.

Not only had Harvey met Moody's conditions, but he volunteered to meet Moody's price. The average rate for an abortion through the National CCS had been running between \$300 and \$500, with most doctors charging toward the higher end of that scale. When Carmen and Moody toured Women's Services the day before it opened, Harvey asked them how much he should charge for abortions. Moody cautiously suggested \$200, and Harvey readily agreed, offering to allow clergy to lower the fee at their discretion. Harvey even offered to perform some abortions for free, but, believing that free abortions damaged women's "dignity and self-respect," Moody insisted on a \$25 minimum charge.²⁸

The opening of Women's Services was not the only major event brought by the change in New York's abortion law. Even before the new law took effect, the New York CCS elected to go out of business on July 1, 1970. "This decision," wrote Carmen and Moody, "was based on the premise that the decision about abortion really should be left between a woman and her doctor, and that no person, either psychiatrist or clergy, should be involuntarily placed between a woman and her physician." Moody feared that as the state wrestled with the major shift from illegal to legal abortion, clergy counseling might be legally mandated and institutionalized. He had good reason to be concerned. Not long after the Cook-Leichter bill was passed, New York State Attorney General Lefkowitz met with Moody to ask him for advice about the implementation of the new law. Moody recalls Lefkowitz telling him that the state wanted to require women seeking abortions to receive counseling from a clergyman before proceeding with the procedure. Moody remembers, "The way abortion was dealt with at that point in history, he could have gotten away with it because it sounded so good." Instead, Moody insisted that the abortion decision remain private, allowing women to seek clergy counseling only voluntarily. Lefkowitz backed down.²⁹

²⁸ Carmen and Moody, *Abortion Counseling*, 77.

²⁹ Carmen and Moody, *Abortion Counseling*, 83; Moody interview, 13 October 1997.

The New York CCS ceased to exist on July 1. There was little debate among the clergy. "The guys were exhausted," remembers Moody, "and they understood." The answering service remained in operation for several months, providing women with direct abortion referrals to doctors and hospitals. "The goal of the Clergy Services has never been to continue or encourage counseling of women *after* the laws have changed," wrote Carmen to the members of the National CCS after the New York CCS disbanded. "Rather a woman should be able to make arrangements for her abortion without the need of *any* intermediary." The new problem for women seeking abortions in New York was how arrangements for the procedure could be made, and where the procedure would take place. This was not a trivial matter.³⁰

Experts in health care and abortion rights activists expressed concern about the effectiveness of the New York abortion law of 1970 months before it was scheduled to take effect. On the day the Cook-Leichter bill was passed, Dr. Guttmacher announced that in a series of discussions with hospital heads of obstetrics, many doctors had expressed reluctance to perform legal abortions. He had found that the doctors agreed with the principle of abortion on demand in principle, "but they did not wish to become involved personally in what they believed might become an assembly-line procedure." This was a repeat of the same old story: doctors did not want to spend their time performing a tedious procedure with no hope for professional advancement, and hospitals did not want to have the stigma of being an "abortion mill." Moral concerns that women would use abortion as birth control may have also played a role in doctors' reluctance to enter abortion practice. Yet even if New York hospitals were willing to perform abortions, the number of women seeking the procedure would vastly exceed the number of available beds required for in-patient abortions. Carmen and Moody predicted this crisis in the provision of care just days before the law passed in the Assembly. "The new battlefield will be among the hospitals and the members of the medical profession," Carmen

³⁰ Moody, interview, 27 November 97; Arlene Carmen, National CCS Newsletter, November 1970.

told *Newsweek* magazine. "It will be up to the women to see that they get what they're entitled to, and they're going to need all the power they can get." In an article written in March 1970, Moody had warned, "If we had a repeal of the law they [the hospitals] wouldn't be able to handle the numbers of women." New Yorkers seeking elective surgery frequently were required, because of a city-wide shortage of beds, to wait two to three months. In-patient abortion procedures appeared to be headed for a similar crunch. Many experts agreed that outpatient abortion clinics would be the best solution, but they sharply disagreed whether such clinics should be a part of hospitals or free-standing facilities. All were agreed that the existing medical structure would not be capable of treating the 75,000 to 100,000 women predicted to seek abortions in New York in the first year. The actual total came very close to a quarter million.³¹

Moody and Carmen decided that, although the New York CCS would cease to function as an entity for abortion counseling, the clergy would not quit the abortion issue. Instead, Carmen and Moody wanted the clergy to "become 'watchdogs' of hospital abortions and advocates of women hassled and harassed by an unsympathetic hospital bureaucracy." To this end, they formed a paper organization called the Clergy and Lay Advocates for Hospital Abortion Performance. Barbara Krassner, who had been a leader in founding the Pennsylvania Clergy Consultation Service, was made coordinator of the organization. The extent of the involvement of members of the New York CCS in the Clergy and Lay Advocates is unclear, but the decision to form the paper organization was made by Moody and Carmen without much discussion among the clergy.³²

On June 20, 1970, the Clergy and Lay Advocates for Hospital Abortion Performance

³¹ Guttmacher is quoted in "John Sibley, "Hospitals Called Unprepared for Wave of Abortion Requests," *New York Times*, 10 April 1970, sec A.; "Abortion and the Changing Law", *Newsweek*, 13 April 1970; Howard Moody, National CCS Newsletter, April 1970; Lael Scott, "Legal Abortion, Ready or Not."

³² Carmen and Moody, *Abortion Counseling*, 84; Moody, interview, 27 November 1997.

was formally launched at a press conference shared with Planned Parenthood. Moody told *The New York Times* that the Clergy and Lay Advocates would “keep records on how and why the system breaks down for women seeking abortions.” Planned Parenthood announced the commencement of a telephone abortion referral service, which really amounted to an expansion of the already-established Family Planning Information Service. Women seeking abortion services could call Planned Parenthood and, if the referral were snagged by waiting lists, uncooperative doctors, or other problems, they could call the Clergy and Lay Advocates to lodge their complaints. The joint press conference indicated new cooperation between Planned Parenthood and the National CCS. Planned Parenthood-World Population had been relatively a late-comer to the abortion rights movement. The organization made no formal statement in support of abortion liberalization until late 1968. Though Dr. Alan Guttmacher, the president of Planned Parenthood, had been an associate of Moody’s New York CCS since its inception, Planned Parenthood had never been entirely comfortable with clergy referral. “They were uneasy about what we were doing,” remembered Moody. “They didn’t want to refer to us in the beginning . . . they were very unhappy about our breaking the law.” Spencer Parsons remembers, “I thought we’d never get Planned Parenthood involved. They were about as skittish an outfit as I could imagine.” Cooperation between the CCS and Planned Parenthood was a phenomenon slowly developing in local clergy services throughout the country. The relationship between the National CCS and Planned Parenthood, however, was destined for further difficulty in the future.³³

A whole host of problems faced the Clergy and Lay Advocates from the very beginning of New York’s era of legal abortion. On July 1, 1970, the first day the new law was in effect, 717 women were forced onto abortion waiting lists. Nathanson wrote that, though some hospitals made responsible preparations for the onslaught, private offices and gynecological services were

³³ “Abortion Service Starting July 1 To Offer Advice,” *New York Times*, 20 June 1970, sec. A; Moody interview, 13 October 1997; Parsons, interview.

overwhelmed, and the situation "exceeded chaos." He wrote, "The scenes resembled those seen in wartime photographs of civilian populations fleeing before invading armies. Women were arriving from all areas east of the Mississippi. . . . It was my predicted avalanche, and more." The waiting list had grown to 1,380 by mid-August, and 2,500 by September. New York City's hospitals were performing only one hundred abortions per day, making the waiting list more than three weeks long. Most women were paying between \$300 and \$600 for a hospital abortion and required overnight stay. Carmen wrote to a friend in late July, 1970, "My impressions of the situation [in New York] are so negative that I would strongly discourage anyone from coming in to the City in the hopes of obtaining a quick abortion, especially if other alternatives are available."³⁴

Women's Services stood in stark contrast to the torpid hospital system. By late July, Harvey's clinic was performing one hundred out-patient abortions a day at lower prices than most city hospitals. Almost all of Harvey's patients, however, were referred from chapters of the National Clergy Consultation Service on Abortion, which, unlike its New York predecessor, was still very much in business. Moody and Carmen were still managing abortion resources across the country and travelling to states where new clergy services were in development. The change in the New York law allowed services along the Eastern seaboard and in the Midwest to send their referrals to Women's Services for inexpensive out-patient abortions. Carmen and Moody wrote, "The task of the National Clergy Service, upon seeing the kind of facility that was developed in those early months, was to keep that clinic alive, with statistics showing its relatively low complication rate and with consistently favorable feedback from patients who were referred by Clergy Consultation Services." Carmen and Moody monitored Women's Services very closely, asking clergy to fill out complaint forms describing any unsatisfactory experiences their counselees had with Harvey's clinic. The counselor's of Women's Services had

³⁴ Nathanson, *Aborting America*, 75-76; Carmen and Moody, *Abortion Counseling*, 84; Arlene Carmen to [Name omitted], 29 July 1970, CCS archive.

their own set of forms to return to the National CCS, asking them for details of failures or weaknesses in the referral system.³⁵

Despite the seemingly close relationship between Women's Services and the National CCS, the clinic was truly independent of the clergy services. Moody made it abundantly clear that Women's Services would be the preferred service provider for the National CCS only as long as it maintained its standards of care and financial restraint. He refused to make any decisions that would put the National CCS at the mercy of Women's Services. For example, when a clergy service considered raising funds by arranging a kickback system with Women's Services, Moody strongly objected. "What if Women's Services could agree to such an arrangement . . . and then a short time later the price went up and the quality went down?" he wrote. "What freedom would you have as a Service to pull out and leave that facility if you [were financially dependent] on the income returned from the clinic? I think the integrity of your decisions would be compromised by what could then be seen as a clear conflict of interest." Arthur Levin emphasized that despite Women's Services' close cooperation with the National CCS, "It was Hale and Pyle's clinic. It was not the Clergy Consultation Service clinic, although the CCS sort of negotiated issues of conditions and prices."³⁶

On the other hand, it is not clear that Women's Services could have survived without the National CCS. "It was literally the clinic the clergy built, not without the medical creativity and administrative know-how of its founders Harvey and Pyle, but certainly the clergy were the decisive factor in its evolution," claimed Carmen and Moody.³⁷ The validity of this statement is difficult to assess. With massive hospital waiting lists, it seems unlikely that Women's Services would have failed to find enough patients to stay in operation, especially since Harvey could

³⁵ Carmen and Moody, *Abortion Counseling*, 77.

³⁶ Moody to Detroit Area Clergy, 27 September 1971; Levin, interview.

³⁷ Carmen and Moody, *Abortion Counseling*, 78.

have raised his prices and still charged less than the hospitals. Harvey, however, was more of a crusader than an entrepreneur, and later events would prove that the support of the National CCS was invaluable to his efforts.

In the chaotic summer of 1970, Harvey's support from the National CCS nearly evaporated. The instantaneous success of Women's Services prompted Harvey to consider opening a second clinic to serve the poor. Harvey's expansionist mentality had already led him to enlarge the Lexington Avenue clinic and pressure Moody for more National CCS referrals. Moody was greatly "disturbed" at Harvey's need to augment his operation. "This is not the way a model works," Moody wrote to Harvey. Moody claimed that Harvey's plan for a clinic for the "ghetto poor" was inappropriate, since the Clergy and Lay Advocates had determined that low-income women were being adequately treated by the city's municipal hospitals. Moody further charged that Harvey was delinquent in preparing a report for the medical community about the success and safety of out-patient abortion in a free-standing clinic. "You spend most of your time determining how you could get more patients, and very little thought or time to research on what had already been done," Moody accused Harvey. Moody's record of success was built on careful planning and well-developed strategy, and he would not accept Harvey's "mania for conquering the world by next Monday." Moody's advice may have convinced Harvey to slow down, because his plan to open a second clinic never came to fruition. The relationship between Women's Services and the National CCS appears to have been otherwise unstrained.³⁸

In September 1970, Women's Services faced a new—but much anticipated—threat to its operation. A month after the New York abortion repeal law was passed, the State Health Department had offered a set of non-binding guidelines on the practice of abortion. Among the recommendations was a proposal that abortions be limited to hospitals or hospital-affiliated

³⁸ Howard Moody to Hale Harvey, 25 August 1970, CCS Archive.

clinics. The New York City Board of Health announced it was drafting its own set of guidelines, but no proposal was released to the public. The Clergy and Lay Advocates and other abortion advocacy groups railed against the state's proposed guidelines, but the Board of Health postponed its decision. Finally, on September 16, the Health and Hospitals Corporation announced its findings that the waiting list for abortions was at a "manageable level of 2,500." Abortion advocates sharply disagreed with the Board of Health's assessment that the backlog of women seeking abortions was "manageable," but to no avail. The following day, the Board of Health announced that it would incorporate the State Health Department abortion guidelines into the Code of Health, making them legally binding. Women's Services was not licensed, and to meet the Board of Health's requirements it would have to undergo substantial changes. The new Code of Health was scheduled to go into effect on October 19, 1970. Women's Services and Women's Medical Group, a Greenwich Village clinic operated by Dr. Harvey Karman and financially backed by several influential members of NARAL, both announced that they would attempt to meet the new code requirements. The Board of Health agreed not to shut down the clinics if they attempted to bring themselves into compliance.³⁹

While the Health and Hospitals Corporation insisted that the limited availability of abortions was acceptable, the Clergy and Lay Advocates completed its first study of hospital abortion performance and condemned the Health and Hospitals Corporation for playing a "game of illusion." The Clergy and Lay Advocates reported in October that they had received over one thousand calls complaining of inadequate, unattainable, or unsatisfactory abortion care. Women were charged exorbitant rates and were frequently required to pay fees in advance. Unacceptable delays were abundant and exacerbated by clerical errors and misinformation about the availability of appointments. Beyond the practical problems in

³⁹ John Sibley, "Abortion Guides Offered by State," *New York Times*, 13 May 1970, sec. A.; Lader, *Abortion II*, 153; Jane E. Brody, "New Abortion Rules Take Effect, Complicating Confused Situation," *New York Times*, 20 October 1970.

obtaining an abortion were a myriad of examples of insensitive or even vindictive health care professionals who subjected women to psychological trauma. For example, a nurse explained to one woman that during the abortion the doctor would "stick a needle in to kill your baby." Another woman was asked to sign a fetal death certificate as "maternal parent of the deceased." Carmen and Moody accused the New York City medical establishment of neglecting its responsibilities. "The medical establishment failed to mobilize public and voluntary hospitals to provide sufficient abortion services, to establish any adequate city-wide referral system, or to investigate means of terminating early pregnancies in alternative medical facilities," they wrote. "This failure added up to a nonfulfillment of their promise to provide the women of New York City with early, safe, and inexpensive abortions."⁴⁰

Despite the undeniable failure of the hospital system to meet the demand for abortions, the Board of Health stood by its decision to limit the abortion procedure to hospitals and specially-licensed clinics. City Health Commissioner Dr. Mary McLaughlin argued that the "complication rate associated with hospital abortions seemed serious enough to warrant doing them in hospitals for the safety of the women involved." New York's hospitals had four abortion-related deaths by mid-October, and a complication rate of 1.0 percent in first trimester abortions. By comparison, Women's Services reported no deaths and a 0.3 percent complication rate for first trimester abortions. In three and a half years of operation, the National CCS had reported only one death, and it was an anaesthetic death in a London hospital. Operating illegally and meeting "only minimal safety requirements," the National CCS felt it had proven that first trimester abortion did not have to be a hospital procedure.⁴¹

The vociferous complaints of the Clergy and Lay Advocates for Hospital Abortion

⁴⁰ Brody, "New Abortion Rules Take Effect"; Carmen and Moody, *Abortion Counseling*, 85.

⁴¹ Brody, "New Abortion Rules Take Effect"; [Arlene Carmen?], "Undermining the New York State Law", National CCS newsletter, November 1970.

Performance were slow in making an impact on the hospital system, but they were significant enough to raise the ire of the Inter-agency Council, an umbrella group that included representatives of the Department of Health and the Health and Hospitals Corporation. In the end of October, Planned Parenthood of New York City admitted that it had ceased referring complaints to the Clergy and Lay Advocates under pressure from the Inter-agency Council. Planned Parenthood decided that its Family Planning Information Service would assume the role played by the clergy's advocacy program. As a compromise, the clergy were invited to observe the advocacy program in the Planned Parenthood office to ensure that complaints were being handled properly. Moody rejected the compromise bitterly. "Those pressures which you have already admitted, the power struggles and political machinations which are necessary for Planned Parenthood in its cooperation with city health and hospital agencies may be important to you," Moody wrote to Planned Parenthood of New York's President Al Moran, "but they are highly secondary to the best interest of a woman needing help with an abortion." Moody vowed that the Clergy and Lay Advocates would press on with their work independently. Though operating separately, NARAL, too, pressed the hospital system to improve its practices and the City Board of Health to allow the clinics to continue their work. Like the Clergy and Lay Advocates, NARAL praised Women's Services' excellent record of safety and service as "the symbol of clinic achievement."⁴²

By the end of 1970, the situation was improving. The City's Health Department was incorporated into a new agency called the City Health Services Administration, and its leader Gordon Chase vowed to work with the clinics to bring them up to code. With the demand for abortion in New York exceeding the supply, private investors realized there was money to be made and began to make major investments in private clinics that aimed to meet the costly health codes. With the capital necessary to equip clinics with resuscitators, X-ray and

⁴² Howard Moody to Al Moran, 9 November 1970, CCS archive; Lader, *Abortion II*, 154.

anaesthesia machines, and laboratory facilities, the commercial clinics had a far better chance of meeting the health requirements. According to Carmen's investigations, however, the health care they provided did not meet CCS standards. "None of the clinics that I've investigated have impressed me to the point where I would feel comfortable in recommending them to any referral agency," she wrote to an inquiring referral service.⁴³ In addition to the new clinics, so-called abortion medical groups operated through a loophole in the health codes. Clinics and hospitals received their licenses from the State Department of Health; the city only had power to enforce its health codes. As neither clinics, nor hospitals, the medical groups refused to submit to the State's licensing procedure. Under Gordon Chase, the City Health Services Administration was reluctant to shut down such medical groups as long as they passed health inspection. Some of the medical groups consisted simply of financially-motivated doctors who purchased vacuum aspirators and, in their spare time, performed lucrative abortions in their offices. Carmen and Moody, who had scoured the country for sympathetic doctors for years, berated the greedy abortionists-come-lately. "Our bitterness at these doctors was exceeded only by our contempt for them," they wrote.⁴⁴

The most unscrupulous abuses in New York came not from new commercial abortion clinics, but from commercial referral agencies. By November 1970, dozens of commercial agencies in New York and neighboring states offered middlemen services to women unaware of the free information services or unwilling to negotiate the multitude of obstacles to get a hospital abortion. "This sleazy exploitation required only a secretary, a telephone, and a splurge of advertising," griped Larry Lader. "Linked to a few profit-hungry hospitals and clinics, the commercial services simply booked an applicant for abortion at \$300 or \$500, and kept from

⁴³ Arlene Carmen to Andrea E. Leland, 2 February 1971, CCS Archive.

⁴⁴ Lader, *Abortion II*, 155; Carmen and Moody, *Abortion Counseling*, 89.

\$100 to \$150 of the fee themselves.”⁴⁵ Many of the commercial referral agencies offered transportation and hotel stays as part of their package. The Clergy and Lay Advocates condemned the agencies as unethical, noting their similarities to the middlemen of the illegal abortion days. Some of them even operated the same kind of “hijacking” scheme at the airports that crooked cabdrivers had been notorious for in San Juan and London. “Our patients got kidnaped,” complained Carmen. “They’d get to the airport and there’d be some hustler out there saying, ‘You going to Women’s Services?’ Cab drivers were getting kickbacks for patients. You had to be absolutely persistent to get to the place you wanted to go and not be distracted or deflected by somebody who was going to get fifty bucks for taking you somewhere else.” The commercial agencies did have one thing in their favor: for a woman who could afford the fee, many of the agencies could schedule an abortion within forty-eight hours. “As long as the legitimate system makes a woman wait two, three, ten weeks to have the abortion scheduled, profiteers are bound to enter the picture,” Moody told a Philadelphia newspaper. In December, 1970, New York State Attorney General Louis Lefkowitz began investigating the commercial referral services for deceptive advertising and fee-splitting.⁴⁶

With the hospital abortion situation improving and the commercial services under investigation, 1971 began as a good year for abortion rights in New York State. By all accounts, New York had become the “Abortion Capital of the United States,” an appellation that made New York’s abortion activists very proud.⁴⁷ The centerpiece of that capital remained Women’s Services, New York’s premier abortion care provider. In 1970, the clinic had strived to meet the city’s non-hospital abortion clinic requirements. Whether it received official approval is unclear,

⁴⁵ Lader, *Abortion Counseling*, 163-164.

⁴⁶ Gorney, “After Abortion Became Legal”; Marta Robinet, “Abortion Profiteers: Medical ‘Brokers’ Who Offer Women a Referral Service,” (Philadelphia) *Evening Bulletin*, 10 November 1970, sec. A.

⁴⁷ Susan Edmiston, “A Report on the Abortion Capital of the Country.”

but in January, 1971 the state began to pressure the facility to apply for a license, compelling it to meet a further set of medical requirements.

When the state began to investigate Women's Services, the first thing it found was that Hale Harvey was not licensed to practice medicine in New York. The details of this situation are hazy. According to a report by *The New York Times*, Harvey was actually not licensed to practice medicine anywhere. In 1969 he had been accused of performing illegal abortions and had surrendered his medical license to the Louisiana State Medical Board. The National CCS was apparently unaware of this fact, and Harvey may have thought it would not be an issue since he was not really practicing medicine, but rather acting as medical director. Nevertheless, the state of New York would not allow him to give medical advice without a license. Harvey left Women's Services not long after the state began its investigation, and the details of the circumstances surrounding his departure remain unclear. According to Barbara Pyle, Harvey had gone "a little crazy," and his departure was voluntary and entailed a generous buy-out that took several months to settle. "Hale [Harvey] was a very sensitive loner," explains Pyle. "He couldn't take the pressure of day-to-day operation. He wanted to go off and read books." Harvey not only left Women's Services, but he left the country. Pyle last heard from him in the mid-1980s when he was living in England. His whereabouts since then are unknown.⁴⁸

With pressure from the state increasing and Harvey's abrupt departure, Women's Services was in a crisis. A threat to Women's Services, moreover posed at least a partial threat to the National CCS, which was making over six hundred referrals a week to the Lexington Avenue clinic. The first problem was to find a new medical director for Women's Services. Moody prevailed upon Nathanson to take the job. Nathanson agreed to work for Women's Services for six months, during which time he would prepare it for its scheduled move to larger quarters, ensure that it passed the state's licensing inspection, and supervise a restructuring of

⁴⁸ Edmiston, "A Report on the Abortion Capital of the Country"; Pyle, interview.

the staff. The intention of Pyle, Harvey, and Moody was to redesign Women's Services in compliance with state licensing codes and as a non-profit corporation. The transition was not a petty matter. In their first six months of operation, Harvey and Pyle had collected several hundred thousand dollars (\$400,000 by Nathanson's account, \$1,000,000 by Pyle's account), which the twenty-three year-old Pyle was personally holding in treasury bills. To become a non-profit corporation, the money could not stay with Pyle, and a board of trustees would have to assume oversight of the clinic.⁴⁹

The former problem was easily solved. Pyle had been designing a new and larger clinic with the architect Bill Berg. In the fall of 1971, Women's Services would move to its new location, and the money Pyle had saved would be plowed into the start-up cost of the new facility. As agreed upon in the severance with Harvey, \$150,000 would be used to endow the Community Sex Information and Education Service.

The latter problem was solved by the intervention of the National CCS. "We helped set up a real good board of directors that would oversee the non-profit corporation," remembers Moody. "Arthur Levin was one of the members of the Board, he was treasurer and a real player in the clinic." The Chairman of the Board was Dr. Alan Barnes, Vice-President of the Ford Foundation.⁵⁰

True to his promise, Nathanson brought the clinic up to code by the March deadline imposed by the New York State Board of Health. The significance of his role is not certain. In *Aborting America*, the story of his career as an abortion specialist and his conversion to the pro-life camp, Nathanson devotes several chapters to his single-handed rescue of the disaster-stricken Women's Services. He summarized his grievances to a reporter:

[On my first day] I stepped off the elevator into chaos. The counselors were not counseling, because of labor problems. The caliber of the doctors was terrible. I had to

⁴⁹ Nathanson, *Aborting America*, 101; Pyle, interview.

⁵⁰ Moody, interview, 13 October 1997.

fire four or five guys when I got there. One doctor was molesting girls, another doctor was drunk most of the time. . . Then there was a man who was deliberately inflicting pain on the women—this was according to the counselors and nurses. He would not give them sedatives or analgesics or anything.⁵¹

Whether his efforts really “saved” the clinic is a matter of debate. Pyle, who is no friend of Nathanson’s, claims that his assessment of Women’s Services and of his role as its savior consists of “lots of exaggerations.” She claims simply, “Nathanson lies.”⁵² Moody has admitted that Nathanson made major improvements, but that he grossly embellished the extent of the problems at Women’s Services. What is certain is that Nathanson nursed Women’s Services through its inspection by the State Department of Health, used his prominence as a doctor to get Lennox Hill Hospital to agree to serve as Women’s Services’ back-up hospital, and expanded the staff of obstetricians. He may have also stripped Women’s Services of much of the caring atmosphere that Harvey had worked to foster. In *Aborting America* he tells of how one of his first orders to the staff was to remove the potholders from the stirrups in the procedure rooms. “[I told them to] have those obscenities out of all the rooms by tomorrow,” he remembered.⁵³

When the state inspection procedure was completed, Women’s Services was the first clinic in New York to be fully-approved. “That process sort of wrote the rules for everybody else,” remembers Levin. The volume of patients from the ever-growing National CCS continued to increase, and in October of 1971, Women’s Services re-opened in its new home at 424 East 62nd Street. The new clinic was specially designed to meet the model that Harvey and Pyle had established. It had ten operating suites organized around a central hallway, with four

⁵¹ Cynthia Gorney, “An Abortionist Reconsiders,” *Washington Post*, 27 April 1989, sec. Style.

⁵² Pyle interview.

⁵³ Pyle, interview; Moody made his comments in Gorney, “An Abortionist Reconsiders”; Lader, *Abortion II*, 156; Nathanson, *Aborting America*, 107-108.

counselling rooms per suite, allowing for a total capacity of 200 patients per day. The day-to-day operations were still managed by Barbara Pyle, who later claimed she opened the clinic at 8 a.m. and closed it at 12 midnight every day for three years. Unfortunately for Pyle, her doctorate in philosophy was a casualty of her clinic work. When a journalist profiling the clinic included her name in an article as the head administrator, her advisor, the famous New York intellectual Sydney Hook, removed her from the doctoral program despite her excellent academic record. "He told me, 'A ship can't have two captains,'" remembers Pyle. She probably had her hands full with running Women's Services, which had some problems despite Nathanson's stern control. Most notably, the clinic suffered from constant strife among its counselors and nurses, who attempted to organize into a union. Pyle would not elaborate on the details, but she remembered that breaking the union was one of many factors in her decision to retire from the clinic in 1973.⁵⁴

The real crowning achievement of Women's Services was its effect on abortion prices. When the 62nd Street clinic opened, the price of an abortion for full-paying patients had been reduced to \$125. One out of every four patients paid a token fee of only \$25. The key to pushing the price down was in changing the way in which doctors were paid. The clinic originally paid doctors \$75 per abortion, but this led to several problems. First, doctors would attempt to maximize their patient load, a practice that was medically risky and frequently involved dishonest interactions between doctors as they competed for patients. Second, at \$75 a procedure doctors were making up to \$1,000 per shift, and some were working two shifts to earn even larger sums. "They were getting stinking rich," recalls Pyle, "so I dropped them to hourly." The rate was initially \$70 per hour, and it was later lowered to \$40 per hour.⁵⁵

With doctor's salaries driven down and the procedure price reduced, Women's Services

⁵⁴ Levin, interview; Pyle, interview.

⁵⁵ Nathanson, *Aborting America*, 115; Pyle, interview.

began to achieve what the National CCS had been working toward for years: a reduction in the price of abortion in non-CCS related abortion services. Carmen and Moody later claimed that clinics in New York City "involuntarily lowered their prices in order to compete with Women's Services. The establishment of a reasonable fee for first trimester abortions in New York City was singularly due to the cooperative venture of CCS and Women Services."⁵⁶ Even clinics in other cities were affected by Women's Service's prices, because as long as the price differential between a Women's Service abortion and a local abortion was greater than the cost of travel to New York, many women chose to travel. In one study of Women's Services patients, nearly fifty percent were coming from as far as the Midwest. Arthur Levin agreed that Women's Services reduced abortion prices to some degree. "Though there were people who were more expensive, if we were charging \$200 it became very hard for anyone to charge \$600 or \$800. Though not everybody met our price, we did at least bring prices down."⁵⁷

One unexpected result of Women's Services success in lowering its prices and offering one quarter of its abortions at a token fee was an over-dependence on the clinic by other social service organizations. While other non-profit referral agencies like Planned Parenthood had arrangements with clinics in a fashion similar to the National CCS relationship with Women's Services, they did not have a similar commitment to accepting a specific percentage of indigent patients. Instead, they were notorious for referring poor women to the local CCS. Though Carmen and Moody insisted that no group "'dumped the poor' on Women's Services with malice aforethought," in 1971 Family Planning Information Service referred 4,300 poor women who called for abortion referrals to CCS chapters across the country. The National CCS became concerned that if the trend continued, Women's Services could not bear the weight. Local CCS chapters were urged to negotiate with Planned Parenthood to pressure other clinics into taking

⁵⁶ Carmen and Moody, *Abortion Counseling*, 78-79.

⁵⁷ "Report of Clergy Consultation Service Referrals to Women's Services, October 1, 1971 to January 31, 1972," CCS Archive; Levin, interview.

their fair share of poor women. Carmen wrote to the members of the National CCS, "If for no other reason than that when the Clergy Services go out of business Planned Parenthood will need to carry the whole load, it is in their long-range interests to be able to deal with a problem the CCS has shouldered since 1967."⁵⁸

The success of Women's Services was not the only victory for the National CCS in 1971. In February, Attorney General Lefkowitz held public hearings on commercial abortion referral services, and Moody went to Albany to testify. Afraid that outlawing the referral services would overburden the clergy services nationwide, Moody's testimony urged the committee to regulate the commercial services. But several weeks later, Moody changed his mind. "The commercial referral agents . . . usurp the prerogatives and the responsibility of the medical profession in regard to the patient/physician relationship," he wrote to Lefkowitz in a letter that eerily foreshadows issues with today's Health Management Organizations. "Once they are made legal, even with restraints, they are legitimated in a way that sets a dangerous precedent for commercial middle-men in *all* areas of health care." The lobbying of Moody and other abortion advocates bore fruit in March, when the New York State Legislature outlawed for-profit abortion referral services as of July 1, 1971. The legislation had some teeth from the outset: in February 1972, Attorney General Lefkowitz sued one commercial referral agency, Abortion Information Service, and shut it down. The New York State Supreme Court upheld the opinion, as did the Appellate Division.⁵⁹

In 1972, the model of Women's Services continued to spread to other parts of the country. "The church cannot be content with simply counseling women and sending them to New York City any more than the church should be satisfied with passing out 'Christmas

⁵⁸ Carmen and Moody, *Abortion Counseling*, 79; National Clergy Consultation Service Newsletter, vol. 3, no. 1, May 1972, CCS Archive.

⁵⁹ Carmen and Moody, *Abortion Counseling*, 91; Howard Moody to Frank Lefkowitz, 18 March 1971. CCS Archive.

baskets to the poor," Moody wrote to the members of the National CCS. "Our New York experience has taught us that the plans must begin now in your state for assuring that when the law changes there will be quality, low cost abortions for all women, regardless of their financial ability." Liberal abortion laws and court decisions favoring abortion rights began to sweep across the United States, and clinics based on the Women's Services model were in operation or in development in Kansas, Philadelphia, and the South. In 1973, clinics based on Women's Services opened in Florida, Tennessee, and Connecticut. Similar clinics were launched as cooperative ventures with Planned Parenthood in several other states.⁶⁰

Despite these successes, however, the stage was set in New York for one more major battle. At the beginning of the legislative session of 1972, State Senator James Donovan and Assemblyman Edward Crawford introduced a bill that would repeal the 1970 Cook-Leichter bill. In January, 1972, the Catholic Church launched a major offensive in support of the Donovan-Crawford bill. Buoyed by a letter of support from President Nixon, Cardinal Terrence Cooke rallied Catholics across New York, sending three bus-loads of Catholic abortion foes to Albany each week for three months. The goal of the Church was to threaten vulnerable legislators in an election year. "It was a superbly organized and financed attack, concentrating on Catholic legislators and on Republicans with considerable Conservative and Right to Life blocs where the swing of a thousand votes could mean defeat for a senator or assemblyman," wrote Lader. The Catholic campaign peaked on April 16, which Cardinal Cooke declared "Right to Life Sunday." Using all the rhetoric of fetal murder that has come to characterize the Pro-Life movement in the ensuing years, ten thousand protesters gathered at St. Patrick's Cathedral in New York City to condemn the crime of abortion. The relentless pressure of the Church continued through May 8, when the Assembly was scheduled to vote on the Donovan-

⁶⁰ National CCS Newsletter, May, 1972, CCS Archive; National CCS Newsletter, October 1973, CCS Archive.

Crawford bill.⁶¹

The attack by the Catholic Church was a long time in coming, and it was not without warning. In 1971, anti-abortion legislators had succeeded in pressuring Governor Rockefeller into issuing a directive that banned the use of Medicaid funds for abortion. The New York State Supreme Court overturned the directive, but the warning to supporters of abortion rights was clear: the abortion battle in New York was not over, and their foe was strong.

The Clergy Consultation Service had a long-standing policy of staying out of direct confrontations with the Catholic Church. "Our conviction was that this 'sleeping giant' should not be awakened by our cries of social outrage; in fact, we thought that no hostile noises should be made at all," wrote Carmen and Moody. In an article written prior to the New York CCS launching in 1967, Moody had warned, "Just a word of caution as we go about reform: we must respect the theology and laws of our Catholic brethren; but it will be dishonest and do the 'ecumenical spirit' no service if we remain silent out of fear of offense." In the ensuing years, though fiercely fighting on opposite sides of the issue, the Church and the CCS apparently exchanged little or no direct fire. "I think there was a silent assent that worked to the advantage of what we were doing," Carmen told a reporter years later. "The Roman Catholic Church was just as silent as it could be. Of course, we were never provocative, either." In July, 1971, however, Moody gave a very unusual indication that trouble with the Catholic Church was brewing. "The determination of the Catholic Church to turn back the clock was more persistent than ever, and we feel that our Clergy Services may have to be more outspoken in their opposition than they have been in the past," he wrote to the members of the National CCS.⁶²

In late April, 1972, the CCS joined NARAL in attacking the Donovan-Crawford bill and

⁶¹ Lader, *Abortion II*, 196-199.

⁶² Carmen and Moody, *Abortion Counseling*, 98; Moody, "Man's Vengeance on Women"; Carmen is quoted in Gorney, "Once Upon a Time in America"; National CCS Newsletter, July 1971.

condemning the pressure the Catholic Church was putting on New York's legislators. A busload of clergy travelled to Albany in one of the only major CCS lobbying efforts on record. Carmen and Moody wrote that they spent "a number of days in the legislative halls, cornering reticent legislators running for their political lives against 'Right-to-Lifers' threats." Little support for the existing liberal abortion law had been rallied in New York; the abortion rights movement was depending heavily on Governor Rockefeller's promised veto. Lader tried to reunite the coalition of abortion activists that had won the passage of the Cook-Leichter bill in 1970, but abortion rights supporters were convinced that even the threat of a veto would keep Donovan-Crawford from ever getting out of committee.⁶³

On April 25, Governor Rockefeller employed an appeasement tactic to quell the storm. He offered a compromise amendment that limited abortion to the first sixteen weeks of pregnancy instead of the existing limit of twenty-four weeks. In a NARAL press conference the same day, Moody uncharacteristically excoriated the Catholic Church for its efforts to end abortion on demand:

More than I resent having to continuously defend this more humane law, I deplore the vicious and scathing attacks on our mothers, sisters and wives being castigated as guilty of *murder* and the most unspeakable of crimes against humanity made by leaders of the Roman Catholic Church and their "right to life" followers. Coming from an institution whose history is replete with the killing of innocent people in the name of God, I find little grace and no charity in their wanton attack upon people who view "life" and "death" differently than they do. The Cardinal, the bishops, and the pastors of the church are sowing the seeds of sectarian hatred that can only lead to religious divisiveness and warfare in this nation. It is a sign of acute desperation that the Church has seen fit to turn an issue on which honest persons disagree into a religious battle ground where righteous protectors of life and God are battering the demonic forces of murder and mayhem.⁶⁴

Despite the righteous anger of Moody and abortion rights supporters throughout New York, the

⁶³ Carmen and Moody, *Abortion Counseling*, 101; Lader, *Abortion II*, 199.

⁶⁴ Howard Moody, "Statement by Reverend Howard Moody at NARAL Press Conference, 25 April 1972, CCS Archive.

efforts of NARAL and other lobbyists fell short of repelling the Catholic attack on the Cook-Leichter bill.

On May 9, 1972, the New York State Assembly passed Donovan-Crawford in a vote of seventy-nine to sixty-eight. At least six assemblymen reversed their 1970 votes. "Abortion in this state is nothing less than the murder of unborn infants," declared Crawford in his moment on the floor. The following day the New York State Senate followed the same course as the Assembly. Senator Donovan held up pictures of aborted fetuses and placed a copy on the desk of every senator. Donovan claimed that at 350,000 abortions in New York each year, "we are exterminating one human life every three minutes, round the clock." Donovan-Crawford was approved by the Senate in a vote of thirty to twenty-seven.⁶⁵

On May 12, Governor Rockefeller delivered his promised veto. His lengthy veto message included sentiments that could have been found in any one of the articles, interviews, or speeches of any member of the CCS: "The very intensity of this debate has generated an emotional climate in which the truth about abortions and the present state of the law have become distorted beyond recognition. The truth is that this repeal of the 1970 reform would not end abortions. It would only end abortions under safe medical conditions. The truth is that a safe abortion would remain the optional choice of the well-to-do woman, while the poor would again be seeking abortions at a grave risk to life in back-room abortion mills."⁶⁶

Legal, safe abortions for hundreds of thousands of women had been saved with the stroke of a pen. New York's "experiment" with legal abortion, however, appeared to be headed for another trial in 1973, only this time without Rockefeller, who was rumored to be headed for President Nixon's cabinet. Despite five years of organizing and assisting tens of thousands of

⁶⁵ Crawford is quoted in William E. Farrell, "Assembly Votes to Repeal Liberalized Abortion Law," *New York Times*, 10 May 1972, sec. A; Donovan is quoted in Alfonso A. Navarez, "Abortion Repeal Passed by Senate, Sent to Governor," *New York Times*, 11 May 1972, sec. A.

⁶⁶ Nelson Rockefeller, "Donovan-Crawford Veto Message," as transcribed in *New York Times*, 14 May 1970, sec. A.

women, the New York CCS was virtually powerless to prevent a legislative rollback. Though New York's unusually large Catholic population made its situation unique, the crisis in 1972 dangerously warned of the damage that could be inflicted by a well-funded and carefully planned anti-abortion effort in a state legislature. By the end of 1972, eighteen states had liberal abortion laws, but only five of these allowed for abortion on demand. Six states had had their restrictive abortion statutes struck down by the courts. In late 1972, Larry Lader asserted, "No other social revolution in our country has achieved such immediate and sweeping results as the campaign for legalized abortion." For all its successes, however, the abortion rights movement had much work left to do. The National CCS appeared to have years of hard work ahead of it. The movement needed a victory that would endure.⁶⁷

⁶⁷ Lader, *Abortion II*, 209.