

DISCOURSES ON SEXUALITY:

The Modern Abortion Debates

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*To my father, Jack Coleman, who would have been so proud
to have known that one of his children had gone to university.*

*And
to Sam.*

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university, and to the best of my knowledge contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

SUMMARY

This thesis examines discourses on abortion in Australia in the period between the 1960s and 1985 as a primary issue in the politics of sexuality. Rather than setting out to demonstrate the applicability of any one major theoretical framework, it draws on work by three writers on the politics of sexuality - Kate Millet, Michel Foucault, and Jeffrey Weeks - for theoretical and thematic insights.

All discourses have a history and to understand their efficacy, and the grip that they acquire as knowledges which can be deployed to strategic ends, these histories need to be traced. Accordingly, primary elements in the discursive formation which constitutes the modern abortion debate have been historically contextualised. An examination of the report of the 1904 Royal Commission into the Birth Rate yields valuable insights into a number of primary discursive themes already brought to attention by Millet, Foucault or Weeks; the discourse of foetal right to life is traced to its genesis in the Catholic Church; the stigma against illegitimacy is identified as circuitously giving rise to the first legislation against abortion; the ways in which women's sexuality has been conceptualised in the modern era is shown to have developed with the transition from the Galenic model of physiology.

The nature of the silence shielding abortion from public discourse in the decades prior to the 1960s is investigated as are factors operating to maintain that silence. The period from when it become subject to public debate and controversy to 1985 is divided into that which covers the conflict leading to legal reform and that which deals with the normalisation of abortion practice and the backlash against it from anti-abortionists. All of the discourses deployed over this time, as they are represented in the press media and parliamentary debate, are articulated in detail with the links between them and other relevant discursive formations demonstrated. To contextualise these, public conflicts and struggles over abortion are examined in depth. It becomes apparent that how abortion is discursified and dealt with at the formal political level can be properly understood only by taking account of intra and inter party and electoral politics, that is, that the outcomes of conflicts involving governments and politicians are a function, not of the internal dynamics of the abortion issue itself, but of governments and politicians pursuing quite separate agendas and interests.

The final chapter broadens to an examination of the Moral New Right in Australia and to discourses propounded by it on a range of sexual issues. Feminism is perceived by it to be an arch-enemy: its support for contraception and abortion to be largely responsible for a deterioration in adolescent sexual conduct; its commitment to gender equality for the breakdown of the family and confusion over traditional sex roles. Anti-feminist discourses of a number of New Right luminaries are examined and it is shown that whilst much of them are newly elaborated responses to the threat of feminism, they are based on allegedly fundamental truths about the nature of women, the family, and relations between the sexes, truths which have echoed down the century and reverberated as major discursive elements in the modern abortion debate.

ABBREVIATIONS

ACFR	Australians for Commonsense, Freedom and Responsibility
ACTU	Australian Council of Trade Unions
ACOA	Administrative and Clerical Officers Association
ALP	Australian Labor Party
ALRA	Abortion Law Reform Association
AMA	Australian Medical Association
Aust	The Australian
CCT	California Committee on Therapeutic Abortions
CM	Courier Mail
CT	Canberra Times
CTL	Call to Australia
DLP	Democratic Labor Party
DM	Daily Mirror
DT	Daily Telegraph
EFL	Electors for Life
FAM	Family Action Movement
FOL	Festival of Light
Herald	Sydney Morning Herald
L.E.	Letter to the Editor
MHR	Member of the House of Representatives
MJA	Medical Journal of Australia
MLA	Member of the Legislative Assembly
MLC	Member of the Legislative Council
MP	Member of Parliament
NCC	National Civic Council
NT	National Times
RCBR V1	Report of the Royal Commission on the Decline of the Birth-Rate and on the Mortality of Infants in New South Wales, Volume 1
RCBR V2	Report of the Royal Commission on the Decline of the Birth-Rate and on the Mortality of Infants in New South Wales, Volume 2
RCHR	Royal Commission on Human Relationships
RTL	Right to Life Association
RTLA	Right to Life Australia
SH	Sun Herald
SMH	Sydney Morning Herald
SMH, L.E.	Sydney Morning Herald, Letter to the Editor
ST	Sunday Telegraph
WA	West Australian

WAA	Women's Action Alliance
WAAC	Women's Abortion Action Campaign
WCA	Women's Campaign for Abortion
WEL	Women's Electoral Lobby
WFF	Women for the Family
WWWW	Women Who Want to be Women

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INTRODUCTION

If the history of recent sexuality can be seen as an explosion of speech around sex then the 1960s experienced a decisive, qualitative escalation of the volume. Sex today is spoken about, written about and visually represented as never before. Many, especially the sexually oppressed and exploited, have gained a precious breathing space from this. Others have been wearied by its incessant discourse. (Weeks, 1985: 20)

Michel Foucault's basic premise in the first volume of *The History of Sexuality* is that for the last three centuries in the West there has been an unprecedented "incitement" to speak of sex and a "multiplication" of discourses about it within disciplines such as medicine, psychiatry and pedagogy. But over the last few decades sex has become the object of innumerable public discourses. License to speak on it is no longer tacitly limited to authorities on the subject; now everyone can legitimately speak on or about it, and most do. Compared, say, to the 1950s, there is hardly a taboo left about what can be spoken, or about how, where and with whom it can be said.

This remarkable qualitative and quantitative transformation was linked with another equally notable shift: the politicisation of sex and sexuality. In one sense this was nothing new; Foucault argues that the putting of sex into discourse was simultaneous with its insertion into a complex mesh of power relations. Yet in another sense it was singularly different; the recent public discursive proliferation was accompanied by an overt, conscious, and deliberately articulated politics of resistance. The sexual liberation movement, as it came to be called, waged defiant rebellion against so-called Victorian prudery as it manifested in the repression of any form of sexual activity defined as illicit or unnatural, or as merely indulgent, and against the censorship of sexual representation in word or image.

Initially, then, the discursive/political emphasis was on sexual freedom *per se*, but rapidly a diversity of specific issues related in one way or another to sex and sexuality became the subject of public debate and conflict. Two of the earliest, and certainly the most contentious and sustained, were abortion and censorship. Over time, others were to include homosexuality, rape, prostitution, sex education, incest, sexual harassment, transsexualism. Eventually, the nature of sexual desire and pleasure, and how these were differently experienced and manifested in women and men, became matters for open discussion. Even paedophiles raised their voices to insist the legitimacy of their desire, as did some homosexuals of sado-masochism or anonymous and ultra-promiscuous sexuality.

Debate and conflict over these issues was a phenomenon common to most Western countries, the particularities of struggle and discursive elements in each being shaped to a greater or lesser degree by factors such as their specific histories and cultures, relevant laws and policing practices, structures of government, philosophies regarding the state's right to intervene in and regulate private life, the ideological and political influence of organised religion, and the role of the medical and legal professions. In Australia, the parameters of discourse were derived in large part from those already being articulated elsewhere, especially in Britain and the USA, although local circumstances and historically specific concerns served to amplify some or to moderate others. Conversely, efforts to achieve change, in so far as they entailed challenging legal or administrative proscriptions, took forms peculiar to the Australian context being affected by the character of the main political parties and what they and certain individual politicians perceived to be at stake especially in terms of their political and electoral interests, whether the laws or regulations governing sexual conduct came under Commonwealth or State jurisdiction, whether they were a matter of statutory or common law, and at what judicial level any precedents affecting their interpretation had been established.

Yet discourses do not spring spontaneously from a discursive void; they, the elements which they harness, and the premises of their foundation each have a history. It is beyond the parameters of the present work to exhaustively trace the historical construction and operation of all components of these with regard to abortion. Rather, what can be seen as constituting the major ingredients of modern discourses on abortion have been situated within historical context so as to demonstrate how the meanings in which they were embedded have

been imported into what is said about abortion when it enters into publicly sanctioned utterance. Of course, this is not to suggest that prior to that nothing was spoken about abortion; on the contrary, much was said of it and it was entangled within a web of significances. But for decades prior to the mid-1960s a veneer of silence veiled this tumult of furtive whisperings. Estimates in the 1950s and early 1960s of the annual number of abortions taking place in Australia behind this shield of silence varied between fifty- and ninety-thousand. Yet the history of these experiences at the personal level is largely undocumented despite the fact that abortion had been a common method of birth control since well back into the nineteenth century. Through listening to what women who underwent abortions during this period of apparent silence have to say we can access the diversity of meanings associated with abortion and how these were either incorporated into women's identities or actively resisted by them; we can identify a discursive culture constructed by women intent on covertly carving out a degree of control over their reproduction and hence their lives, or preserving their public and personal selves by eliminating the damning evidence of clandestine sex and pregnancy.

Abortion, then, has been a prime site for the politicisation of sexuality. Indeed, it is arguable that in recent decades it has been the most contentious and volubly contested instance of this politicisation. Thus, by focusing on abortion this thesis will explore discourses on sexuality and of sexual politics in Australia concentrating in particular on the period from their emergence into public utterance in the 1960s through their development up until 1985. It will identify and explicate the diversity of elements put into speech in the discursive ensemble around abortion and give an historical perspective on the major themes.

In this same period three writers can be identified as having dealt in detail with sexual politics: Kate Millett in *Sexual Politics*, Michel Foucault in his first volume of *The History of Sexuality* and Jeffrey Weeks in *Sexuality and its Discontents*. Numerous others have written on particular aspects of the politics of sex or sexuality, such as rape (Susan Brownmiller), incest (Elizabeth Ward), pornography (Susan Griffin), homosexuality (Kenneth Plummer) or on abortion in terms of gender politics (Rosalind Pollack Petchesky). What distinguishes Millett, Foucault and Weeks for the purposes of this thesis is the central emphasis they all give to sexual politics *per se* and additionally, in one way or another, to the operation of power through discourse and knowledges. Their works are examined in the first three chapters, with a view to drawing out insights and themes of use to the analyses which follows.

For Millett, sex is both a key site for the enactment of power relations between men and women in patriarchal society and a primary weapon in men's subjugation, oppression and humiliation of women. Sexually explicit passages from the works of novelists D.H. Lawrence, Henry Miller and Norman Mailer are used by Millett to demonstrate this. Applying a form of discourse analysis, she presents them as exemplars of the way masculine sexuality is constructed and reinforced at the expense of women's dignity and personhood; through their sexual degradation and pain, or through what the authors picture as their slave-like worship of the penis. For Millett, these novelists' texts epitomise the way men in general wage sexual war against women whilst also serving as propagandising tracts. From another angle she similarly dissects certain of Freud's writings, claiming that the alleged scientific knowledge of psychoanalysis constitutes nothing less than the central ideological spearhead in men's reactionary drive against turn-of-the-century efforts by women to assert their equality. Amongst other things, she accuses Freud of grounding psychic differences between men and women in biology, of inferring that women are culturally inferior from what she claims he perceives and denigrates as women's natural biological inferiority. She also critiques functionalist sociology as a disciplinary body of knowledge which she sees as operating to justify and maintain the oppressive institutions of patriarchy and unequal power relations between the sexes. Because it sees these arrangements as functional for social stability and cohesion, argues Millett, functionalism concludes that they are necessary, and, following a similar naturalistic logic to Freud, that they are an inevitable result of biological differences between men and women. What Millett sees as particularly dangerous about these texts and disciplines is the fact that the supposed knowledges which they lay down about women's temperament, their 'proper' roles and their 'naturally' inferior social status infiltrate into everyday attitudes and so insidiously operate to the further detriment of women.

Although what is most useful in *Sexual Politics* has since been incorporated into the work of later writings it is a seminal text drawing attention, in one way or another, to a number of themes and issues relevant to the present work: the emphasis on nature and biology as an explanatory principle used to justify particular

(especially oppressive) forms of social organisation and the alleged nature of certain categories of persons. Foremost here is Millett's basic proposition that sex and sexuality need to be seen in the context of power relations. Yet this crucial insight is clouded in Millett's work by her failure to distinguish between, on the one hand, the politics of sex and sexuality *per se* and, on the other, gender politics in the sense of power relations between men and women. Certainly, there is a huge area of overlap and interaction between the two but it is necessary to draw a conceptual distinction, not least because they are separable in practice; the politics of homosexuality, for example, cannot be collapsed into and understood adequately within a framework geared only to the analysis of, and relations between, gender and power. Conversely, women's subordination encompasses virtually all areas of social, cultural and economic life (as Millett herself makes clear) not necessarily related nor reducible to sexual politics. In dealing with abortion as a crucial site for the interaction between sex and power this distinction has been maintained, although many of the discursive lines of battle do in fact centre on women in terms of their subjection.

Millett's observation that much functionalist theorising becomes incorporated into everyday thought draws attention to the pervasiveness of 'commonsense' arguments which maintain that the way particular aspects of society are organised is the way they need to be organised; that certain social arrangements are 'functional' for social order and stability. This discursive tool is frequently linked to what are claimed to be imperatives of nature and thus we can discern discourses of 'functionalist naturalism'; discourses which rely on notions of biological 'design' for their credibility.

Without doubt, of most influence in contemporary analyses of the politics of sex and sexuality is Michel Foucault. His work has prompted a rewriting of what amounted to an orthodoxy; that only recently has sex escaped from the tenacious repression exercised over it by Victorian puritanism. In subverting this orthodoxy Foucault postulates a radically different perspective of the relation between power and sex, one which provides a number of crucial insights for analyses of discourses on abortion. He dismisses the assumption that sex is a biological given, arguing instead that it is an historical construct produced in interaction with power and knowledge. In this process the modern subject is made, and makes him or herself, as a sexual subject. Paralleling this development, and in fact part of it, has been a proliferation of discourses aimed at understanding sex and sexuality; it being 'recognised' that their volatile nature demanded they be managed and disciplined in the interests both of society and of the individual. Thus, the liberation of sex in the 1960s and 1970s, celebrated (or, from another perspective, deplored) as heralding the end of prudish repression (or, as some would see it, the end of moral constraint) is, for Foucault, in one sense merely a variant of the operation of power on and through sex (and, he seems to hint, the actual zenith of this process). Most distinctive about it, perhaps, is the clarity with which is revealed the fact that sexuality has become the truth of the subject, the decisive, innermost core of the self; we come to know ourselves by knowing the real truth of our sexuality.

In tracing the processes whereby sex and sexuality have been constructed and discursified into knowledges articulating their truths, Foucault cites a number of strategic ensembles which, in their production and operation, constitute avenues for the exercise of power. Of central relevance to the present work are those which he refers to as the hysterisation of women's bodies and the socialisation of procreative behaviour. The former, he says, aims to discipline women via processes of regulation; the latter to regulate the population by disciplining sexual behaviour. An exploration of these themes will provide fruitful analytical tools for drawing out and explicating discourses on abortion.

Of course, it is to Foucault that is owed the recent interest in the study of discourses, and the relation between discourses and non-discursive formations such as institutions, political practices and economic processes; indeed, his influence on the present work is immediately apparent in the topic of this thesis. In earlier works he stressed the importance of analysing discursive formations as clusters of statements articulated around a similar conceptual field - as distinct from the idea of a discourse being constituted by its disciplinary area, theoretical framework, or author - but with *Discipline and Punish* and the introductory volume of *The History of Sexuality* he emphasised the need to analyse discourses in the context of their relation to knowledge and power and, particularly, the operation of power on and through the body. For Foucault, what distinguishes a discourse as a unity and what conditions make its articulation as such possible are underlying 'prediscursive regularities', what we could refer to simply as the taken-for-granted conceptual assumptions which are

fundamental necessities for the production and circulation of discourses of knowledge, and always remain immanent in them.

But whereas Foucault's attention is directed to discourses emanating from within, and even in part formative of, the disciplines of the human sciences - from criminology, medicine, psychiatry and pedagogy - the focus of this inquiry is oriented more towards the stock of 'everyday knowledges' which inhabit much 'commonsense' thinking about the world and such things as the ways it is and/or should be organised, or about the alleged natures and behaviours of individuals and groups of individuals. In some cases these are, or purport to be, informed by 'scientific' knowledge but in others they rely on shared understandings, universal 'truths', 'fundamental' human rights, or moral 'imperatives'.

In *Sexuality and its Discontents*, Jeffrey Weeks traces a number of discursive motifs which pervade our modern understandings of, and which are enmeshed in the relations of power immanent in, sex and sexuality. Despite the explosion of talking about sex which was characteristic of the modern 'permissive' era, the ways in which we conceptualise sex, sexualities and gender, he argues, are still trapped within categories of thought which we have inherited from nineteenth century sexology. Fundamental to our thinking are the dualistic polarities between nature and culture and sex and society. The sexologists configured sex as deriving from a biologically based instinct intrinsic to the condition of being human. They thus laid down a supposedly 'scientific' framework for understanding the nature of sex, and ultimately, the nature of the individual, which located its source and impetus in nature. This essentialist view of sex has persisted up until the present. Moreover, this instinctual drive was represented as being contradictory to the demands of social organisation and culture and it was therefore seen as necessary for society to 'repress' its disruptive manifestations, or to channel them into appropriate forms of expression. (Conversely, for those who have come to see social repression as thwarting freedom and the 'truth' of the individual the task is to liberate sex and sexuality from this oppressive force.) This way of thinking about sex led to the endless classifying and cataloguing of diverse forms of sexual behaviour and to their identification either as normal or abnormal. The former covered those behaviours that were directly geared to reproduction and therefore to the 'needs' of society; the latter to those which were labelled 'perverse' and seen as antagonistic to social interests.

Weeks points to a similar dualism dominating sexological understanding of gender. Biological differences between men and women were seen to be paralleled by, and to lead to, irreducible differences between masculinity and femininity and to distinct social characteristics, behaviours and realms for men and women. Thus a 'scientific' justification, built on the immutability of nature, was provided for the disparity in power relations between the sexes. Weeks shows how even later attempts by cultural anthropologists such as Margaret Mead to emphasise the role of culture in the production of gender floundered on the bedrock of biology because, ultimately, they were unable to break away from a notion of the 'complementarity' of the sexes. Thus, they saw it as socially 'necessary' that the cultural conditioning of gender be built on biological differences.

Whilst acknowledging that Freud on occasion fell into the trap of biological reductionism, Weeks argues that psychoanalysis is not fundamentally tainted by it, and that it provides the most fruitful avenue for escaping from understandings of sex, sexuality and gender which are rooted in nature. Psychoanalysis, with its emphasis on unconscious processes, on ambivalence and on the production of sexual and gendered identity affords insights towards an alternative theorisation of the individual subject as a socially constructed process, always being produced, reproduced and altered in interaction with its social environment.

That the need for such a theorisation has become evident Weeks sees as one product of the era of 'permissiveness' - that period of alleged sexual revolution in the 1960s and early 1970s - and the moral puritan backlash against it emanating from elements of the Radical or New Right in the 1980s. Whilst Weeks cautions against conceiving of the permissive years as characterised by any unity and points out that the movements which developed then did so in opposition to dominant 'traditional' values and tendencies, he does identify a number of important shifts which did take place. Particularly relevant here are changes in relations between the sexes, in the ways in which sexual conduct was regulated, and the emergence of new political movements, especially the Women's Movement. Notwithstanding these transformations, he argues that 'permissiveness' has come to serve as a metaphor for the ills plaguing contemporary society, and that the

development of the moral Right is merely the loud articulation of a generalised sense of social anxiety displaced on to the area of sex. Weeks identifies the central theme of the political/moral reaction against "sexual anarchy" as "defence of the family" and one of the main scapegoats as feminism. Ironically, he points out, it is women who form the main constituency for the moral Right; middle-aged and middle-class women who see feminism's demands for women's independence as threatening the economic and sexual stability of family life. Weeks' discussion of the new moral puritans draws our attention to the fact that in the new order of sexual politics the initiative has passed to those forces of reaction deployed against the supposed excesses, and the real gains, of the previous decades.

The works of Millett, Foucault and Weeks outline some major themes appropriate to an analysis of discourses on sexuality - and in this instance, specifically on abortion - and are dealt with in the first three chapters. Chapter Four fleshes out some of these in an historical perspective as well as introducing others of particular relevance to abortion. The 1904 NSW Royal Commission on the Birthrate and, to a lesser extent, the inquiry by the National Health and Medical Research Council set up in 1942 by the Commonwealth Government - both prompted by declines in the birth-rate and the threat to population growth thus posed - draw attention to themes still resonating when the debate over abortion opened up in the era of 'permissiveness'. What emerges clearly from these inquiries are assumptions about the proper roles of women and about their duties - to the maintenance of the institution of the family, to the 'race' and nation, to the preservation of morality and righteousness in social life, to their children's health and wellbeing - all 'known' to be ascribed in the essence of woman by the force of nature and biology. 'Good' women we can see as those appropriately disciplined according to the procedures of normalisation deriving from these 'truths' about their nature; others, a variant of Foucault's 'hysterical woman', remained determined to retain control over their reproduction and put their own needs and those of their families (or, as the Royal Commissioners saw it, their selfishness and love of comfort) above the priorities dictated for them. Also contextualised historically in this chapter are the main terms of the discourse of 'right to life'. Whilst it has successfully colonised the modern discourse of human rights its lineage can be clearly located and traced back within the Catholic Church. Similarly, the law against abortion was originally an ecclesiastical matter and only became codified into British statutes in 1803. An understanding of why this happened involves tracing the changing history of the social meanings attaching to illegitimacy, and the relation between these and provisions of the 1576 Poor Law Act and the Bastardy Act of 1624.

Prior to its emergence into public debate in Australia in the mid 1960s, the reality of abortion practice was masked for decades by "the great silence" about the subject. But it was a form of silence and secrecy which, whilst operating as "a shelter for power", also "loosen[ed] its hold and allow[ed] for relatively obscure areas of tolerance". (Foucault, 1980a: 101) Chapter Five explores how this tolerance operated to permit women to furtively seek out and have abortions, and the role played by certain groups, especially medical practitioners, in maintaining the silence but also the practice of abortion. It also deals with the question of why the medical profession, so vocal in other countries when abortion came on the public agenda, remained aloof from the conflict here. What the experience of abortion was like for women is investigated in terms of, amongst other things, the shame of an exposed pre-marital pregnancy or the perceived burden of an unwanted child, the fears and the risks involved, and the relation between sexuality and feminine identity.

Chapter Six covers the period between 1965 and 1973, the agitation for law reform and events and processes leading up the Heatherbrae trial in NSW which allowed for liberalisation in practice. The law against abortion differed from State to State but was based on the 1803 British law amended there in 1837 and in 1861 by the Offences Against The Person Act. Section 58 of this Act provided that:

Every woman being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony. (quoted in *RCHR, V3 Final Report*: 135)

Abortion laws, as they stood in Australia in the late 1960s, fell into two categories: those regulated by 'common law' (NSW, Victoria, South Australia, the ACT and the Northern Territory) based on variations of

the English law; and those regulated by 'code law' (Queensland, Western Australia and Tasmania) where the English law was qualified by a statutory exemption (*RCHR, V3 Final Report: 137*) The relevant sections of the New South Wales Crimes Act stated:

Section 82

Whosoever, being a woman with child, unlawfully administers to herself any drug or noxious thing, or unlawfully uses any instrument or other means, with intent in any case to procure her miscarriage, shall be liable to penal servitude for 10 years.

Section 83

Whosoever unlawfully administers to or causes to be taken by, any woman, whether with child or not, any drug or noxious thing, or unlawfully uses any instrument or other means, with intent in any such case to procure her miscarriage, shall be liable to penal servitude of 10 years.

Section 84

Whosoever unlawfully supplies or procures any drug or noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used with intent to procure the miscarriage of any woman, whether with child or not, shall be liable to penal servitude for 5 years.

The NSW law was also applicable in the ACT. The laws in all other States were similar to that in NSW with some variations in wording and some as to the term of imprisonment. In code States a defence existed under a provision of the respective acts, basically similar to that provided for under section 282 of the Queensland Criminal Code:

A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon any unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time and to all circumstances of the case.

This section (and similar ones in other code States) was a legislative formulation of the defence provided by a precedent established in the ruling by Mr Justice McNaughton in England in 1939 in *R v. Bourne*. Alec Bourne was a Harley Street gynaecologist who, on occasion, performed abortions where there were sufficiently strong grounds. In 1935, whilst performing one in a London teaching hospital on a fifteen-year-old girl referred to him by a doctor, two of his theatre staff, both Roman Catholics, walked out. In his autobiography, he says that this so annoyed him that he determined to do the same thing if a similar opportunity arose and report it to the police to test the law. (Ferris, 1967: 20) What he saw as a perfect case for this purpose came his way in 1938. A woman doctor referred to him a girl of fourteen who had become pregnant by rape. One evening, with two older friends she had gone to the Horse Guards barracks off Whitehall to watch the guards and they were invited in to the barracks. A guardsman suggested they come to the stables to see a horse which he said had a green tail. The older girls declined, but she, younger and more credulous, accompanied him. He raped her and she was then taken to a dormitory by other guards and raped again.

Bourne agreed to help the girl and told the referring doctor that he intended to write to the Attorney-General after having performed the operation to inform him of what he had done. Before operating, he kept the girl in hospital under observation for eight days to satisfy himself that it was indeed a genuine case of rape. After the abortion the girl's father said he did not wish it to be disclosed and Bourne felt bound to respect this. The police woman on the case, however, received a letter from an undisclosed source telling her about the abortion. Promptly approached by a police inspector, Bourne readily admitted that he had operated on the girl and asked to be arrested. (Ferris, 1967: 22)

In his summing up, McNaughton referred to the inclusion of the word 'unlawfully' in the law, suggesting that it implied that there were instances where abortion could be legally performed. He adopted the concept of 'preservation of the life of the mother' introduced in the Infant Life Preservation Act of 1929. In creating the offence of child destruction, this Act said:

Any person who, with intent to destroy the life of a child being capable of being born alive, by any wilful act, causes a child to die before it has an existence independent of its mother....

Provided that no person shall be found guilty ... unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother. (quoted in *RCHR, V3 Final Report: 135*)

Thus, in stipulating circumstances where an abortion would not be 'unlawful' McNaughton ruled that:

if the doctor is of the opinion, on reasonable grounds and with adequate knowledge, that the probable consequences of the continuance of the pregnancy will be to make the woman *a physical or mental wreck*, the jury are quite entitled to take the view that the doctor, who, in those circumstances and in honest belief, operates, is operating for the purpose of preserving the life of the woman. (quoted in *RCHR, V3 Final Report*: 135, my emphasis)

Bourne was acquitted and the case demonstrated firstly, that there were circumstances where an abortion could be lawfully performed and secondly, that 'preservation of the mother's life' should be interpreted more widely than to mean only the mother's physical life.

In Australia, these stipulations would legally have to be taken into account in any decision in the prosecution of a medical practitioner for performing an abortion, and were to provide the basis for liberalisation in NSW and Victoria. Reformers, however, had aimed to have the law changed by statute to widen the grounds for abortion, some even calling for total repeal of any legislation regulating the operation. The chapter deals with the terms in which the debate was waged at the public, and particularly the formal political, level; and with the discourses in which understandings about the meaning of abortion were embedded.

If discursively, the momentum was with reformers in the early years, in the period covered by Chapter Seven - 1973 to 1985 - it tended to be more with those forces arraigned against liberalisation although neither side could boast of significant victories, especially not at the level of legislative change. This was the period when the open performance of abortion was normalised through day-to-day practice and when the energies of the Women's Movement (which had become the commanding force in the battle for abortion by choice) were directed primarily towards those activities. On the defensive against this insidious tide, right-to-lifers could only resist by constantly acting and speaking so as to keep the issue on the public agenda, in the eventual hope of securing legal reversal of the victories won by their opponents. In this and the preceding chapter the discourses deployed elaborate on elements of those themes and assumptions fundamental to a discursive politics of sex and brought to our attention by Millett, Foucault and Weeks. Yet the outcomes of those struggle involving the state (which were many, abortion being subject to state regulation) were much more directly linked to the priorities of politicians with party and electoral politics than they ever were to the substantive content of the discourses on abortion. Apropos of this and at an indirect and secondary level, the thesis can also be seen, then, as a study in the pragmatic/political shaping of public policy on abortion, although this aim was not specifically in view at the outset.

In Chapter Eight the focus of the thesis shifts from abortion to a more general examination of the moral New Right and, in particular, the Festival of Light (FOL) and Women Who Want to be Women (WWWW), and of radical moral Right discourses and politics of sexuality: of the organisation of these groups; of the beliefs held by adherents about sex and its effects on the individual and on society; of the relation between the moral Right and the economic arm of the New Right; and of the recent attack from this quarter against feminism, which is construed by it as responsible for many of the present-day ills associated with sex and sexuality, especially abortion.

METHODOLOGY

During the course of research the focus of the thesis altered substantially. Initially, it was intended to investigate how the psychic meaning of having an abortion was shaped by the nature of the experience (which depended partly on whether it was deemed to be legal or not) and the changing public meanings associated with it, and by differences in feminine identity. The theoretical perspective was derived from psychoanalysis and from recent feminist writings emphasising the crucial emphasis of social structure and processes on (feminine) psychic construction. Much of the data was to be derived from intensive in-depth, unstructured interviews with women who had had abortions in different historical periods. This approach was abandoned for ethical reasons which are dealt with below.

Subsequently, the focus shifted to an examination of debates on sexuality over the last few decades. Two issues which were more or less constantly on the public agenda - abortion and censorship/ pornography - were selected in order firstly, to draw out the salient themes in the discourses on each and secondly, to

compare and contrast them with each other. It was conjectured that whilst much of the substantive content of each would differ, the fundamental parameters of the various discourses on abortion and pornography would derive from similar sets of moral and political perspectives on, and assumptions and meanings about, such matters as the nature of sexuality, the relation between sex and society, and the connections between sexuality and gender. Whilst preliminary analysis of data collected from newspapers and magazine and journal articles supported this hypothesis it became apparent that the project was far more extensive than anticipated and the decision was made to limit the parameters of the research to analysis of abortion as an exemplar of discourses on sexuality.

In attempting to draw boundaries around the size of the research it was initially intended to contain it to NSW. In practice, it soon became clear that this limitation was an artificial one imposed on the data without adequate justification and that it did violence to the material: events and processes in other States and at the Commonwealth level were recognised at the time to be not only influenced, but also to influence, what went on in NSW and they were incorporated into the public debate in that State. As such, we cannot accurately speak of an abortion debate in NSW without taking account of what was going on and what was said about events elsewhere. In this sense, the debate was a national one. Thus, whilst the main focus of the research is on NSW in that most of the material examined, in the way of newspapers, was local to there, plentiful reference is made to events and discursive action in other States and at the Federal level. The thesis can rightly be said to be an analysis of discourses on abortion in Australia as a case study in the discursive politics of sexuality, but viewed largely, although not completely, from the perspective of NSW.

The data on which the thesis is based was collected in three ways:

- document analysis
- interviews
- participant observation.

Document analysis

As far as could be ascertained, every article in the *Sydney Morning Herald* between 1950 and 1985 which referred to abortion in any terms was examined in detail. Initially, references to these were obtained from the index to the *Herald* compiled by the Public Library of New South Wales but, subsequently, I was fortunate enough to gain access to the much more complete in-house index compiled by the newspaper's own librarians and usually available only to its own journalists. Any reference in the newspaper to abortion was indexed in the system under 'abortion' or 'crime - illegal operations' (or, where appropriate, under both headings). Other headings which may have yielded items not covered by these were also searched (such as 'right to life', 'Abortion Law Reform Association', particular parliamentary bills, the names of key players, etcetera) but no additional material was found and it was concluded that coverage under the former headings was exhaustive. Each entry in the index gave a summary of up to several lines of the substance of the article in question, the date and the page(s) and column number(s). Whilst the summaries could have provided a basis for determining which articles to examine and which to exclude from further consideration (there being several thousand of them) it was decided that this would impose on the material a pre-formed judgement of what was important and what was not. Consequently, every article, varying from one-column inch reports of only a sentence or two to feature articles of several pages, was copied from microfilm. In hindsight this decision, although it involved a much greater amount of time - in locating, copying and, most particularly, in classifying, cross-classifying and analysing the raw data - proved highly beneficial as certain issues or events not previously taken into account or recognised as important proved to be of major significance. Perhaps most crucially, it became apparent that the public debates on abortion could not be adequately analysed just in terms of sexual politics but that rather, they needed to be seen in the context of party and electoral politics. Taking account of this dimension entailed the inclusion of a large quantity of detail, making the thesis a more extensive project than anticipated at the outset.

Other newspapers, published both in NSW and elsewhere, were also consulted, but not as methodically as was the *Sydney Morning Herald*. The purposes for this were, firstly, to check whether or not what was said about abortion in them differed markedly from what was presented in the *Herald*, either in journalistic or editorial commentary or in terms of who was reported as saying what and from what position and perspective

(Foucault, 1980a: 11). Surprisingly, perhaps, any substantive differences were not sufficiently marked to be seen as problematic, even those of approach and style between broadsheets and tabloids being less than one would normally encounter. In many cases, reports were very similar, due presumably to common use of press agencies or reciprocal arrangement between newspapers. The second aim was to collect additional details about a story, for example, a *Herald* report on events in another State was likely to be treated more exhaustively in the press there, allowing me to fill out the contours of the story more adequately or get the benefit of journalistic analysis of the events; or occasionally, the *Herald* might run a story but not subsequently follow it up and, for one reason or another, it was deemed to be relevant enough to warrant further investigation.

All references to abortion in APAIS (the Australian Public Affairs and Information Service) to newspaper feature articles, articles in popular magazines, organisational newsletters and academic and other journals were pursued and most of these obtained and examined. Those articles in publications emanating from organisations or particular interest groups (for example, women's groups, or religious organisations) tended in the main to consist of arguments for or against abortion. Whilst they contributed no new discursive elements to the debate as it was being argued in the press (and, anyway, not themselves being 'mainstream' could not be taken as part of the general public debate) perusal of them demonstrated that the press was giving articulation to all parameters of the issue as it was conceptualised by particularly interested parties. Articles of most interests for my purposes were those in magazines with a wide mass circulation (for example, *Woman's Weekly*) as they gave a very good indication of how deeply the issue of abortion had percolated into everyday, legitimate discourse; and those in press outlets or in academic journals which gave background information about, or contributed much in the way of comment or analysis of, specific events or conflicts (such as *Nation Review*, the *National Times*, the *Bulletin*). Also relevant were any comments or articles on abortion in the *Medical Journal of Australia*.

Other documents analysed included the reports of the 1904 *Royal Commission into the Birth-Rate* and of the *Royal Commission on Human Relationships* and the *Hansards* of the Federal and NSW Parliaments for occasions when abortion was raised there either in question time or debate over a bill or a motion.

Interviews

In-depth, unstructured interviews were conducted with nineteen women who had had abortions between 1932 and 1979 including three sets of mothers and daughters. Their ages at time of interview ranged from thirty-two to early-seventies and their socio-economic position from working to upper class. All but one were either married or had been and had children before and/or after their abortions. The number of abortions each had had varied between one and fourteen. The length of the interviews ranged from approximately ninety minutes to over seven hours (spread over two separate occasions). Whenever possible, interviews were held in my home so that I could ensure that there would be no interruptions. The women were located simply by word of mouth, the highly personal nature of the material ruling out any possibility of a random sample. They were not selected, however, on any criteria other than the fact that they had had an abortion. Interestingly, no women approached for an interview refused. Only two were friends of the researcher, the others were either acquaintances or acquaintances of people who knew of the project and had been requested to refer appropriate women to her.

One interview was also held with a non-medically qualified ex-abortionist who had been operating in Sydney in the 1950s and 1960s. He was an acquaintance of one of the women interviewed who requested his cooperation on my behalf.

Ten young women in their final year of high school were interviewed as a group at the time when the Reverend Fred Nile, a member of the NSW Legislative Council, introduced a draconian anti-abortion bill in the Parliament. The purpose of this was to gauge a sense of the meaning which abortion held for a generation of women brought up in the period when abortion was easily available and, to all intents and purposes, legal.

Some of the interviews with the women were conducted early in the research at the stage when psychoanalytic theory was the dominant framework and abortion was being examined in terms of its relation to constructs of femininity. Women were invited to speak not only about their abortions and how they felt

about them but about their early childhood and relationships with parents, their emotional histories as they saw them, about motherhood and about various other matters which were likely to cast light on how they identified as feminine subjects. They were also encouraged to discuss anything which they thought was in any way relevant to these issues or which came into their minds as they were speaking.

It became apparent, however, that this approach was fraught with ethical difficulties. Whereas a few women simply told their stories factually and seemed to maintain an emotional distance from what they said, the interviews which were most useful for the purposes of research were those in which women spoke at length and with quite extraordinary candour about their experiences and their feelings. The degree to which this happened in many cases was well beyond anything I had anticipated at the outset. I attribute this (and this was confirmed by the women themselves when we actually discussed the experience of being interviewed) to the fact that few people ever in their lives are asked to speak about themselves totally freely in a context where what they have to say about their experiences and their personal history is afforded a high value in itself. Whilst a similar freedom may be available in a therapeutic encounter there are crucial differences: the speaker is then a patient and in some sense experiences herself as a supplicant; what she says has no intrinsic value but is heard only to be symptomatically evaluated and judged; the listener is paid for undertaking the task and the speaker is taking (in fact, buying) that time;¹ and the time limit is imposed by the hearer, indicating that he or she has other patients just as important as her, or other things to do. These differences, I would suggest, also accounted for the speed with which women relaxed into talking about very personal details and feelings, even at times speaking of things they said they had never told anyone previously.

The negative side to this - and what presented me with an ethical dilemma - was that by being so open and unguarded a number of women subsequently felt a strong need to reach some resolution of what they had unearthed from the past, and moreover, not to transfer this to a professional therapeutic situation but to continue talking to me. No woman attempted to impose this on me, but they did voice this perceived need. In turn, whilst I felt I owed them whatever I could give, I considered it potentially dangerous for them for me to assume what would have amounted to the role of therapist. In addition, I became increasingly concerned about the presumptuousness involved in my imposing a psychoanalytic interpretation on the material presented by the women, not only because I was unqualified to do so but because I came to think that this would do some form of disservice to the women rather than merely allowing them to speak for themselves. For these reasons the direction of the research was changed. Accordingly, I oriented future interviews more directly towards abortion.²

One of the main purposes of the interviews was to unearth discourses on abortion for the period of silence. That little or virtually nothing was publicly said about abortion prior to the 1960s did not, as already indicated, suggest that there was nothing to say; nor did it represent, as Foucault points out, "a plain and simple imposition of silence". Rather:

... it was a new regime of discourses. Not any less was said about it; on the contrary. But things were said in a different way; it was different people who said them, from different points of view, and in order to obtain different results. (Foucault, 1980a: 27)

In the classical disciplines arguments *ex silentio* - that is, that a silence in the texts represents the non-existence of a phenomenon - are commonly regarded as invalid on the ground that only a limited number and kind of text has survived. Similarly, the 'primary texts' on abortion from 'the great silence' could be seen, analogously to most classical texts, as 'lost' in the sense that most discursive acts of the period were articulated only in transitory verbalisations or, metaphorically but perhaps more precisely, in whispers.

¹ I always made a point of giving some sort of gift before the interview began; flowers, chocolates, a good bottle of wine or a special lunch or dinner. This was intended to symbolise my acknowledgement of what a woman was giving to me by being interviewed, and to express my gratitude.

² Interestingly, most women themselves still addressed many of the topics which I had formerly encouraged (although, fortunately, in less detail and with more emotional reserve than the previous women) suggesting support for my former hypothesis - that there is an association between the psychic meaning abortion has for women and their gender and sexual identities.

Analysis of discourses of silence present the researcher with a fundamental difficulty, and indeed a paradox: the discourses have to be 'reconstructed' before they can be 'deconstructed'. The ideal research data for such an enterprise would be the private diaries of women in which the issue of abortion, the experience of it, thoughts, feelings and fears about it, and the personal and social pressure for and against it were addressed in detail at the time when they occurred. Lacking access to such hypothetical data the project of reconstruction had to be built on in-depth interviews designed to examine discourses on abortion retrospectively. This exercise is liable to the pitfalls of re-interpretation by the women concerned in the light of hindsight, of present-day discourses on sexuality and abortion, and on modifications and even mutations or ruptures in their sense of identity or subjectivity. Indeed, the mere fact that women approached readily agreed to examinations into their sexuality and abortions could be said to be a function of social change and its interaction with the sense of self, thus also suggesting re-interpretation through the lens of the present. It could be claimed, then, that interviews concerning experiences which occurred decades previously cannot provide valid insights into what were the discourses of the period of silence; that they are transacted in an era ruptured from the past in terms of their central focus, and with what could amount to a different person from the one who originally underwent the experiences and feelings. In reply to these possible objections, several points can be made.

Contrary to the assumed premises of positivism there can be no such thing as 'raw' or 'uncontaminated' data which immediately presents its naked truth to the observer. For it to make sense experience is always interpreted and done so through various perspectives or sets of meanings.

'Experience' is much more than situations or amalgams of circumstances through which individuals pass temporally; rather, it is indissolubly linked to and constitutive of the process of subject construction:

Through that process one places oneself or is placed in social reality, and so perceives and comprehends as subjective (referring to, even originating in, oneself) those relations - material, economic, and interpersonal - which are in fact social and, in a larger perspective, historical. The process is continuous, its achievement unending or daily renewed. For each person, therefore, subjectivity is an ongoing construction, not a fixed point of departure or arrival from which one then interacts with the world. On the contrary, it is the effect of that interaction - which I call experience; and thus it is produced not by external ideas, values, material causes, but one's personal, subjective, engagement in the practices, discourses, and institutions that lend significance (value, meaning, and effect) to the events of the world. (de Lauretis, 1984: 159)

This implies that how one experiences the world, then, how one 'experiences' experience, that what gives meaning to events and situations, and how one prioritises them and marks them out differentially, is a function of subjectivity. Subjectivity, however, whilst necessarily experienced as a unified whole, is a fundamentally unstable construction, "a precarious unity of different, often conflicting definitions and meanings". (Weeks, 1985: 159) Rather than a fixed entity, subjectivity is a process, always in a state of 'becoming'.

If subjectivity is always in process and liable to destabilisation so too, then, is the interpretation that is given to experience. The meaning of subjective experience is not fixed:

Meaning does not arise from its reflection of something more real gliding below the surface of words; meaning is constructed.... (Weeks, 1985: 177)

There is no one point, then, at which it is possible to claim that a subject's account of experience is a more valid interpretation than at another point. Experience only acquires meaning through the ever-shifting lens of individual subjectivity. (Much of that meaning, of course, is shared; subjectivity is culturally formed and much of that which constitutes it is held in common with other members of the culture. Indeed, it is those meanings which are shared most widely which are taken as the 'truth' of experiential interpretation.)

Accounts of abortion spoken one to six decades removed should not, then, be seen as contaminated by time, in the sense that if, hypothetically, they could have been recorded closer to the event they would have constituted 'cleaner' data. Interviewees were themselves usually aware of and readily declared *post hoc* re-interpretations, rationalisations and justifications.

Despite these provisos it is arguable that time and social and subject change in fact cause little 'interference'. Rather, the frankness of speaking the 'truth' of sex emerging from the era of 'permissiveness' and the Women's Movement enabled what was formerly unspeakable to be put into discourse. In that sense, then, the interviews were discourses of the present. But they are also of the past, and in so far as society develops out of its history they span and represent the development of discourses on sex over the whole period.

Participant analysis

In the course of researching Right wing women's groups and anti-feminism (which is dealt with particularly in Chapter Eight) I attended a three-day conference held jointly by Women for the Family and Society (the women's organisation of the Festival of Light) and Women Who Want to be Women which was addressed by Phyllis Schlafly, four talks by Michael Levin given at various venues and a committee meeting of Women for the Family. It was my intention to continue attending and observing such gatherings and those of other groups composed wholly or primarily of Right-wing women to gain a thorough understanding of their explicit ideas, their motivations for action and their feelings and thoughts about sexual issues and their relation to society. Unfortunately, I was unable to continue this line of research for ethical reasons. The committee meeting of Women for the Family (which was open to all female members of FOL (which I had joined in order to receive its magazines *Light* and *Christian Solidarity*, bulletins, newsletters and other material as well as access to information about forthcoming events) was attended by only six women plus myself and it was impossible to maintain the anonymity which I could more easily count on at larger gatherings. I was warmly welcomed as a recruit to the cause and, amongst other things, asked my occupation and where I worked, questions which I answered truthfully not wishing to involve myself in a web of deception which I might have to maintain in the future. It became immediately apparent that because I was tertiary qualified, an academic, and apparently intelligent and sensible, I was considered a very valuable potential addition to the inner core of women involved in the organisation. After the meeting I was invited to go for coffee with two of the women, one of whom in particular was an energetic woman apparently frustrated by what she saw as a lack of purposeful drive within the group. We went to a nearby cafe where we talked for some time. As we parted I was suddenly embraced as she expressed her delight at meeting me and her expectation that we could work together in the future. If this was not itself a difficult enough situation for a researcher to extricate herself from without losing access, the next morning it became an impossible one. At 8AM she telephoned me with the idea that she had worked out with Marie Bignold (later to become a Call to Australia member of the NSW Legislative Council and then an independent after a public brawl with Fred Nile) that the two of them, one other woman and myself should form an unofficial 'intellectual vanguard' for Women for the Family, and with an invitation to have dinner with the three of them several days hence at Bignold's home. After somehow extricating myself from the conversation without any commitment but an arrangement to call back I appraised the situation. On the one hand it was an extraordinary opportunity to learn about these women and their views; on the other it was both personally and ethically highly dubious. Whereas it was one thing to attend their gatherings at public venues but remain uninvolved from their activities, it was quite another matter to accept hospitality in their homes and participate, in any capacity, in their projects and their plans to extend their influence both within FOL and more widely. Moreover, whatever their politics, on a personal level these were warm, kind, 'nice' and welcoming women and it would have been distasteful for me to take advantage of those qualities in them. Accordingly, I withdrew, explaining that I was not ready, nor sufficiently committed, to involve myself too deeply. Henceforth, it was not tenable for me to appear at any of their meetings or activities because to do so to the degree necessary for research purposes would, I felt, have appeared strange; as well, I feared another similar approach.

Nonetheless, the observations that I had already carried out were of considerable value, not only in terms of the actual material gained from recordings I made of Schlafly's and Levin's addresses, but more intangibly, from seeing and meeting these people face-to-face. In common with many with a Left-wing political position I had tended to see adherents of the New Moral Right merely as authoritarian neo-fascists; instead, I came to perceive them as ordinary people with genuine fears and deep concerns even though their analyses and solutions differed radically from my own. In turn, I believe that this encouraged me to be somewhat more reflexive and less dogmatic both theoretically and politically and to adopt a very critical orientation to truth claims emanating from any source

CHAPTER ONE

KATE MILLETT

Kate Millett's *Sexual Politics*³ was one of a number of highly influential works which appeared in the nascent years of the contemporary Women's Movement.⁴ Directed to demonstrating the inequalities between men and women and to theorising psychological and institutional means whereby male dominance is maintained and perpetuated these texts were both responses to, and powerful catalysts in, the emergence of organised resistance by women. What distinguishes *Sexual Politics* from those other works and marks it out as a crucial text for the purposes of this thesis is its emphasis on sex, sexual relations, and the nature of masculine and feminine sexualities. Hence, according to Millett:

Coitus can scarcely be said to take place in a vacuum: although of itself it appears a biological and physical activity, it is set so deeply within the larger context of human affairs that it serves as a charged microcosm of the variety of attitudes and values to which culture subscribes. Among other things, it may serve as a model of sexual politics on an individual or personal plane. (1972: 23)

For Millett, sex is the fundamental human relation and the foundation upon which all socially constructed and institutionalised inequalities between the sexes are built. (1972: 20) It is the prototype, the very nucleus, of men's social and cultural superiority, as well as being the most perfectly honed medium for expression of misogyny and the degradation of women. Sexual relations between men and women are central, then, to Millett's theorisation of the political relations between the sexes.

Before proceeding to an examination of how Millett demonstrates this, it is necessary to deal with the nature of that political relation as Millett sees it and to her understanding of the social factors which produce, and are produced by, the cult of masculine virility endemic in patriarchal heterosexuality.

Power and Patriarchy

Millett extends the limited meaning of the term 'politics' beyond its then customary usage as referring to parties and formal institutions to encompass "power-structured relationships, arrangements whereby one group of persons [defined by race, caste, class, or importantly, sex] is controlled by another". (1972: 23) In particular, the relationship which presently obtains between men and women, and historically has always done so, is a case of what she says Weber defined as *herrschaft* - one of "dominance and subordination" - whereby the will of one (person or group) is imposed upon the behaviour of another. (1972: 25) She argues that an understanding of power relations between the sexes also needs to take account of the interaction between group members at the level of personal contacts and relationships, for the very reason that the extent of their subordination excludes them from the formally institutionalised channels of political redress.

Thus, notwithstanding her insight into the centrality of power relations at the micro-level and the radical feminism inherent in her argument that gender is the most primordial of all forms of oppression, Millett remains very much a liberal in the stress she puts on the distribution of power at the formal political level. Her liberalism is even more apparent in the 'solution' she offers to this domination, so deeply entrenched in our psyches, ideologies and institutions: 're-education' is the key to a sexually equal society. Yet she betrays a certain confusion here, one which stems from her account of male domination as unilinear and all-pervasive, and her neglect of historical process and contradiction: she claims that the failure of the 'first sexual revolution' (which she locates as occurring between 1830 and 1930) stemmed primarily from its focus

³ First published in the USA in 1970 and in Great Britain in 1971. The edition cited here was published in 1972 by Abacus.

⁴ Others were Betty Friedan's *The Feminine Mystique* (1963) which actually predated the Women's Movement by several years; Eva Figes' *Patriarchal Attitudes* (1970); Shulamith Firestone's *The Dialectic of Sex* (1970); Germaine Greer's *The Female Eunuch* (1971).

on reform and its consequent inability to effect radical, but absolutely necessary changes in social attitudes, personality and institutions (1972: 85). Her demand for 're-education' is, then, in her own terms, a logical impossibility if, as she claims, all institutions, ideologies and 'temperaments' are thoroughly saturated with patriarchal principles. Ultimately, Millett is caught here in the same dilemma which confronted Western Marxism of the same period; how to theorise resistance when one's analysis of hegemony has excluded its possibility.

According to Millett, every public means via which power can be attained - the military, industry, technology, universities, science, political office, finance, police - is dominated and controlled by men; the idea of a male god and 'his' ministry, all philosophy, values and ethics, all culture and the arts, are the products or exclusive provinces of men. This state of affairs, she claims, is both the outcome, and an indication, of the fundamentally *patriarchal* nature of our society. Historically, all societies have been patriarchies in that the male half of the population dominates the female half. She defines the characteristics of a patriarchy as the domination of men by women and of younger men by older ones. (1972: 25) Whilst she allows for the existence of individual exceptions to this 'rule' of social organisation, and acknowledges historical and local variations, basically she sees these as irrelevant to the systematic operation of patriarchy. Her intention, she says, is to sketch out a general outline to prove her contention that sex (in the sense of the biological categories of male and female) "is a status category with political implications" (1972: 24). Whilst social supremacy premised on status of birth is fast disappearing and its legitimacy in most forms, for example, race, has been fatally undermined, male rule remains virtually unquestioned. Collectively, men dominate society and control the collectivity of women as a legacy of their *birthright*. According to Millett, this "ancient and universal scheme" of male domination as an unchallenged privilege of birth is

... a most ingenious form of 'interior colonization'.... It is one which tends moreover to be sturdier than any form of segregation, and more rigorous than class stratification, more uniform, certainly more enduring. However muted its present appearance may be, sexual dominion obtains nevertheless as perhaps the most pervasive ideology of our culture and provides its most fundamental concept of power. (1972: 25)

For Millett, class stratification with respect to women is tangential and secondary, their position in the class structure being determined by that of the men to whom they are attached. There is no sense of the elaborate complexity and interaction between class and gender as systems of oppression. As Michelle Barrett argues, Millett accords not only analytic independence to patriarchy, but also analytic primacy. (Barrett, 1980: 11) But yet again, Millett displays a certain ambiguity here when she claims that another important weakness of the first sexual revolution was its exclusively bourgeois character; it totally failed to take account of the particularity of working class women's circumstances and problems - "the most exploited group among its numbers" (Millett, 1972: 84). So, she is implying that feminist political practice must deal with the interaction of sex and class oppression. From that it follows that theory of women's oppression must necessarily do the same, although she appears to deny this.

Gender Conditioning

Millett places great reliance on social conditioning as an explanatory principle; indeed, it is the theoretical backbone of her thesis. She argues that both sexes are conditioned to patriarchal ideology via the process of socialisation. (1975: 26) This produces clearly defined differences between men and women in 'temperament', 'role' and 'status'. The inculcation of different and opposing qualities, functions and values accords directly with the biological categories of male and female. *Temperament* - the psychological component - involves the incorporation into personalities of sex-stereotyped masculine and feminine traits, their different 'allocation' being a function of the qualities men (as a collective group) find admirable and congenial in themselves, as opposed to those they consider convenient in their female subordinates: aggression versus docility, intelligence versus ignorance, etcetera. These personality differences link directly to clearly demarcated *sex roles* - the sociological factor - whereby females are relegated to domestic service and childrearing (activities closest to our biological, animal-like 'natures') and men to the public sphere (that which comprises all human culture, endeavour and achievement). The combination of different temperaments and roles results in, and interacts with, profound *status* differentials between the sexes - the political component. Male temperaments and roles are awarded a higher social value, and thus men enjoy a dominant

position in the social structure *vis a vis* the subordinate female group. Conversely, those accorded superior status (allegedly as their birthright) are more likely to fill “masterly roles”, facilitated by their prior conditioning to dominance and aggression.

These differences are assumed (in popular thought and in academic theorising) to be directly determined by nature, or, if the role of culture is allowed for in the shaping of sex-typed personality traits and behaviour, Millett makes the point that it is seen merely as acting in concert with nature. But, she insists, the differences in temperament between the sexes do not originate in nature, and nor do those of roles and status. (1972: 27) Millett claims that these differences, and the alleged innate superiority of males, is based on the belief that their larger physical stature and greater muscular strength pre-ordains them by birth to social and cultural dominance. But, she declares, patriarchy, like any other system of social power relations, is not a result of biology; rather it emerges and is sustained by cultural values. This, of course begs the question, which Millett apparently appreciates. Thus her brief foray into the infamous quest for the origins of patriarchy.⁵ But it is precisely because she has an ahistorical and unified view of power relations between the sexes as a universal constant - one which lacks a sense of process, change, contradiction and discontinuity - that she feels compelled to raise the matter of the inaugural instance of the transformation to, or the birth of, patriarchy, despite her own acknowledgement of the uselessness of such a task. That she views the search as pointless is only because that *moment* (and it is for her a ‘moment’) is shrouded in pre-history; for Millett, it seems that the ‘answer’ is ‘there’, if only we had access to the knowledge.

To support her claim that sexed-typed traits of temperament are culturally produced, Millett sets great store on the findings of a psychoanalyst, Robert Stoller. Published in 1968, so immediately prior to *Sexual Politics*, and based on his research at the Gender Identity Research Clinic, Stoller’s book, *Sex and Gender*, lent powerful credence to the postulates of sex role conditioning theory. From his work with transvestites and transsexuals, Stoller claimed that biological sex and masculine and feminine gender were distinct and independent categories. He concluded that an individual’s “core gender identity” is acquired not as a direct result of their biological sex, but from the influence of post-natal psychological factors, particularly those involved in the relationship with the mother in the first eighteen months of life. Thus whereas ‘sex’ refers to what is biological, ‘gender’ refers to what is cultural. Millett argues that Stoller’s work proves that psychosexual identity is learnt, but also that an individual’s sense of gender is the core of its identity, and the most “permanent and far-reaching” aspect of it. (1972: 30)

From these conclusions one can see why Millett arrives at her recommendation for ‘re-education’ and why feminists consequently put so much emphasis on non-sexist childrearing. In order to achieve equality between the sexes socialisation and cultural practices need to be ‘de-gendered’. The ultimate aim of this process is a re-socialisation which would produce males and females with all the desirable human traits in common; rather than masculine and feminine identities, a non-patriarchal society would comprise androgynous individuals. (Millett, 1972: 62) Thus the consciousness of the neonate, and its male or female body, are seen as a *tabula rasa* on which culture etches masculine or feminine qualities, which are subsequently incorporated to form the primary sense of (gendered) identity. This involves a conception of consciousness as wholly constituted by the imprinting onto it of social inscriptions, which are in turn, as it were, ‘stamped’ onto a neutral and passive body. Thus, the process of ‘gendering’ is construed as carried out in the realm of ‘ideas’ or of the mind, a view which Gatens argues is implicitly rationalist. (Gatens, 1983: 147) There is no allowance here for any understanding of psychic interaction between consciousness and the subject’s own narcissistic investment in its body and the signification given the sexed body. Gatens also contends that the socialisation model of development assumes that a transformation of cultural practices can negate the effects of people’s actual experiences and of how they have ‘lived’ their bodies in specific historical and cultural contexts. (Gatens, 1983: 151) What is apparent too, is that Stoller’s Americanised variant of psychoanalysis has jettisoned the two radical cornerstones of Freudian theory: the complexity and irrationality of unconscious processes, and the centrality of infantile sexuality in psychic development. Also, for Freud, the body is not

⁵ After some speculation about the historical origins of male dominance, and about the possibility of a pre-patriarchal society based on valorisation of women’s fertility, Millett eschews the impossible task of explaining why and how patriarchy began. Nevertheless, she is later drawn back to the quest in her account of Engels’ work.

neutral, but rather, is (over)invested with meanings. Instead, Stoller's argument swings completely on the concept of identification of the child with the mother (transsexualism or transvestitism resulting from a failure of the male child to resolve this identification).

But for Millett, Stoller's work unequivocally establishes that early childhood socialisation is *the* decisive factor in the acquisition of gender characteristics. Hence, what is assumed to be the most fundamental difference - and the one which is indispensable to the perpetuation of relations of domination and subordination between the sexes - aggression in the male and docility in the female, is merely the result of a sex 'appropriate' system of encouragement and discouragement of infant traits and behaviours. (In fact, Millett's model of socialisation boils down to a version of behaviourism.) From this basic division, Millett says that all other sex-typed gender characteristics are "somehow - often with the most dexterous ingenuity - aligned to correspond". (1972: 31,2) This process is commonly seen, however, to be the outcome of nature, and hence a 'proper' rationalisation for the patriarchal system. In fact, maintains Millett, the argument that sexual inequality is inherent in human biology is specious, so much so that

... one has some cause to admire the strength of a "socialization" which can continue a universal condition "on faith alone", as it were, or through an acquired value system exclusively. (Millett, 1972: 31)

But for all the criticisms which - with the benefit of hindsight and a massive explosion since of feminist theorising, argument and counter-argument - can be levelled at Millett's emphasis on conditioning, in its own historical context, it did provide an analytic framework capable of undermining dominant assumptions about biological determination and inevitability, and the necessities of 'nature'.⁶ Her use of the distinction between sex and gender and her elaboration of it in terms of power relations between the sexes, provided a powerful leverage point for unhinging the taken-for-granted nexus between males and social dominance. Having established the 'arbitrary' association between men and masculinity and women and femininity, Millett could then demonstrate that masculinity - the characteristics allegedly inherent in men - functioned as the 'norm' in human identity and behaviour. Conversely, the "mutually exclusive, contradictory, and polar qualities" assigned to femininity were accorded less value and esteem precisely because they differed from the masculine standard. (Millett, 1972: 32)

Functionalism: Ideology as 'Science'

Millett savagely attacks functionalist sociology for its purportedly objective and value-free description of oppositional but complementary, 'instrumental' and 'expressive' sex roles, and the respective (masculine and feminine) personality traits supposedly exhibited by males and females. Millett asserts that under the guise of 'scientific' detachment, functionalism maintains that its only interest is in 'utility', the identification of social patterns of behaviour, which, because they 'work', must be functional for social order. (1972: 220) Hence, because sex role differentiation is said to be functional, any question of the political nature of the function is simply outside of consideration. And yet, as Millett points out, any system which is perpetuated, no matter how oppressive it might be, could be said to be 'functional' in this sense, such as racism or feudalism. Furthermore, once a pattern is 'discovered' as functional, it is deemed to be necessary, and thus, Millett contends, functionalism is highly prescriptive, and geared towards the 'adjustment' of individuals or groups to the system. Its emphasis on the norm is in fact covert insistence on conformity. In the case of sex roles and sex-typed personality traits,

having found traditional behaviour functional, functionalists could now prescribe it: having found the status quo operable, they could proceed to find it "natural" hence biologically "necessary". (Millett, 1972: 221)

⁶ My purpose here is not to mount an elaborated critique of the social conditioning model as it pertains to gender identity and sex role stereotyping. This has been amply covered elsewhere (see, for example, Franzway and Lowe [1978] and Connell [1987]). It is also dealt with below in Jeffery Weeks' critique of Margaret Mead's work and of the school of cultural anthropology. I am more concerned to demonstrate its importance to Millett's argument, to draw out those problems with it most pertinent to her work, and to foreshadow it as a feminist discourse which is later picked up by anti-feminists in the 1980s and represented as *the* definitive model of feminist theorising about, and explanation of, inequality between the sexes. In this latter context, those championing traditional sex roles have found it easy and convenient to set up a 'straw person' caricature of sex role learning which flies in the face of 'commonsense' knowledge, call it 'the theory of feminism', and ridicule it and tear it (and thus feminism itself) to shreds, as we shall see in Chapter Eight.

Millett sees the emergence of functionalism within sociology as part of the ideological reaction against the 'first' sexual revolution. Its subsequent dominance of the discipline entailed a marginalisation of the former emphasis on the historical and political analysis of society. Conflict, for example, was no longer treated in terms of power or interests, but as a problem of maladjustment on the part of the individual experiencing it. And despite its new claim to scientific status, functionalist sociology eschews causal explanations in favour of the endless measurement and tabulation of traits, characteristics and behaviours of identifiable groups, without any attempt to trace the political and historical processes giving rise to them. "Functionalism finds it agreeable to operate in an endless present", charges Millett, and its model of the optimum society is one of maximum stability. Change is viewed as a problem of "social maladjustment", so the partial emancipation of women achieved by the first sexual revolution is "semantically obliterated" in the terminology of 'role change'. The pervasive influence of patriarchy in social organisation is not even recognised by functionalism, let alone seen as problematic, the different traits and roles of the sexes explicitly viewed as grounded in biology. Thus, it has proved to be a willing and loyal servant of the forces of reaction:

As the major trend of the sexual revolution had been to de-emphasize traditional distinctions between the sexes both as to role and to temperament, while exposing the discrepancy in status, the most formidable task of reactionary opinion was to blur or disguise distinctions in status while re-emphasizing sexual differences in personality by implying that they are innate rather than cultural. A differentiation of roles followed upon that of temperament, and it too was regarded as eminently useful, even necessary. As this return to a conservative prerevolutionary system required validation, the whole weight of public authority which the social sciences had gradually amassed was now exerted in favour of patriarchal ideology, attitudes, and institutions. The preservation of conservative notions of marriage and the family, of sex role, of temperamental trait and identity through conformity to sexual norms, took on something of the nature of defense [sic] of holy ground. (Millett, 1972: 221,2)

The influence of functionalism's justification of the status quo, its emphasis on the norm and the need for deviants to adjust (or 'be' adjusted) to it is not confined to academic circles; it percolates down and infiltrates ways of thinking and practice in schools, industry and the popular media, remarks Millett. (1972: 221) In this form, it becomes a method of "cultural policing". Whilst Millett doesn't elaborate on this aspect of functionalism, this is an important observation. The 'normalising' element in functionalism, translated into popular 'commonsense' assumptions, has become a powerful mechanism for justifying social inequalities between groups, and particularly those between men and women. It will be apparent in the following analysis that it pervades much anti-abortion discourse, and that it has been energetically mobilised in the 1980s by the Moral Right and by anti-feminists. Its teleological reasoning is called upon to warn of the anarchy and upheaval which would follow change to the prevailing patterns of stability and order. As Millett makes clear, it frequently operates in tandem with appeals to the inevitability of nature, justifying 'traditional' structures and functions as cultural representations of what is biologically (or divinely) ordained.

Functionalism (and the Moral Right) puts great stress on the institution of the family, but for Millett, much of what it values about it, is precisely what needs to be critiqued and changed. She sees the family as the nexus between the individual and the larger society, as a micro unit of the patriarchal whole. Just as men govern society, male heads of families govern women (and children) who, Millett says, have themselves little or no formal relation to the state. The family, then, is an agent of society, and operates like a unit of the state to ensure conformity in its members; it is, as it were, an arm of government in its function of control of a section of the citizenry. (Millett, 1972: 33) The family is the major site for the socialisation of children, the primary vehicle for obtaining conformity, and thus compliance to the prescribed ideology of patriarchy. Whilst there may be variations in the content of these imprinted messages, Millett maintains that the "general effect of uniformity is achieved", and is thereafter reinforced by schooling, the media and other formal and informal "learning sources". She dismisses any anticipated objection that families may vary in terms of the balance of power between parents, and that this may affect what children learn from their parents about gender, as mere 'niggling'; the point is, she asserts, that the "entire culture supports masculine authority in all areas of life", and accords none at all to women outside of the home. (1972: 35)

Despite her contention of the total hegemony of patriarchal ideology and its internalisation through conditioning, Millett does acknowledge that some individuals fail to conform to their appropriate stereotypes. Rather than asking how this could happen (given her totalising model of socialisation) she pauses only long enough to find in it another example of the 'perniciousness' of the system and its agents. The "vigilant

surveillance of conditioning” ensures that young males and females who don’t manifest proper masculinity or femininity are harassed and belittled. (1972: 232) Further, as gender is our primary identity, she says we imagine that we “may fail to exist” without a certain sense of gender identity. Women, particularly, are bombarded through the media with images of what they should be, but images which simultaneously denigrate the very ideal. Coupled with discrimination in education, employment and personal contacts, they are likely to develop the characteristics common to a subordinated group: contempt for themselves and each other, self-hatred, perpetual infantilisation, an ingratiating manner designed to appease, a tendency to seek male approval, self-rejection, a sense of their own inferiority. (Millett, 1972: 54,7) Also, because they are dependent on men for their survival and approval, they identify their own existence with that of their rulers. Hence, women tend to be conservative, rejecting any notion of their own oppression, or seeing it as too radical to contemplate. (Millett, 1972: 38)

In fact, what Millett is doing here (again) is discounting and devaluing people’s lived experience, in her insistence on the unified and universal impact of patriarchal ideology. Conditioning to, and internalisation of, patriarchal values and behaviours is, in this account, a complete and unitary accomplishment. This leads to an understanding on her part of individual psyches as rational and unified wholes, constructed according to the demands of patriarchy; as being the living embodiment (or bearers) of patriarchal ideology. For her, the inculcation of the ideology of male dominance as ‘correct’, ‘natural’ and ‘inevitable’ is a depressingly complete achievement, ensuring the perpetuation of the system. Of course, the paradox here, is that Millett is left bereft of any analytic space (or social site) to theorise (or locate) the possibility of resistance. In fact, to be consistent with her own theoretical model, she would not be able to explain how she came to conceptualise her own critique of patriarchy! Further, there is no acknowledgement of human development as a complex, hazard-strewn, and contradictory process, and thus no allowance for a conception of subjects as internally contradictory *processes* - as potentially unstable and ever-precarious amalgams of conflicting wishes, desires and fears, constantly reproduced in interaction with the social environment. Ironically, she mounts a scathing attack on Freudian psychoanalysis, the radical insights of which could have provided her with appropriate analytical tools for an escape from the strait-jacket of the socialisation model of human development and subject construction.

Sigmund Freud: Prophet of Patriarchal Resurgence

Millett’s account of Freud’s theories is as lucid as her critique is savage. Certainly, it had the effect within the English-speaking Women’s Movement of the early 1970s of painting Freud as a patriarchal devil incarnate. But with the publication in 1974 of Juliet Mitchell’s *Psychoanalysis and Feminism*, and the importation into Anglo-Celtic feminist theorising of Lacan’s re-reading of Freud initiated by that seminal work, the invaluable conceptual apparatus of psychoanalysis gradually became apparent. I do not intend, at this juncture, to spell out the import of Freudian concepts for the theorising of gender and sexuality; Weeks does that succinctly and hence what is of most value in his work will be summarised in Chapter Three. Nor do I intend to take issue at any length with what I contend is a selective misreading of Freud by Millett. That would be an extensive and unnecessary exercise, given the present widespread acceptance of the theoretical utility of psychoanalysis, and the parameters of this thesis. Here, I will merely demonstrate the rationale and the nature of Millett’s hostility to Freud, with some remarks on what I see as her misjudgement.

In an interesting anticipation of a concept central to Foucault’s ideas, Millett argues that the disciplines of the social sciences - sociology, psychology and anthropology - were critical in the installation of a reinvigorated patriarchal regime subsequent to the demise of the first sexual revolution. They propagated and disseminated a modernised but authoritative “[re]formulation of old attitudes”, systems of norms and values indispensable to “social control and manipulation”. (1972: 178,9) To pass as beyond question, however, these disciplines needed to be bolstered by some connection with the already legitimate sciences of biology, mathematics and medicine. Millett says a “number of new prophets arrived upon the scene” to give a new credibility to the refashioned doctrines, the most influential of them being Freud, “beyond question the strongest individual counterrevolutionary force in the ideology of sexual politics in the period”. (1972: 178)

Millett takes issue most particularly with Freud’s concept of penis envy in women (1972: 179), and with the three major traits which she claims he saw as distinguishing the normal “*female* personality”: masochism,

passivity, and narcissism (1972: 194, my emphasis). She says that according to Freud, these characteristics emerge inevitably from envy of the penis, which itself is the dominant condition of the female from the moment she discovers her alleged castration on into adult life. These fundamental traits, in one way or another, give rise to a host of others or manifest in dispositions peculiar to women: modesty, shame, jealousy, spitefulness, a weaker sexual libido, physical vanity, an inferior intellect, a lesser sense of justice, a low moral sense. Millett claims, for example, that Freud saw masochism as natural in women and as giving them “an appetite” and a “lust for pain”, a sexuality which expressed itself in a longing for physical pain in coitus, and a desire to be the victim of sexual cruelty. Thus, she says, Freud was

ingenious to describe masochism and suffering as inherently feminine. Not only does it express masculine attitudes towards female functions (they are painful, degrading, etc.), it justifies any conceivable domination or humiliation upon the female as mere food for her nature... [A]buse is not only good for woman but the very thing she craved... No better rationalization could be found for continuing to punish the victim. As an added attraction cruelty against women is erotic since it fulfils both partners' natures. Nearly any atrocity committed against woman may eventually be extenuated on the theory of her innate masochism. (Millett, 1972: 194,5)

There is no doubt in Millett's account of Freud's concept of masochism that she interprets him as meaning that all women have a desire for *physical* suffering, and that their sexuality consists in nothing other than “a delight in enduring pain” (Millett, 1972: 195).

But much of Millett's polemic against Freud is directed at the concept of penis envy. She devotes a good deal of this to questioning why the girl might conclude, as Freud claims, that her own organ is inferior to that of the boy, and why she should see her condition as castrated. She suggests that what would be more likely to be of overwhelming significance is the child's knowledge that the mother has breasts whilst the father has none, and questions why the import of the girl's knowledge of her vagina is ignored, as is also “the impressive effect of childbirth [a female prerogative] on young minds” (implying that this would make children decide that it is the female who is superior anatomically). (1972: 183) Why, she implicitly asks, on the basis of these anatomical differences, does the little girl not conclude that it is boys who are inferior? And why should boys ever become convinced of the superiority of the penis? (1972: 185) Again, she asks, why should little girls “fear” castration (actually, according to Freud, they don't - they ‘discover’ it) rather than rape, given that “girls are in fact, and with reason, in dread of it, since it happens to them and castration does not”? (1972: 184) Millett charges that in his account of the girl's Oedipus complex “Freud's own language makes no distinction here between fact and feminine fantasy”. (1972: 183) Further, she accuses him of having no “objective proof” and “remarkably little evidence” to support the notion of penis envy and the girl's castration complex, other than clinical data from the analysis of patients and his own self-analysis. (1972: 182 & f.n.)⁷ As far as Millett is concerned, the whole concept of penis envy is a malicious lie propounded to belittle any woman who dares to behave in ways other than those prescribed for ‘normal’ femininity:

The counterrevolutionary period never employed a more withering or destructive weapon against feminist insurgence than the Freudian accusation of penis envy. (Millett, 1972: 189)

Whilst she acknowledges in passing that Freud equated masculinity with activity and femininity with passivity, she brushes this aside, insisting that his work shows unequivocally that for him, the gender terms were co-terminous with biological maleness and femaleness. Thus, she claims, all Freud's theorising about the construction of masculinity and femininity is merely an elaborate pseudo-scientific edifice justifying what he makes patently clear is, for him, the constitutional inferiority of females as persons and their inherently base and vulgar characteristics. Millett makes much of both the passivity she claims was Freud's *prescription* for ‘normal’ females, and her allegation that he persistently made it clear that this was inherent in female biology:

⁷ Millett enumerates a range of empirical variables that she maintains Freud should have taken into account to ‘test’ the generality of his conclusions, and cites factors such as number, age and sex of siblings, amongst others. This is a remarkable appeal to positivist research methods for someone who later goes on to lambast psychological survey research; it also shows a failure to appreciate the core precepts of psychoanalysis.

The gravest distortion in Freud's theory of female psychology stems from his incapacity, unconscious or deliberate, to separate two radically different phenomena, female biology and feminine status....

Failing to pause and to consider fully how "masculine" and "feminine" are elaborate *behavioural* constructs for each sex within society,... Freud somewhat precipitously equates such behaviour with inherency, with the biologically inevitable, and finally arrives at prescriptive conformity to a social norm built upon what he believes to be an anatomical base....

[He] rejected his earlier hypothesis that feminine temperament might be largely formed by the effect of *learning processes and social pressure* and ... went further and further in identifying "feminine" attributes with "constitutional" "instinctive" or genetic tendencies. (Millelt, 1972: 190,1, my emphasis)

Freud's occasional tendency to speculate on biological determination almost invariably took place in a context where his clinical analysis and theorising failed to enlighten him to a psychodynamic explanation for a particular phenomenon. When confronted with a seemingly inexplicable psychic pattern he was inclined to fall into speculations as to whether he had reached 'biological bedrock'. But any recourse to nature was in the way of a last resort, when no amount of wrestling with a problem yielded an explanation in psychoanalytic terms. Also, it needs to be kept in mind that Freud lived in an era when the attribution of causality to biology was both rampant and intellectually respectable. In fact, his determination to ground aetiology in non-biological factors, to consider the possibility of natural determination only when attempts at psychic explanations were seemingly exhausted, was at the time, intellectually exceptional.

There is one important aspect of Millelt's critique, however, which is fully justified and points to a glaring omission in Freud's theorising. His failure to take into account the social structuring and dynamics of power between men and women is an extraordinary lapse, even allowing for his own immersion in patriarchal culture. For one who trained himself to look beyond the immediately obvious in quest of explanations which defied everyday 'commonsense', to construct a new vision of human beings, their mental processes and actions which constituted a revolutionary challenge to the enlightenment concept of humanity as pre-eminently rational, Freud's inability to perceive the salience of social factors is, quite simply, inexplicable.

It is exactly this lacuna which fuels Millelt's outrage and is probably responsible for the venom of her denunciation of psychoanalysis. Although she is unjust in the emphasis she puts on Freud's lapses into biologism, and distorts his theory of femininity in this respect, she is correct in implying that a preparedness on Freud's part to take account of power relations between the sexes, the dominance of men and the valorisation of masculinity (or what she calls 'status') would have obviated any need for a resort to explanations based on nature. The most glaring instance of this for Millelt (and, in fact, for Weeks too, as we shall see), is the unexplained value which Freud sees children, but especially the pre-Oedipal girl, according the penis; hence Millelt's fury at what she takes to be Freud's personal assumption of the *a priori* superiority of the organ.

Nevertheless, what she cannot discern is that biologism is in no way intrinsic or essential to psychoanalysis. It could be simply jettisoned and, by incorporating an analysis of gender and power, psychoanalysis strengthened to provide a powerful explanatory framework for understanding the social construction and diversity of, and contradictions within, masculine and feminine identities. Millelt remains imprisoned within a "learning" model of development with a simplistic view of gendered 'behaviour' as determined by "social processes" (see quotation above), and convinced already that psychoanalysis was nothing more than an elaborate ideology in the service of male supremacy. She was unable, therefore, to glimpse its potential, least of all its ability to help her develop and sustain the distinction she was attempting to theorise between sex and gender.

I would argue that the kindest interpretation that one could put on Millelt's critique of Freudian psychoanalysis is that it is unscholarly; the worst, that it is deliberately dishonest. For someone with no, or only a superficial, acquaintance with Freud's writings, the extraordinary selective account that Millelt renders, (all elaborately referenced and footnoted, suggesting it to be an accurate exegesis), along with the vitriolic denunciation accompanying it, would have the effect that Millelt obviously desires; an effect which is a necessary component of the evidence she needs to support her thesis of a counter-sexual revolution, with Freud figuring as patriarchal *bête noir* and ideologist *extraordinaire*.

At first glance her seemingly copious references to Freud could easily mislead one to think that her research into his work is vast, if not well-nigh complete. And yet a more attentive inspection reveals many serious, indeed critical omissions. Amongst books and papers not cited are *The Interpretation of Dreams* (1900), "Formulations on the Two Principles of Mental Functioning" (1911), "A Note on the Unconscious" (1912), "Instincts and their Vicissitudes" (1915), "Repression" (1915) "The Unconscious" (1915), *The Ego and the Id* (1923), or any of the *Introductory Lectures* dealing with similar concepts. What is distinctive about these texts is that they contain the substance of Freud's metapsychological theories, all essentially revolving around and elaborating what was Freud's most revolutionary discovery: the unconscious. The significance of dreams as the "royal road to the unconscious", the primary processes, infantile sexuality, the splitting of consciousness and the unconscious and the psychic mechanisms thereby involved, repression and defence mechanisms, the tension between the reality and the pleasure principles, and that between the ego, id and super ego: all of these concepts and more, which are theorised in the above works, are absolutely indispensable to an understanding of psychoanalysis *and* to numerous other texts by Freud which presume an acquaintance with the fundamentals of psychic processes and functioning. Without this basic knowledge, many of the references cited by Millett would be incomprehensible, or, if taken at face value, within a rationalistic framework of understanding, even absurd.⁸ Millett has chosen to present the ideas in them in the latter light, but not even merely that; she has presented them as a malignant attempt to give 'scientific' credence to an ideological project to denigrate women. Thus, she charges that over time Freud had

... a greater and greater need of stronger formulations to convince us that the female character is a static thing ordained by Nature and the unalterable laws of her anatomy. Inferior, vice-ridden, half savage; she comes to be seen as all this simply by virtue of her deformed, castrated physiology. (Millett, 1972: 198)

It would be reasonable to expect that in her research Millett would have become aware of the need to grasp an understanding of the dynamics of psychic processes and the development, and of the importance to psychoanalytic theory, of the unconscious. Yet, in the twenty-six pages she devotes to her critique of Freud, there is not one instance where she shows herself to be aware of these basic tenets of psychoanalysis. A careful study of her references and a comparison of the quotations she uses from Freud with their context in the primary texts is revealing.

She cites in all, sixteen works (see footnote 6), eight of which I would judge to be important or reasonably important texts of Freud's, whereas the remaining eight are fairly peripheral or of very minor value. This selection in itself is strange, especially given the curious omissions noted above. One is drawn to the conclusion that Millett combed through Freud's work, not to gain a genuine understanding of it, but to draw out statements conducive to the position she was intent on 'proving'. Also, by taking statements out of context, she is subtly able to convey nuances of meaning sufficiently at variance with the original to support her argument, and to provoke in many a reader unfamiliar with Freud, a sense of outraged injustice. This is not to suggest that Freud himself was guiltless of making rash and inadequately substantiated statements about women; of allowing bourgeois norms and a masculinist bias to creep into his assumptions; and when all other explanations eluded him, of resorting to the biological imperative. But Millett would have us believe that these failings, in fact, constituted the primary thrust of all his theorising about the development of femininity.

⁸ The texts Millett cites are: "Femininity" in *New Introductory Lectures on Psychoanalysis* (1933); "Fragment of an Analysis of a Case of Hysteria" (1905); "Some Character types Met With in Psychoanalytic Work" (1915); "Some Psychoanalytical Consequences of the Anatomical Distinctions Between the Sexes" (1925); *Three Essays on the Theory of Sexuality* (1905); "Female Sexuality" (1931); "Analysis Terminable and Interminable" (1937); *Civilisation and its Discontents* (1930); "The Psychogenesis of a Case of Female Homosexuality" (1920); "The Infantile Genital Organisation" (1923); "'Civilized' Sexual Morality and Modern Nervous illness" (1908); "The Economic Problem of Masochism" (1924); "The Taboo of Virginity" (1918); "On Narcissism, An Introduction" (1914); "On the Sexual Theories of Children" (1908); "The Acquisition and Control of Fire" (1932). (Where the works used by Millett have titles translated differently from those in the *Standard Edition of the Complete Psychological Works of Sigmund Freud* [edited by James Strachey, published by Hogarth Press and the Institute of Psychoanalysis, London, 1953] I have referred to them under the *Standard Edition* titles for the sake of consistency and, as these are the titles with which most readers are familiar, to avoid confusion.)

Notably, of eighty-eight quotations and citations, fully thirty-two are from Freud's lecture, "Femininity".⁹ This is one of a number of lectures written to be sold in book form for lay consumption, with a view to raising money for the psychoanalytic publishing business. (Editor's note, Freud, 1975: 31) It is a very easily accessible, but fairly baldly stated exposition which does not expound on the deeper psychodynamic processes involved. Freud's habit of relating the (*mis*)perceptions of infants as *reality* - as indeed they are in the sense that they, and the meaning given to them, is what is important for subsequent development, a concept perhaps unacceptable for Millett with her very rational view of childhood learning - has provided Millett with a treasure of value judgements (for example, on the superiority of the penis) which she can attribute to Freud, rather than to the perceptions of boys and girls. Hence her claim that Freud's "language makes no distinction ... between fact and feminine fantasy" (1972: 183), failing to appreciate that to the pre-symbolic child fantasy is fact, and that for psychoanalysis, these 'facts' are what matters, in terms of their effects. So, as discussed above, she wonders why children don't see the father as inferior because he lacks breasts, or because he can't give birth, or why the little girl does not attribute to her vagina a value similar to that Freud alleges she accords the penis; or why the girl is not fearful of rape, as that would be a fear based on a 'factual' possibility, whereas castration is 'fantasy'.¹⁰

Like so many other commentators on psychoanalysis (for example, Stoller, as mentioned above), both pro- and anti-Freudians, Millett fails to grasp - indeed she makes no attempt at all to do so - the radical significance of Freud's concept of the unconscious. In fact, one could conjecture that Millett simply could not afford to delve into psychoanalysis as a theory of the construction of masculinity and femininity, lest she find herself seduced by it. Not only would that have had damaging implications for her framework of (behavioural) conditioning and the nonproblematic imprinting onto neutral bodies of gendered personalities; it would also have put a spoke in the wheel of her polemic against Freud, who she wants to claim was the most influential 'prophet' of the counter-sexual revolution.

The Sexual Revolution

Millett needs to mount a very strong case against Freud, as the chief patriarchal ideologist, lest one wonders how it was that patriarchy re-achieved the absolute and unqualified grip which Millett alleges it did (by the 1960s, of when she writes), given her contention that between 1830 and 1930, the period which she refers to as the 'sexual revolution',

... for nearly a century it must have looked as though the organization of human society were [sic] about to undergo a revision possibly more drastic than it had ever known.... During this time it must often have appeared as if the most fundamental government of civilization, patriarchy itself, was so disputed and besieged that it stood at the verge of collapse. (Millett, 1972: 61)

For her, it is precisely the strength of that revolution and the challenge it posed to patriarchy which provoked the counter movement to reassert the primacy of male domination. Its historical importance for her also lies in its demonstration that patriarchy can be contested, that radical reforms and change in the power relations between the sexes are possible, especially if contemporary feminists learn from the political errors of their forbears.

⁹ Another five are from "Female Sexuality" (1931) and twelve from "Some Psychical Consequences of the Anatomical Differences Between the Sexes" (1925). The former is "in essence a restatement" of the latter paper published six years previously but it enlarges on that by a long discussion emphasising the active element in the girl's attachment to her mother, and on "in femininity in general". (Editor's note, Freud, 1977: 370) Similarly, "Femininity" (1933) is a less technical restatement of "Female Sexuality" (1931). Hence, fifty-four of Millett's references are to three papers which are essentially the same, with her emphasis being put on the one written for popular consumption. Given the huge volume of Freud's work, this is an extremely limited and highly selective body of material on which to base a claim for sufficient knowledge of psychoanalysis to entitle Millett to mount an attack as vicious as hers is.

¹⁰ Quite apart from the 'hyper rationalism' of these statements (in that, for Millett, they accurately reflect 'reality'), they are unrealistic in another sense: small children are usually ignorant of the mother's role in producing babies (especially in Freud's era). Furthermore, a little girl is usually unaware of the existence of her vagina and, even if not, would accord it no particular significance as it is not an erogenous zone, a fact Millett herself acknowledges in another context when venting her spleen at Freud for his statement that normal femininity requires the displacement from clitoral to vaginal eroticism. But perhaps even more specious is Millett's suggestion that little girls should fear rape. Apart from those female children who have been victims of male sexual abuse, this is tantamount to reading the future back into the past. A girl's awareness of the possibility of rape is something she will discover when older, or is Millett positing some inherent phylogenetic fear?

She dates the beginnings of first-wave feminism in the USA from the early 1830s when women first organised politically, initially in the anti-slavery movement generally, and then in specifically women's abolitionist organisations. This led participants to a consciousness of the need to organise on their own behalf, and culminated in a meeting of 250 women at Seneca Falls in 1848.¹¹ In England, Millett says it wasn't until the 1860s that women began to organise around the issue of their social subordination. (1972: 65) At its height, feminist agitation in America demanded that all rights granted under the Declaration of Independence be extended to women: control over their own income and the legal right to ownership of property, equality with men in access to education and divorce, legal guardianship over their own children, and, of course the extension of suffrage. (Millett, 1972: 81) She attributes much of the success in welfare legislation and reform laws in both the USA and England to the efforts of women's political activity, claiming that it achieved "monumental progress" politically, economically and legally in the areas of civil rights, suffrage, education, employment and working conditions. (1972: 64)

My purpose here is not to engage in a thorough evaluation of Millett's account of the period between 1830 and 1930, but rather, with a few examples, to take issue with her claim that the events and processes occurring therein constituted a 'sexual revolution' in any meaningful sense of the term.

She recounts how investigations into the working conditions of women and children in England revealed the appalling circumstances of their exploitation and prompted a series of reform measures limiting the number of hours to be worked, the type of work which could be done by them, and other forms of protective legislation. These, in fact, are the main examples (along with suffrage, access to education and improved legal rights, which came much later in the period) of gains for English women which Millett offers to support her argument for the occurrence of a 'sexual revolution' in the nineteenth century. Yet the reforms to which she points began as early as the 1830s, and she herself fixes the advent of English women's political organisation in the 1860s. To imply that these particular improvements were a response to feminist agitation is, then, clearly specious. As remarked above, Millett herself claims that a total failure to take on issues pertinent to working class women was a major weakness of the first Women's Movement. And at another point, she seems to be aware that she is on shaky ground when, in dealing with the "*concrete reforms*" effected by the first feminists (in access to higher education and suffrage) she remarks that other reforms "*arose from or co-operated with the vanguard which the Women's Movement represented*". (1972: 74, my emphasis)

Further, Millett herself acknowledges that both in England and in the USA, the host of reforms enacted to 'protect' women in employment served the interests of male workers as least as much, if not more so, than they did women; men, as workers, benefited from the exclusion of women from certain industries, jobs and tasks. Limitations on the degree to which women could be exploited in terms of hours and wages helped to eliminate them as competition more attractive to employers and to minimise the potential pool of labour. As husbands, men benefited from the better pay and less hours of those women who did continue to work. Alternatively, as women became increasingly dependent financially (and thus psychologically) on men, and the emphasis on the domestic sphere as their 'proper' place more widespread, women's role as carers of their husbands, homes, and children became more pronounced. In turn, the ideological extension of the sanctity of the family to the working class, and the accompanying recognition of the males' responsibility to support wife and children, was mobilised in support of arguments for 'adequate' wages for men.¹² These shifts were not, however, mere unintended consequences of measures to improve women's working lot or to protect them (and their childbearing capacities) from the worst rigours of industry and the workplace. On the contrary, there was good deal of hostility from male workers towards female competition and active trade union and

¹¹ There is an interesting parallel here with women's involvement in the black civil rights and Vietnam anti-war movements, the experience of which were major factors in the formation of the Women's Liberation Movement. (See Mitchell, 1971: 19)

¹² Thus, this principle was recognised in Australia in the Harvester Judgement of 1908 which set the minimum (male) wage as sufficient to support a man, his wife and two children in 'frugal comfort'. This worked against single women, and all those with dependents (children or ageing parents) who were divorced, widowed or never married. These were unnatural, improper or unfortunate anomalies who bore the worst brunt of the 'normalisation' of the family unit.

informal campaigning to exclude them from many occupations or to restrict them to the least skilled and worst paid ones.¹³

Millett appears to be vaguely aware that any improvement in women's employment was double-edged when she points to the 'paradox' of the simultaneous development of a discourse of "benign masculine protection" cantering on chivalrous concern for women and her "sublime" role as mother. Hence, she quotes the following excerpt from a speech by an anti-suffragist senator in a Congressional debate in 1919 on 'the women's role':

Whether the child's heart pulses beneath her own or throbs against her breast, motherhood demands above all tranquillity, freedom from contest, from excitement, from the heart burnings of strife. The welfare, mental or physical, of the human race rests, to a more or less degree, upon that tranquillity. (quoted in Millett, 1972: 72)

She grants that similar sentiments pervaded much public discourse about the need for protection of women from the hardships of work. In fact, Millett mounts a sustained attack on the "regressive nostalgia" and hypocrisy of the ethos of chivalry (demonstrated in this statement) which dominated nineteenth century thinking about 'genteel' women. She argues that Victorian chivalry was a powerful device for justifying women's social inferiority under the platitudinous guise of according to them the highest and most noble human qualities: virtue, purity, patience, untiring self-sacrifice, goodness and charity. Its concomitant, male gallantry, was a 'recognition' of their allegedly inherent physical weakness, their delicate sensibilities and gentle natures; qualities which ensured their ignorance, economic dependence and powerlessness, by excluding them from education, from occupations and professions, and from public life.

One would not argue with Millett's observation here, but because of her singular emphasis on male dominance *per se*, she misses other important, although related, processes at work in this discursive web. The quotation cited above, which Millett selected as 'typical', is not merely an example of chivalrous sentiment; it exemplifies how the latter was mobilised in the last several decades of the nineteenth century and well into the early twentieth in the service of a paranoid preoccupation with eugenics, racial purity and survival of the Anglo 'species'; and to the (related) perceived need to manage women's reproduction and mothering in ways conducive to racial and national interests. The Senator's statement would have been more 'typical' than Millett realised. Although the focus of concern differed, in both the USA and England (and in Australia too) questions revolving around the themes of population quality and quantity became important issues of public debate and fed into legislation and social policy reforms. In England, for example, the higher birthrate of the working class provoked concern that the quality of the race was gradually degenerating. (Weeks, 1981: 125) Conversely, in America, the problem revolved around another variant of 'race suicide'; birth control practices were condemned because they were limiting population increase, which was seen as vital to the wellbeing of the nation.¹⁴ Also, the solid 'Yankee' stock had a lower birth rate than immigrants, non-whites, and the poor. (Gordon, 1977: 137) There was not, however, any unified approach to population 'problems': neo-Malthusians and eugenicists differed radically in their assessments of the causes and in the solutions they posed. (Weeks, 1981: 130) But there is no doubt that a shift in the hitherto dominant emphasis on women as wives to one accentuating their role as mothers, protectionist policies for women at work, a concern with child health and welfare, and reformist policies in the areas of housing and hygiene, were all linked, to a greater or lesser degree, to a recognition of the importance of managing the population and improving its quality.

That this escaped Millett's attention is due largely to her curious neglect, or at least serious underemphasis, of women's part in reproduction and childrearing. It is even more strange given that she is constantly alert to the ideological role of biology and nature in justifications for women's social subordination. In criticising Millett

¹³ See, for example, Cynthia Cockburn (1983) for an excellent account of how male workers successfully organised against women in the United Kingdom printing industry in the nineteenth century.

¹⁴ This, as we shall see, was the same 'problem' confronting Australia around the turn of the century. And, in fact, those concerned about population regulation here were much influenced by the American situation and how it was construed. For example, a speech in 1905 by President Theodore Roosevelt decrying birth control, and attacking women as responsible for race suicide, received wide coverage here.

for this omission, Mary O'Brien (1983: 82) notes that she emphasises men's superior physical strength, rather than childbearing and rearing, as the biological crux of patriarchal ideology. And indeed, as much as Millett does toy with the question of historical origins, it is to this, rather than to reproduction (and to how culture organises it) that she attributes the emergence of the doctrine of male supremacy. Arguably, because Millett is intent on supporting her thesis of a sexual revolution by maintaining that the various reforms in social policy concerning women were won through the efforts of organised feminism, she simply cannot afford to acknowledge the numerous other forces at work in these changes.

And in fact, in one single passage following numerous pages alleging feminist successes in employment reforms in the nineteenth century, Millett contradicts her own argument by acknowledging that what was really at stake was not women's rights, but rather social and patriarchal order:

... in both England and America, most agitation for the improvement of the barbarous circumstances under which women worked was carried out with essential disregard of their human rights as workers, and instead, typically preferred to put its emphasis either on the indecorum of their shocking and disorganised lives, or on the subversive effects their working conditions must have on their breeding ability, their service to infants, their "morals" or "virtue"... [A] great deal of the motivation behind reform was little more than protection of patriarchal culture and institutions: family structure was becoming disrupted (including the authority of the father as provider and head of household); women in industry had access to sexual freedom; they were worked too hard in one circumstance (the factory) to serve properly in another (the home). The prevailing male attitude in both countries seemed to find the perfect remedy in getting women out of the factory altogether and back into the safety of the "home." (Millett, 1972: 87)

So, whilst Millet glimpses some of the problems that I have raised in her account, her difficulty is that she cannot reconcile them with her own thesis. This is due to a number of reasons. Her unilinear, totalising analytic framework cannot handle the complex interaction of contradictory social and political processes, the uneven nature of social change and its temporal and localised specificities and disruptions. Also, whilst she is aware of the importance of class, she has difficulty incorporating a class analysis into her theoretical structure, given, as indicated above, her privileging of sexual politics.

Millet's argument for a sexual revolution ends up resting on the gaining of suffrage, access for (middle class) women to higher education, and the right to own and control property. These are pretty insubstantial grounds on which to base a claim to a revolution (even one which she grants was foiled by the forces of reaction) especially when one considers these reforms in the context of a wider reform movement directed generally at, for example, public hygiene, health, social security, housing, civil and legal rights, education, child welfare, employment conditions and wages, legalised unionism, collective bargaining and industrial arbitration. Put into this perspective, then, measures *specifically* designed to *genuinely and directly* benefit women pale somewhat in significance.

Even more tellingly, although women gained much from some of these measures, along with men and children, in some respects it could be argued that many women - particularly in the working class - actually emerged from the period less well-off relative to men in terms of their own independence. Much of the former (albeit precarious) legitimacy that working class women had as paid workers in their own right was lost, they were isolated into defined segments of the labour market with the worst conditions and pay, they remained on the whole un-unionised whereas men gained the benefit of legalised unions, a benefit they often used to further their interests against those of women in the workforce. Outside of the private world of marriage and family, there was little social or material space for women's independence or participation in public life. Teaching was one of the few alternative avenues open, and in fact, for all the emphasis Millett puts on the opening-up of higher education to (middle class) women, she acknowledges, merely in a passing remark, that this was the result of the massive expansion of children's schooling, which came to depend on the cheap labour of women as a labour resource (1972: 76). Thus, again, she undermines her own argument by not being able to deal with the multi-faceted nature of social change, so intent is she on demonstrating that organised political action by women secured "monumental progress".

She also argues that both sexes, but particularly women, gained a certain measure of sexual freedom during the last thirty years of the nineteenth, and first three decades of the twentieth, centuries. (1972: 62) She claims that as prudery had reached its zenith in the early Victorian age, the crisis occasioned by the sexual revolution

meant that the only possible change was a degree of “relief” in the suppression of sexuality. Her support for this argument rests on the contention that Victorian sexual norms urged “a single standard of morality” for both men and women by attempting to “raise boys to be as ‘pure’ as girls”, whilst at the same time striving to eradicate prostitution, and shifting the onus of blame from the ‘fallen women’ themselves, onto the men that seduced them and the social conditions of gruelling poverty which gave rise to women’s resort to prostitution. (1972: 63) She claims that the Victorian era was the first period in history when “the double standard and the inhumanities of prostitution” were confronted as problems and attempts made to solve them (1972: 63).

This is flimsy evidence on which to base an argument for liberalisation of women’s sexuality (as well as being a very middle-class-bound perspective), yet it is all that Millett offers. Because she is committed to the thesis of a sexual revolution (or at least the beginnings of one subsequently thwarted by the forces of reaction) it is one she apparently feels compelled to make. Consequently, according to the parameters of her overall argument, she must claim that these alleged gains in women’s sexual “freedom” suffered a reversal between 1930 and 1960. Hence, she contends that any apparent liberalisation in norms governing women’s sexuality occurring during this latter period were changes caused by the invention of better forms of contraception. This gave the illusion of greater freedom, she asserts, but in fact, did not represent any real political advance. (1972: 63)

There are several other points that need to be remarked on here. Firstly, Millett downplays the fact that many sections of the first feminist wave were closely linked to the social purity and temperance movements. Whilst she mentions this, she passes it off as an aberration, or as an indication of the demise of the radical thrust of the Women’s Movement in its later stages. But the mobilisation of feminists in pursuit of the aims of social purity and temperance was directly related to a concern for the institution of the family - the domain of woman and children - and to a desire to reinforce it by removing the temptations of alcohol and extra-marital sex for men, both of which were seen as directly threatening the family, and thus women as wives and mothers. These were attempts, then, to encourage (or force) husbands and fathers to fulfil what was seen as their responsibility - the protection of dependent wives and children. Yet, in strengthening the man’s role as reliable breadwinner, his position as patriarchal authority in the family was also buttressed, and women’s dependency on men reinforced.

Secondly, Millett’s (almost throwaway) reference to improved contraception, a remark which implies that enhanced control by women over their fertility was an illusory gain as it did not directly entail increased sexual freedom, shows again an extraordinary oversight of the connection, *especially for women themselves*, between reproduction and sexuality, and of the complex social linkage between reproduction and the relations of power between the sexes. This persistent reluctance to delve into the connections between material reality and ideology has already been remarked on above, but is illustrated graphically here in the context of the *meaning* of contraception for women, and Millett’s failure to acknowledge how it allowed women with access to it to carve out a degree of freedom in their personal lives. Given Millett’s recognition of the political nature of the personal, her inability to tackle reproduction and contraception - to perceive them as inextricably related to the politics of sexuality - points to a fundamental shortcoming in her analysis. The omission is particularly striking, given that the issue of liberalised abortion was catalytic, especially in the USA, in the emergence of the second wave of feminism in the mid-1960s. One would suppose that this would have been an indication to Millett, in the very milieu in which she was writing, of the centrality to sexual politics of women’s right to control their reproduction.

This failure is integral to Millett’s insistence that the terrain of the politics of sexuality is ideology and consciousness:

It must be clearly understood that the arena of sexual revolution is within human consciousness even more pre-eminently than it is within human institutions. (Millett, 1972: 63)

Improved contraception, then, can be dismissed by her as a mere technological innovation, because it did not emerge in response to any organised demand by women articulating it as part of a consciously political agenda.

It is this absolute primacy she accords to the realm of ideas, attitudes and temperaments which, for her, provides the explanation for the failure of the first sexual revolution. The counter-revolution occurred, and could only occur, precisely because first-wave feminism failed to appreciate the need to effect change at the level of consciousness, rather than 'merely' at that of political structure. Because it "had much greater success with the latter than with the former" it was unable to "fulfil its revolutionary promise", and hence left the field open for the forces of patriarchal counter-reaction. (Millet, 1972: 63) Hence, the winning of suffrage - because most of the energies of the first Women's Movement became focused on that institutional goal at the level of formal political structure - was a hollow victory. Its realisation left reformist suffragists with nothing else for which to fight, because they failed to appreciate that the 'real' battle was within ideology and people's minds.¹⁵ Once won, then, suffrage wasn't mobilised or coordinated in any way to women's advantage.

... the sexual revolution collapsed from within ... through its own imperfections.... [It] had, perhaps, necessarily, even inevitably, concentrated on the superstructure of patriarchal policy, changing its legal forms, altering its formal educational patterns, but leaving the socialization of temperament and role differentiation intact. Basic attitudes, values, emotions - all that constituted the psychic structure several millennia of patriarchal society had built up - remained insufficiently affected, if not completely untouched. Moreover, the major institutions of the old tradition, patriarchal marriage and the family, were never or rarely challenged. Only the outer surface of society had been changed; underneath the essential system was preserved undisturbed. (Millet, 1972: 176,7)¹⁶

As well as taking account of the points raised above, it is arguable that an understanding of the reforms of the nineteenth century could be productively augmented by the sort of reassessment of history provided by Michel Foucault. He claims that the state recognised a need to administer and regulate population, its resources and its needs, and he turns conventional accounts of the Victorian era on their heads, as we shall see in the next chapter. Thereby, he lays the groundwork for a radical reinterpretation of history. Following Foucault's insights, Jacques Donzelot's analysis of the 'reconstruction' of families by state intervention and social policy, shows vividly how welfare authorities, education, medicine and social work promulgated discourses and engaged in practices which had the effect of shaping the family and its functions so that those aspects of private life with social consequences could be managed, ordered and predicted. Both Foucault and Donzelot subvert liberal accounts which see the period in question as one of progressive movement, as in fact Millet does, although she points to the momentum being lost and progress forestalled by a counter-revolution. Conversely, neither of them takes nearly sufficient account of power relations between the sexes, the central theme in Millet's work.

So far, I have not spelt out just what Millet means by a 'sexual revolution', or at least what she claims would be required for such a revolution to be successful. In doing so now, it will become apparent that she fails to make a necessary, and indeed crucial, differentiation between the politics of gender and the politics of sexuality.¹⁷ These are two distinct areas of struggle, although there are, of course, many complex links and

¹⁵ Millet never makes clear just what she means by her frequent use of the term 'ideology' or exactly how it develops and operates. It appears to be the whole assemblage of ideas, beliefs, values, justifications and prejudices about the nature of women and their proper role, much of which has existed for millennia, but which can also be added to, or strengthened, by newly propagated ideas, etcetera. The major vehicles for its operation seem to be the processes of socialisation and conditioning. Thus, for Millet, it appears to be a free-floating 'false consciousness'. At the same time, it is also 'infrastructural' and determinate.

¹⁶ Note the (unintentional, I suspect) parallel here with Marxist notions of base and superstructure, but also the way that Millet has almost inverted the elements comprising these. For her, patriarchal ideology, and its internalisation through socialisation into consciousness, comprises the infrastructure. And from the way she treats the issue of women and employment, it is apparent that she would see production and its organisation as a superstructural element. Ironically too, she 'retains' the orthodox Marxist doctrine of the base as absolutely determinant in that the ideological infrastructure is wholly deterministic and hegemonic. Thus, for Millet, genuine change can only occur as a result of alterations in ideology and consciousness, via 'resocialisation'.

¹⁷ There are semantic difficulties in these terms which can lead to confusion, especially in the context of a work such as the present one, which is dealing with the 'politics of sexuality' or 'sexual politics' in terms of sexual desire, practices and identity, and in terms of relations of power between men and women. As much as possible I will use the above terms when referring to the former meaning, that is, as pertaining to desire, and reserve the terms 'politics of gender' or 'gender politics' for the latter. In doing this I am aware that the sites and processes of each frequently interlock and that sometimes, both meanings need to be subsumed in the same terminology. Also, it is not always practicable to maintain the distinction, for example, when discussing the work of other authors. Thus, up until this point I have used Millet's term 'sexual politics' even though much of the account so far has been dealing with

interactions between them, and they frequently collide into one apparently seamless and amorphous web. For analytic purposes, we need to maintain the distinction, and it is Millett's slippage from one to another which leads to another confusion in her work, and to applying what she has argued in respect of one of these dimensions to the other, as if it automatically pertains there too.

A sexual revolution, Millett hypothesises,

... would require, *perhaps first of all*, an end to traditional sexual inhibitions and taboos, particularly those that most threaten patriarchal monogamous marriage: homosexuality, "illegitimacy", adolescent, pre- and extra-marital sexuality. The negative aura with which sexual activity has generally been surrounded would necessarily be eliminated, together with the double standard and prostitution. The goal of revolution would be a permissive single standard of sexual freedom.... (1972: 62, my emphasis)

Here, then, Millett is postulating a revolution in *sexuality*; an end to moralistic attitudes towards, and prohibitions against, diverse forms of sexual practice presently outlawed or condemned, or subject to public shaming or private guilt. She proposes the liberation of all individuals - men and women - through a new and positive sexual freedom. Implied too, is that a liberated ethics of sexuality would apply to both sexes culturally and psychically, and be devoid of exploitation and any urge to humiliate or degrade. Millett was writing, of course, at the height of the 'permissive era' and is clearly influenced by the pervasive theme of 'sexual liberation' which dominated that counter-cultural surge of the 1960s. The basic premise of the sexual liberation movement was that the deadening and compulsive morality of modern society repressed the innate human potential for 'free' and natural sexual expression, twisting and deforming the individual psyche, producing neurosis and, in Wilhelm Reich's terminology, an 'armoured character structure'. Frigidity, impotence, sadism and masochism, perversion and inhibition all were thought to result from the social (translated into psychic) repression of libidinal urges. Millett's utopian vision of a revolution in sexuality bears the unmistakable stamp of the sexual liberation movement's rejection of conventional morality, monogamous marriage and prohibitions against sex freedom. In this, as we shall see in the following chapter, she is captured within the way of conceptualising sex and sexuality so cleverly parodied by Foucault in his damning critique of the 'repression hypothesis'.

But for Millett, a sexual revolution involves more than the liberation of sexuality:

Primarily, however, a sexual revolution would bring the institution of patriarchy to an end, abolishing both the ideology of male supremacy and the traditional socialization by which it is upheld in matters of status, role and temperament. This would produce an integration of the separate sexual subcultures, an assimilation by both sides of previously segregated human experience.... a re-examination of the traits categorized as "masculine" and "feminine", with a reassessment of their human desirability: the violence encouraged as virile, the excessive passivity defined as "feminine" proving useless in either sex; the efficiency and intellectuality of the "masculine" temperament, the tenderness and consideration associated with the "feminine" recommending themselves as appropriate for both sexes. (Millett, 1972: 62, my emphasis)

She points out that these changes would almost certainly have a "drastic effect" on the institution of the patriarchal family. Its authority and economic structure would be seriously undermined by women's financial independence and the demise of roles based on biological sex. Care of children would be professionalised and collectivised, further contributing to women's freedom, and relationships, if desired, would be based on "voluntary association" rather than marriage.

What Millett is addressing here, as distinct from the politics of sexuality, is a political 'revolution' in gender, to be accomplished not just by the equalisation of roles in both the private and public division of labour, but by the complete elimination of gender differences: a successful revolution would entail a new and single gender identity - androgyny - the neutralisation of gender. Gender, then, would actually cease to exist, given that the meaning of the term is defined in relation to its opposite. In achieving that, Millett would see the entire infrastructure on which political relations between the sexes depend as swept away; there would be no

what I will henceforth call 'gender politics'. Similar difficulties, of course, are immanent in the terms 'sex', 'sexual', and 'sexual relations' (with the additional problem that 'sex' and 'sexual' also refer to biological differences between men and women). Nevertheless, I trust that the context of useage will make my meaning clear. Finally, I am aware of problems with the term 'gender' and the critique of it from feminists of 'difference', referred to briefly above in noting Gatens' rejection of the socialisation model.

substance (or no difference) to maintain or to reconstruct relations of domination and subordination. We see in stark relief here the absolute fundamental neutrality of (male and female) bodies assumed by Millett, once the cultural and psychical meanings arbitrarily overlaid on them by patriarchal ideology are exorcised. Little wonder, then, that the key to the 'new order' is re-education in the sense of resocialisation; for Millett, patriarchy exists foremost in the realm of ideas and meanings, its material manifestations being 'mere' epiphenomena (see footnote 14). As noted above, Millett insists that the site of gender and sexual politics is "pre-eminently" located "within human consciousness".

Sexual or Gender Politics?

But more at issue at this juncture is the complete fusion which Millett assumes between the politics of sexuality and the politics of gender. For her, these are not mere complementary, and even less so, intersecting or perhaps even contradictory, struggles; rather they are facets of *one and the same* struggle. At times, it even seems that Millett so confuses the two that she loses the difference in meaning between the term 'sex' as applying to desire, sexual intercourse, etcetera, on the one hand, and on the other, as pertaining to differences between men and women. The following passage is worth quoting here as it graphically demonstrates the slippage in terminology, and thus meaning, running through her arguments (and her difficulty in sustaining the distinction she has made between sex and gender).

As the whole subject of sex is covered with shame, ridicule and silence, any failure to conform to stereotype reduces the individual ... to an abysmal feeling of guilt, unworthiness and confusion. In the period of the counterrevolution, adherence to sexual stereotype became, in all fields of activity ... a new morality; good and evil, virtue, sympathy, judgement, disapprobation, were a matter of one's sexual conformity according to category. Scarcely any ideology can lay claim to such merciless, total, and seemingly irrefutable control over its victims.... Unalterably born into one group or another, every subject is forced, moment to moment, to *prove* he or she is, in fact, male or female by deference to the ascribed characteristics of masculine and feminine. (Millett, 1972: 233, emphasis in original)

Here, Millett slips from sex as desire, to sex as biological difference. Interestingly, the passage occurs immediately before her critiques of novelists Lawrence, Miller and Mailer, so it is at the point of transition from her discussion of gender politics to that of sexual politics. It also highlights, then, the difficulty in attempting to maintain an equivalence between the two.

In fact, since Millett's time of writing it has become clearly apparent that any identification of the two movements is highly problematic. There are often critical contradictions between the aims of women's liberation and those of certain other groups for whom sexual liberation, in one way or another, forms part of their agenda. For example, there is no simple identity of interests between those of gay males and women.¹⁸ An even more telling example is pornography. Its proliferation, which, it could be justifiably claimed, came about as result of demands for freedom from moralistic prudery, has become the focus of virulent opposition from many feminists. In fact, the still unresolved debate within the Women's Movement over this issue has been at times bitter and acrimonious.¹⁹ A claim by gay men, and, what for many feminists is much more problematic, by some gay feminists, of the 'liberating' potential of sado-masochistic sexual practices between consenting partners, indicates again the difficulties in equating sexual freedom with women's political cause.²⁰ Perhaps even more contentious for feminists is the recent emergence of organised paedophile groups claiming discrimination, and demanding legitimacy for inter-generational sexual desire. (Weeks, 1985: 223-31) This is not only an ethical issue, but one which concerns women deeply as mothers. Finally, and more generally, there has emerged from within the Women's Movement a critique of the whole concept of sexual liberation with the recognition that the once much vaunted permissiveness has, in many respects, benefited men at the expense of women. (Weeks, 1985: 19)

¹⁸ See Wills (1981) for a detailed account of the many problems which arose between Women's Liberation and Gay Liberation in Sydney in the early 1970s.

¹⁹ There is now a vast feminist literature on this topic. See, for example, Dworkin (1981); Griffin (1982); Kappeler (1986).

²⁰ When the issue emerged in the early 1980s it provoked a heated debate between advocates of sado-masochism, represented particularly by an American group called Samois, and feminists who argued, amongst other things, that it constituted a betrayal of feminist principle. See Läinden et al, (1982).

Millett is drawn into this trap for a number of reasons. Although she has managed, to some degree, to analytically free the issue of power relations between the sexes from a naked form of biological determinism by differentiating between sex and gender (however much, with the benefit of hindsight, one might argue with her method of theorising this) she cannot sustain the distinction, and constantly slips back into implicitly representing patriarchy as (biological) male domination of females, instead of attempting to develop the notion of masculinity as dominant over femininity.²¹ She returns to this only in the closing section of the book, when, in analysing the works of Jean Genet, she shows how, in the homosexual subculture inhabited by Genet, the characteristics of gender identity are arbitrarily detached from their 'normal' biological foundations. Here, in the same sex, masculinity is dominant over femininity. In this context, she can use the distinction effectively, but precisely because she is dealing with a world where masculine and feminine identity and the politics of gender have been turned on their heads. Part of the reason for her regression to sex and gender as co-terminous is the difficulty previously discussed: her acceptance of sex role conditioning (in the 'normal' heterosexual world) as an unproblematic 'imprinting' process, whereby culture appears to 'cooperate' with biology so that gender is successfully imposed on the consciousness of individuals according to their biological sex.

But there is another reason too. Although Millett says that "primarily" a sexual revolution would be about the elimination of differences in gender and sex roles, she targets sexual liberation as the *temporal precondition* to this; it would be required "first of all". This implies that the social repression of sexual freedom, the "double standard" for male and female sexual morality, and sexual "inhibitions and taboos" somehow pre-exist the oppression of women, and that the elimination of these would have to precede any subsequent re-socialisation into androgyny. I would argue that, on the contrary, sexual exploitation and abuse of women is symptomatic of relations of dominance and subordination between men and women.

Related to this is Millett's perception that sex, and the actual sex act itself, is both the prototype and the ultimate form of expression of male exploitation of, and dominance over, women. The utter humiliation and degradation that she sees men as able to inflict on women in the practice of sex epitomises the misogyny inherent in the patriarchal male consciousness. For Millett, sex is the medium *par excellence* for the enhancement of the sense of aggressive (and sometimes violent) virility which she sees as the essence of masculine identity; the point where in the most elementary way men reassure themselves of their own masculinity in its most essential cultural meaning, as representing superiority and dominance. It is the site where power is not just a 'resource' for the furtherment of men's interests, but the point where it is experienced in its raw, naked and sadistic pleasure, and where the 'thrall' of power, for men, derives from their sense of reducing women to utter passivity, to forcing their submission, or to eliciting what men see as their (fundamental) lust and their 'awe' for the male penis - that instrument which represents "both the pennant and the coercive weapon of male supremacy" (O'Brien, 1983: 83).

O'Brien argues that Millett is led finally to a form of "sexual determination". She is unable to theorise the complex interactions and relations between, on the one hand, ideology and consciousness, and on the other, sexuality, or the body, reproduction and material conditions. Whilst she does deal, at some length, with differences between the sexes in their relation to production and economic life, and related forms of political, legal and social discrimination, her account is primarily descriptive, all of these inequalities being in some diffuse and unarticulated way, the result of patriarchal ideology. In her determination to avoid attributing male supremacy to nature she eschews any discussion of reproduction (as previously noted) presumably because she sees it as leading her into an inescapable biological trap. By implying that the origins of patriarchal ideology derive from sexed differences in physique and strength, she can then assert that this results partly from men's greater physical exertion and exercise. She can then dispense with this justification as a specious argument, on the grounds that advances in technology have made physical strength irrelevant.

²¹ Of course, finally there are considerable problems with this way of theorising the politics of gender, but certainly, it has proved a more fruitful avenue of enquiry than the one in which Millett is immersed. For example, minus any hint of socialisation as Millett construes it, or of individuals as passive receptors, Connell et al (1982) give a very rich account of the making of diverse masculine and feminine identities, and how this is integral to gendered power relations. The only way Millett has of exploring this concept is in her discussion of the writings of Jean Genet. In the homosexual subculture he describes, feminine men are dominated by their more masculine partners.

Further, society accords much more value to men's intellect and rationality, reserving the lowliest paid and least prestigious manual jobs for men who have nothing to sell other than their brute strength. Thus, the notion of superior physique is a red herring only raised when there is a necessity to justify women's lowly status. Biological differences in genitalia she adamantly maintains are irrelevant, and it is Freud's stress on the anatomical differences between the sexes which prompts her to attack him as the arch counter-sexual-revolutionary. Hence, for Millett, it must be the actual sex act itself - which she can very plausibly maintain does not inherently entail natural differences in status and power - which links materiality to ideology.

In fact, much of *Sexual Politics* comprises a form of discourse analysis of writings by the most prominent twentieth century male novelists to focus on sexuality and explicit sex as essential components of their work;²²

... some of those who helped to build [“the vast gray stockade of the sexual reaction”].... Writers, who, after the usual manner of cultural agents, both reflected and actually shaped attitudes.... the counterrevolutionary sexual politicians themselves - [D.H.] Lawrence, [Henry] Miller and [Norman] Mailer. (Millett, 1972: 233)

Millett forcefully demonstrates that the heroic stature of the male protagonists in these writers' novels is integrally connected with their virility and their own and their women partners' or victims' valorisation of the penis. Male aggression and superior sexual, physical and psychic power are celebrated in numerous accounts of the sex act varying from those involving mutual desire, to coercion and outright rape. The theme which Millett identifies as common to the *oeuvre* of all three authors is that the apogee of masculinity (which is equivalent to aggressive phallic virility) is achieved and maintained (only) at the expense of women - of their dignity, their independence, their will, their sense of self - in a word, their personhood. The penis is *the* male weapon in a remorseless war between the sexes where victory for men entails the cowed and abject subordination of women. Every sexual encounter is the equivalent of a skirmish, and the social subjection of women is the macro outcome of men's relentless drive for sexual mastery, a mastery which ensures that women have neither identity nor status other than that granted or imposed on them by men.

D.H. Lawrence

According to Millett, each author sees sex as the means, *par excellence*, to reduce women to what he conceives as their rightful and natural state. For Lawrence, Millett argues that this involves a complex transition throughout his novels of his attitude to women, culminating with Lady Chatterley's empty and twilight self being transformed by her sexual relationship with Mellors into an animal femininity, a worshipper of the awesome beauty and terror of the phallus. But the price she must pay to realise her 'true' nature is the relinquishment of “self, ego, will, individuality” (Millett, 1972: 243). Millett claims that these characteristics in women, only recently developed via the sexual revolution, along with the possibility of their active and mutual participation in the sex act, filled Lawrence with shock and distaste. She argues that he saw two possibilities: either a new independence and assertiveness in women, a prospect which filled him with fear and hatred; or a potential for manipulating women's emerging autonomy “to create a new order of dependence and subordination, another form of compliance to masculine direction and prerogative” (Millett, 1972: 241). The 'new' women presented a challenge which, if cleverly and properly subjected, could be mastered in the sexual encounter as she could be everywhere else. Hence the appearance in Lawrence's novels of strong and self-willed women: characters set up by the author to be conquered and metaphorically battered into personal oblivion.

Millett argues that in his earlier works, Lawrence showed a preoccupation with women's capacity to give birth, with fertility and the womb, with “the eternal feminine, the earth mother,... the feminine mystique”. (1972: 258) At times, she says, he seems overpowered by women's “fecundity, serenity, their magical correspondence with the earth and the moon”. (1972: 260) But whilst Lawrence appears content to accord a

²² In fact, in the debates over censorship in the 1960s and early 1970s, what marked these sorts of work out from mere 'pornography' was the insistence by literary critics that they were 'literature of considerable merit', in which the allegedly obscene passages were necessary and integral to the import of the novels. That is, it was claimed that they expressed themes essential to the substance of a work of literary value, as opposed to others of no merit as literature, or those which dwelt on lewd and salacious matter for the sake of titillation and prurience.

form of spiritual superiority to women in this mysterious sphere - that of the maternal and the matriarch - when they trespass into male territory of the intellect or the world of work (which in his early work he implies is of lesser value), Millett claims that for Lawrence, it is as if there is no place left for men. Not only do women then have charge of life itself, but by succeeding in “a man’s world”, they better men in their own domain too. (1972: 260)

According to Millett, his sexual politics, which “always commanded Lawrence’s attention most” (1972: 245), springs from this concern with the implications for men of the emancipation of women. As his work evolved, he increasingly negated in women that which he had earlier valorised, so that ultimately the male, and his phallic organ, are represented as the life force. Paralleling that development was the emergence of a formula which Millett says increasingly dominated Lawrence’s plots of the relations between men and women; that of the female protagonist as “an incomplete creature, half-asleep in the tedium” of her sexually inadequate and sterile existence, awakened, and, as it were, “given birth” as a woman by the male hero. (Millett, 1972: 264) Thus, women come to be represented as half-persons, needing spiritual-sexual rebirthing at the hands of the phallic god-like male. In this way, the male becomes the giver of life in realising the essentially feminine in women. At the centre of this metamorphosis is the women’s flight from independence to submission to, and humble worship of, her ‘liberator’. This was Lawrence’s counter challenge to the threat posed by the spectre of independent women.

Lawrence, says Millett, took the reinstatement of absolute patriarchal power - buffeted somewhat by the partial freedom women had achieved in the sexual revolution - as a personal mission. But whereas patriarchy had hitherto reigned by imposing its domination on women, and forcing their compliance, Millett insists that Lawrence’s project was to secure a more perfect form of authority wherein women submitted of their own desire: “deeply, deeply and richly ... A deep unfathomable free submission”, as one Lawrentian character (Lilly, in *Aaron’s Rod*) explained it. (quoted in Millett, 1972: 279, ellipsis in original) Also, claims Millett, as Lawrence leaned more and more towards an ‘ideal’ of ‘protofascism’ in political government generally, not only would all women succumb to men, lesser males would submit abjectly to the authority of the few elite “super males”. In his fictive explorations of this latter theme, Millett identifies a strong undercurrent of homosexuality. (1972: 269) Never given clear expression, it pervades Lawrence’s treatment of relations between men, relations which turn on a wrestle over power. Thus, just as love between men and women increasingly becomes synonymous with power, power relations between men become invested with an intensely erotic element. In his latter works (with the exception of *Lady Chatterley’s Lover*), Millett sees Lawrence as moving further and further away from his earlier preoccupation with romantic love to a form of “sexual bullying and a quietly sadistic coercion”. (1972: 279)

This culminates with a final master-stroke when Lawrence invents “a religion, even a liturgy, of male supremacy”. *The Plumed Serpent* is the story of an Irish women’s conversion to a neo-primitivist religion concocted by two Lawrentian males as part of a manoeuvre to seize political power, by establishing themselves as incarnations of ancient Mexican gods. This entails her total acceptance of what Millett claims had become for Lawrence a series of “primeval truths”, as well as her abject submission to one of the dark male ‘gods’. The novel centres on her gradual learning that

the salvation of the world lies in a reassertion of virility which will make it possible for women to fulfill their true nature as passive objects and perfect subjects to masculine rule, ... to relinquish her will and her individual selfhood, as ... female will is an evil and male will a blessing. (Millett, 1972: 285)

The novel makes it clear that she will end as a human sacrifice according to a barbaric ritual of cruelty and death, described in such horrific detail that Millett says it “makes the reader anxious for Lawrence’s sanity”. (1972: 285) And in a short story which amounts to its sequel, this is exactly the fate of the female protagonist. Captured by savages, she is subjected to a series of humiliating and degrading experiences, beaten, tortured, raped, and finally ritually murdered. The story centres around the obliteration of her will, the actual murder being the “consummation” of that. By then ensnared in a willing fatalism, she personifies the masochistic female victim. All the enormities committed on her only serve to “satisfy her inherent nature”. Accusing Freud, Millett says that he “provided the scientific justification for sadism; Lawrence was not slow to buy the

product". (1972: 289) The bizarre climax, replete with explicit phallic symbolism, is, for Millett, nothing less than "sadistic pornography", and like all of its kind, "tends to find its perfection in murder". The final scene

at the centre of the Lawrentian sexual religion is coitus as killing, its central vignette a picture of human sacrifice performed upon the woman to the greater glory and potency of the male.... The conversion of human genitals into weapons has led him from sex to war ... the perversion of sexuality into slaughter.... (Millett, 1972: 292,3)

Henry Miller

At least, grants Millett, Lawrence's work is invested with a tension centring around his ambivalent attitudes to women. He wrestled with the mystique of romantic love, even though his final resolution was to equate love with power. For Miller, however, there is not even a glimmer of pretence that sex might entail love. So, whereas Lawrence's heroes dealt with women as personalities, in Miller's work they are reduced to the status of objects - things, commodities, mere matter - or in Miller's favoured terminology, "cunts". For the hero, getting sex is a hustle, one object of the never-ending exercise being to score as many "free fucks" as possible. Here, getting it 'free' means expanding the smallest possible amount of energy, time and self in terms of seductive ploys, foreplay, communication - basically, in acknowledgement of the personhood of the 'score' - and then in departing without the waste of a word. Or, if the object of the 'con' is more obdurate, it means "lying, wheedling, acting, cheating", the wit and trickery of the hustle making the ultimate degradation more satisfying and complete. (Millett, 1972: 313)

Every sexual encounter is similar; it is nothing more than an opportunity for Miller to represent his "hero's self-conscious detachment before the manifestations of a lower order of life". (Millett, 1972: 297) As far as Miller is concerned, contends Millett, the perfection of sex is measured by the degree it approaches total impersonality, a purely biological encounter between genitals. (1972: 300) Nevertheless, this by no means puts men and women on the same footing by reducing both to a similar emotional detachment. Miller's first-person protagonist leaves no doubt that the receptacle of his "masturbatory revels" has been duly humiliated and belittled in the experience, confronted with the 'reality' of their own (and only) essence: "whores", "sluts", "vultures", "bitches", "rapacious devils", or, most succinctly, "cunts". Further, not only are women defiled in the literary use Miller makes of them, they are often made grotesque, repellent or ridiculous in and by the genital encounter with the hero.²³

Yet, in contrast to Lawrence's more veiled political assault on women, Millett acknowledges that with Miller there is no pretence or guile; as well as contributing to a political culture of misogyny and masculine supremacy, she sees him as an "honest" chronicler of the "ancient sentiment of contempt" with which men regard women. (1972: 309):

What Miller did articulate was the disgust, the contempt, the hostility, the violence, and the sense of filth with which our culture, or more specifically, its masculine sensibility, surrounds sexuality. And women too; for somehow it is women upon whom this onerous burden of sexuality falls. (Millett, 1972: 295)

As in her treatment of Lawrence, Millett assumes without question a symbiotic identification between Miller's hero and Miller, the author; the first-person character of the novels is, for her, Miller's literary representation of his own misogynistic attitudes, his own flights of virile fantasy, and his own scorn, loathing, contempt and hatred of women. She interprets the character's compulsion to degrade the female as an unconscious puritanism in Miller, an underlying revulsion with sex as filthy, vile, and as connected with his "morbid fear of excreta" (1972: 309). Miller's pathological - but unconscious - belief that sex defiles, manifests, according to Millett, in the conviction that women who allow sex, deserve to be, indeed should be, defiled as utterly as possible; "what he really wants to do is shit on [women]" (1972: 309). Also, Millett asserts, his work betrays Miller's own (again unconscious) terror of women, and particularly his fear of having to interact with them as human personalities. (1972: 300)

²³ For example, amongst numerous others, Millett quotes this nasty description by the hero of a woman in orgasm: "... I saw by that frozen condensed-milk expression about the jaw that it was happening. Her face went through all the metamorphoses of early uterine life, only in reverse. With the last dying spark it collapsed like a punctured bag, the eyes and nostrils smoking like toasted acorns in a slightly wrinkled lake of pale skin." (1972: 297,8)

Millett acknowledges a certain advantage in Miller's revelation of the patent contempt, disgust and virulent loathing of women which she sees as inherent in the egoism of masculine virility. To that extent his work is important, as "an honest contribution to social and psychological understanding which we can hardly afford to ignore". (1972: 313) Nevertheless, in tearing away the mask covering the suppressed truths of masculine culture, she fears that the poisonous and vicious aggression, thus exposed, will gain a certain legitimacy by posing as freedom from inhibition. No doubt, there is a certain foresight here in Millett's ambivalence. The 'permissive' wave of the 1960s and early 1970s which allowed reforms and relaxation of laws and norms governing censorship - and abortion, homosexuality, divorce and sexuality generally (all so 'obviously' necessary then to liberals and radicals) and fed into the movement for women's liberation - sowed the seeds of contradiction, disillusionment and reaction in the 1980s. The debate over pornography (which began with the demand to read works such as Miller's) has split segments of the Women's Movement and brought shrill cries from the Right for a reimposition of censorship controls. And ironically (given that women are the degraded objects of pornography) feminism has been targeted as the alleged 'cause' of 'moral decline'. In Millett's terms, the clock could be said to have turned full circle; the 'second' sexual revolution is ending with signs that another 'counter-revolution' against women's freedom is under way. Millett's 'sexual-politicians' - Lawrence, Miller and Mailer - made it clear that woman equals sex; that her personhood is irrelevant to, must be made subordinate to, or even utterly negated by, her primary essence (persona, function, use, status?) of/as sex. It is arguable that whilst, on the one hand, Millett has critiqued and rejected this almost invariable cultural association, on the other, she herself has succumbed to it, in virtually equating sexual and gender liberation. Perhaps one major prerequisite for social recognition of women as autonomous identities (an indispensable component of their liberation) is to unstitch and sever the seemingly indivisible suture between woman and sex/sexuality.²⁴

Norman Mailer

The overarching theme tying together Mailer's work is violence; it is a constant preoccupation, traversing novels, short stories, verse and essays. Whether the subject is war or sex, the tribulations of manhood; whether dealing with hero or villain, the behavioural trait of violence is obsessively pursued. The logic, however, is clear, because for Mailer, "sex is war, and war is sexual", insists Millett (1972: 316). Violence is the key to victory for Mailer's protagonists, be they fighting Japanese, hunting animals, preying on women, or wrestling with their lurking inner potential towards homosexuality. The apotheosis of violence - killing and murder - is also the ultimate trademark of masculine virility. According to Millett, killing is always sexual for Mailer - on the battlefield, the street, the bedroom - for both his fictional characters, and in his own personal philosophy. (1972: 318) Sex and violence are inextricably welded together in masculine culture, and initiation into manhood entails the realisation, acceptance and internalisation of this primitive 'truth'.

Millett argues that violence pervades Mailer's work precisely because he is convinced that it is genetically endemic in the male, and furthermore, that it is ignored or repressed at enormous peril to masculinity. Hence, what is most "primitive" and "animal" is, at the same time, what is most necessary; it is, he maintains, "what is at stake in the twentieth century" (quoted in Millett, 1972: 321). Nevertheless, real manhood, or masculine virility, is not something automatically given in males. Rather, it is in the way of a potential, even though it is a right - an "existential assertion" in his words - to be claimed. Manhood must be attained by each individual male if he is "good enough, bold enough", Mailer asserts (quoted in Millett, 1972: 327). Millett claims that Mailer expounds a creed - she terms it 'sexism' - with overtones which, she suggests, give it a nature more 'religious' than philosophical. It is the propagation of a 'cult of virility', Mailer's own blending of sex and violence eulogised into an ethic of masculinity, the practice of which is a "test of self", steering the "hunter-fighter-fucker" past the land mines of homosexuality, onanism, impotence, and capitulation to women". The battles which men must fight and win are not only with women, but against their own threatening homosexuality (Mailer's acknowledgement of Freudian bisexuality); they are tests of their

²⁴ The other side of this same coin would entail prising open and unbuckling that other major cultural conjunction, that between woman and mother. Each of these couplings respectively derive from the two archetypal and (supposedly logically) contradictory representations of woman: madonna (pure, asexual, selfless, virtuous, gentle, etcetera) and whore (sluttish, wanton, unclean, slatternish, slovenly, defiled, etcetera). We shall have cause to return to further discussion of these two mutually exclusive feminine prototypes below.

courage, their obligation to dominate, and their potency. (Millett, 1972: 327) In a curious twist of the sex/gender distinction, Mailer sees males as having to earn their masculinity - manhood is not something with which they are born or necessarily inherit - it must be attained and continually earned anew in a ceaseless practice of heterosexual activity and release of their inherent violence. To fail in the perennial testing process is to cease to exist. To stray from the ethic of 'sexistentialism' by renouncing aggressive virility "is tantamount to renouncing masculinity, hence, identity, even self". (Millett, 1972: 331)

The two major (intertwined) threats to masculinity which Millett identifies in Mailer's work are the "womanization of America" and homosexuality. For Mailer, women and femininity appear to be far less problematic than are their counterparts. The main functions of women are procreation and nurturing. Being by nature properly passive, even their part in the sex act should be minimal, its purpose merely fertilisation. (Millett, 1972: 327) (Mailer abominates abortion and any form of contraception.) Sex, it would seem, is primarily a masculine domain, a testing ground for men's potency and for their preparedness to control women, to put them in their proper place if they show spirit and resistance to domination. In fact, in his fiction, Mailer paints his female characters in this latter light; the plot of 'sex as war' requires the desirable female opponent to be tough and feisty. Mailer, after all, says Millett, is a sporting man and loves a worthy "sparring partner". To that end, he has transformed the stereotype of the assertive, bitchy, American woman into a "species of erotic currency". (1972: 326) There is no intention, however, of allowing her victory: whether it be by murder, rape, or ultimately humiliating seduction, a virile protagonist will triumph. Millett claims that Mailer in fact laments the alleged emergence of the dominating, overbearing, modern woman, seeing her as "more selfish, more greedy, less romantic, less warm, more lusty and filled with hate". (quoted in Millett, 1972: 330) This is not merely, however, a matter of personal antipathy. For Mailer, it has a moral dimension, representing a decay in standards and even posing a threat to the strength of the nation, because it provokes the malignant spread of homosexuality and "the creeping virus of neuterization". (quoted in Millett, 1972: 330)

Millett argues that the violence which Mailer so valorises springs from the repressed homosexuality which she sees as a product of the 'men's-house culture' pervading Mailer's (and Miller's) work - the group bonding so prevalent amongst men, at war, in sport, in a hunting pack, in joint sexual adventures, and such like. (1972: 332) Yet for Mailer, that capacity and lust for violence are not only inevitable, they are positively beneficial. Translated into aggressive heterosexual virility, they are, in turn, employed to ward off homosexuality and effeminacy. To renounce the use of violence is to renounce virility. This is tantamount to ceasing to be or, to succumbing to effeminacy and the vile grotesqueness of homosexuality. (Millett, 1972: 331)

Somewhat surprisingly, Millett's analysis of Mailer strikes one as less scathing than that of Lawrence and Miller. Perhaps that is because, as she says, "Lawrence was content to manipulate, Miller to cover with contempt, but Mailer must wrestle". (1972: 324) She sees him (his work?) as full of paradox and ambivalence, as snared in conflicts with conscience and loyalties. At the same time as he can comprehend and explain masculine violence and the cult of virility, he is incapable, or unwilling, to relinquish his attachment to either, convinced, as he is, of their cultural inevitability and necessity. (Millett, 1972: 315)

Ironically, an early exponent of the need for greater sexual liberty, he was rapidly overtaken by events in the early 1960s, his liberatory stance revealed as nothing more than his own desire for greater sexual explicitness in writing. For Millett, the coming of a second sexual revolution threatens the very ethic of masculinity at the core of Mailer's 'sexistentialism', because, for her, it means disintegration of gender difference. It is not surprising, then, that the project of 1980s anti-feminism is the reestablishment of any dilution of these differences, and a reassertion of the cultural necessity of masculine aggressiveness. Whereas Millett identifies Mailer as a counter-revolutionary of the first wave of sexual liberation, he could just as easily be seen as in the vanguard of a later reaction, the themes of 'natural' masculine aggressiveness and dominance reappearing in another garb in the polemics of those such as George Gilder and the brigade of male anti-feminists following him.

The Politics of Sex

What Millett puts forward in her critiques of Lawrence, Miller, and Mailer, are alternative interpretations of the texts, but ones which she claims are in fact accurate representations of the intentions of the authors, of their personal philosophies of sexual politics, and of their own attitudes towards, and feelings about, women. It is not appropriate here to enter into a discussion of the framework of literary criticism employed by Millett, nor to evaluate or take issue with the 'correctness' of her readings.²⁵ But she is also claiming that the texts *reflect* the force of patriarchal counter-ideology (as well as contributing towards it), and using them to demonstrate her (basically unargued) contention that sex is *the* fundamental mechanism in the dynamics of women's oppression and the ultimate site for the expression of patriarchal power. Yet, as Michell Barrett suggests:

It is neither plausible nor profitable to study literature for the purpose of berating morally reprehensible authors. Nor is it possible to take literary texts ... as necessary reflections of the social reality of any particular period. They cannot even provide us with a reliable knowledge of directly inferrable ideology. What they can offer, I suggest, is an indication of the bounds within which particular meanings are constructed and negotiated in a given social formation; but this would depend upon considering a fairly wide range of such products. Imagery is a notoriously misleading indicator. (1980: 107)

Certainly, her analyses of the texts comprise a powerful indictment of the way sex *can* be used by men (and undoubtedly is by some) to manipulate and humiliate women. Nevertheless, to generalise from these (literary) examples to all men, to extrapolate to an implied statement about the nature of heterosexuality *per se* in a patriarchal world, is just simply not tenable. And, whilst on an emotive level a reader may be intuitively convinced by Millett's polemic - she is herself a forceful and evocative writer capable of conjuring up an outraged hostility towards the authors in question - it in no way constitutes evidence for her major thesis: that sexual relations are the pivotal site of gender oppression, nor even that they are the quintessential expression of male supremacy.

In fact, on reflection, *Sexual Politics* alerts one to the difficulties entailed in theorising the relation between the politics of sex and sexuality (desire) and the politics of gender. It makes it abundantly clear that there is much more to gender politics than sexual exploitation, and, by implication, either more or even something else to sexual politics than power relations between men and women.

²⁵ Many modern literary critics (See, for example, Belsey, 1980) would certainly disagree with her claim to correctly decipher the intentions of the author, and to see the texts as *consciously* ideological in their purpose. Similarly, her contention that the perspective and attitudes of the author and the protagonist are identical is certainly open to debate, especially as Millett has not even bothered to explicitly argue this, but merely assumes it.

CHAPTER TWO

MICHEL FOUCAULT: DISCOURSE, SEX AND POWER

The first volume of Foucault's *History of Sexuality* (1980)²⁶ was intended as *An Introduction* - "a first attempt at an overview" (Foucault, 1980:8) - to a project spanning a further five volumes directed to mapping ways in which the body and sexuality had become integral to the operation of power since the end of the sixteenth century. The broad parameters drawn in this critical enterprise Foucault apparently intended at the time to be more fully elucidated in subsequent work. Yet, when *Volume Two: The Use of Pleasure* (1985) appeared,²⁷ Foucault had redirected his focus to the historical development of the experience of sexuality and "techniques of the self" in Greek antiquity. *Volume Three: The Care of the Self*,²⁸ continues this enquiry via Roman written evidence from the first and second centuries AD. Foucault was working on the fourth volume, intended to cover the austere ethics of sexuality emerging in the first few centuries of Christianity, when he died in 1984.

In terms of his projected "history of the present" and examination of discourses of sexuality in modern society, we are left, then, with the highly suggestive but elusive polemic continued in *Volume One*. This chapter will explore this text with a view to drawing out themes and insights useful for the study of discourses employed in the modern abortion struggle and the recent 'New-Right' backlash against sexual 'permissiveness'. Given Foucault's radical historical method and the interwoven and complex nature of his "analytics" this will require a detailed exegesis of the work; to crudely borrow concepts of Foucault's out of context would rob them of their vitality and their analytic power.

Reconceptualising Sexual Repression

Before embarking on his radically different version of the relations between sex and power in the modern era, Foucault "clears the terrain" by dismantling the taken-for-granted orthodoxy. In everyday wisdom, he says, it is 'known' that for several hundred years sex has been subjected to prohibition, sanction, censorship and proscription and that the Victorian age was the ultimate manifestation of this phenomenon. We (referring to those influenced by the sexual liberation movement of the late 1960s and early 1970s) from our vantage point in history and armed, as we see it, with a realisation of the liberating potential of sexuality, ask why it is that we have been so repressed. But for Foucault, the actual posing of this question is indicative of the problematic within which it is enmeshed: it is, in fact, this very framework for making sense of our recent past that he intends to dislodge. He does this neither by depicting 'the real facts' or social processes involved nor by a hermeneutic discovery of what was 'really going on'; but rather by showing that our understandings and conceptualisations of repression - and its opposite, freedom - are integrally stitched into the very power relations which we attempt to analyse with these concepts.

Fundamental to this taken-for-granted version of the recent history of sexuality is what he calls the "hypothesis of repression". In this view, the Victorian regime foreclosed a period of easy tolerance towards sex during which sexual practice and discourses had been open and unabashed; uncomplicated by prudery and codes regulating what was regarded as obscene or indecent, bodily displays had been characterised by virtual indifference. Advocates of the repression hypothesis argue that with the advent and consolidation of bourgeois society sexuality became clothed and hidden in secrecy, its only legitimate domain in both speech and practice being seen as the bedroom of the conjugal couple and its only valid purpose construed as

²⁶ First published in 1976 in French as *La Volente de Savoir* (Editions Gallimard, Paris) and in English in 1978 (Pantheon, New York).

²⁷ In French in 1984 as *L'Usage des Plaisirs* (Edition Gallimard, Paris) and in English in 1985 (Pantheon, New York).

²⁸ In 1984 in French as *Le Souci de Soi* (Editions Gallimard, Paris) and in English in 1986 (Pantheon, New York).

reproduction. Sterile sex - that is, sex engaged in for its own ends rather than for procreation - was allegedly redefined as abnormal and liable to sanction if indulged in too overtly. A blanket of silence settled over any expression of sex not harnessed to fecundity, indeed the reality of such was denied. In turn, so the story goes, the silence was claimed as evidence for the non-existence of aberrant sex - it was 'obvious' that there was nothing to talk about!

Foucault sees this interpretation of the history of sex - a history characterised by repression - as having assumed the status of a truism. It became fashionable amongst the 'New Left', he says, to argue that the power of repressive norms and ideological sanctions and prohibitions had become so formidable that the law needed to operate only as a last resort; that with industrialisation, capital needed to harness the energy of workers to production and to replace the pursuit of pleasure with the work ethic. (Foucault, 1980a: 5) As a result of this sort of theorisation, the task of freeing sexuality from its chains assumes a radical political dimension and liberated sexual practice is construed as synonymous with a form of political practice. Yet, despite limited progress along this path, proponents of this view argue that we have still not freed ourselves from Victorian prudery; nor will we have done so until all laws and prohibitions controlling sexual activity and discourse are transgressed and ultimately demolished by the pursuit of pleasure. Thus, pleasurable indulgence is accorded the respectable credentials of anti-capitalist political practice. Foucault responds that this position itself smacks of the same old prudishness it purports to renounce: pleasure cannot be tolerated for its own sake; it must be made politically credible by taking the guise of political action. (1980a: 36) Also, he claims, those who attack the repression of sexuality achieve a certain gain by presenting themselves as engaging in subversive activity by deliberately breaking sexual prohibitions, speaking the forbidden and linking revolution with happiness and pleasure. It is in similar terms that we can understand the market value attached to analysts and therapists listening to people's anxieties in exchange for the promise of freedom from repression. (1980a: 7)

In complete opposition to this Leftist orthodoxy, Foucault argues that from the end of the sixteenth century sex, far from being repressed, has in fact been subject to tremendous *incitement and over-investment*, in the process of which sexuality has permeated many aspects of social life like a web. (1980a: 9) He asks why is it that we say that sex is negated, hidden and silenced and why do we do so in a way which seems to belie what we are saying. The important question for Foucault, then, is not 'why are we so repressed?', but rather, why do we assert so vehemently that we are. He argues, and this is fundamental to his thesis, that the very way in which repression is attacked and criticised *confirms the power of sex* rather than its repression (1980a: 9). It is paradoxical, he asserts, that our society speaks so very loudly about just the thing which it claims it silences, relates in detail what it says is barred from speech and attacks the power of a supposed repression which it itself exercises.

Foucault's argument that the relation between sex and power is not one of repression will, he says, contradict taken-for-granted assumptions and investments which certain people have in the repression hypothesis. They will retort that its validity is historically evident and that the effort required to displace the power and effects of repression needs to be prolonged and concerted precisely because of its tenacity and pervasiveness. Further, it will also be objected that it is not so much the intensification of speaking about sex which should be the object of analysis but rather, the content of what is said. In this respect, they will argue that the purpose has been to harness sex purely to reproduction, to labour capacity and to economically and politically useful ends. (Foucault, 1980a: 36) Foucault concedes that he still does not know if "this is the ultimate objective" but even if it is, it certainly has not been achieved by any mechanism of repression. On the contrary, there has been a multiplication, not only of discourses, but also of diversities of sexual behaviour. (1980: 37)

It is not, however, the economy of sex which is of primary interest to Foucault; rather, it is the ways in which sex has become a discourse linking together the ideas of truth revelation, the need to 'smash' rules and laws and the promise of happiness in a liberated sexual utopia. He says that sex has in fact taken on the form of a sermon: it preaches against the 'Old Order' of hypocrisy and extolls instead the virtues of "the immediate and the real" in lyrical and pseudo-religious overtones. (1980a: 8)

He does not deny that sex has been subject to prohibition, denial and sanctions since the seventeenth century and perhaps even more so in the modern era. But he sees these processes as having been wrongly taken to be

fundamental to, and characteristic of, theorising about sex. This decisive over-emphasis on repression has in fact been crucial to the way the meaning of sexuality has been constituted. These theorisations are not therefore the objective histories they purport to be; rather, they are part of the very object requiring analysis. (Foucault, 1980a: 12)

Foucault, then, is not mounting a counter-argument to the repression hypothesis by claiming that sex, far from being repressed, was in actuality being liberated. Nor is he saying - as Marcuse suggests (1972:68) - that power in our society operates via mechanisms of toleration and is therefore more discreet and subtle. He claims neither that there has been increased tolerance nor less repression. Hence, he is not asserting that the repression hypothesis is historically wrong but that *its focus is misplaced* and it is, itself, an element of what needs investigation.

The project which concerns Foucault is one which sidesteps the whole question of repression. His intent is to discover the utility of the ways in which sex has been discussed since the seventeenth century: what has been said about it, what effects this had in terms of power and how this is linked to pleasure. He seeks to discover how the conjunction of discourse, power and pleasure gives rise to a new knowledge of sexuality or new perceptions of what it is. His aim is to analyse the circumstances in which discourses of sexuality have become permeated by the linkage of power/knowledge/pleasure, and the mechanisms by which this has happened. For Foucault, the socially and historically constructed meanings of sexuality need to be examined: who speaks of it from what position and perception and how were these meanings institutionalised; how did these understandings penetrate into the everyday experiences and thoughts of individuals, investing their lives and pleasures with specific inhibitions or intensifying sexual connotations. It is these processes - whereby the meanings of sexuality are so overdetermined in people's psyches and behaviours - that Foucault terms "the polymorphous techniques of power". (1980a: 11)

Foucault's re-evaluation of the repression hypothesis is arguably a refreshing corrective to the orthodox history of sex which pervades all thinking and theorising on the subject. The explosion of discoveries on sex which he demonstrates as having taken place since the nineteenth century convincingly demythologises the taken-for-granted wisdom. The first volume of *The History of Sexuality* undercuts theorisations for which sexual repression is fundamental: for example, that of Wilhelm Reich whose work in turn influenced much subsequent thinking on the link between sex and society. The sexual liberation movement of the 1960s borrowed from Reich's thesis of sexual repression and the function it served in wider social domination. Consequently, as Foucault makes explicit, the road to freedom was envisaged as obtainable through 'breaking the shackles of repression'. In a different vein, one element of the early women's movement was a critique of men's repression of the sexuality of women, a theme pursued for example by Kate Millett. The 'truth' of the repression hypothesis, however, has not been confined to the writings of radical theorists of sex. It is also endemic in everyday popular discourse, both of those who advocate a relaxation of the strictures surrounding sex and of others who fear liberalisation and argue for continued vigilance and repression as necessary to social cohesion and order. As will be demonstrated in later chapters, this theme was pervasive in the debate on abortion as it was waged in the press media and continues to reverberate in the discourses of the more puritan and anti-feminist arm of the contemporary New Right movement.

Foucault claims that the alternative method of tracing the history of sexuality which he is developing makes it apparent that the hypothesis of repression and the demand for sexual liberation are not counter movements; rather they are "mutually reinforcing" (1980a: 10).

There are three doubts about the relation between repression and sex which Foucault says need investigation:

- the first is of an historical nature: is the repression of sex an established historical fact and do the historical processes which have led to the idea of repression really involve the enforcement and reinforcement of a repression which began in the seventeenth century?
- the second he terms an historico-theoretical question: does power really work in our society primarily via repression and, at the least if not generally, via prohibition, censorship and denial?

- thirdly, an historico-political question: has the critique of repression really challenged it or rather, has the critique itself been part of the same network? Historically, was there in fact a rupture between the age of repression and its critique as is assumed? (Foucault, 1980a: 10)

Psychic and Socio-Sexual Repression

Foucault claims that most theories of the way in which power operates are characterised by what he terms “juridico- discursive” representations and it is precisely this view of power which he sees as immanent in the repression hypothesis (1980a:82). With respect to theories of the relation between sex and power he points, firstly, to Freud who emphasised repression of the sexual drives, a theorisation which leads ultimately (via Reich) to the promise of “liberation” because power is conceived of as *external* to desire; and secondly, to Lacan, who saw power as *integral* to the law of desire. According to this latter representation, one is “always-already” trapped because desire is seen as necessarily constituted by power. Therefore, despite the differences in the way each perceives the nature and dynamics of the drive, as far as Foucault is concerned, both ultimately have a similar view of power.

The thesis of sexual repression, of course, had its genesis in Freudian psychoanalysis: indeed, it was the cornerstone of his theory of the unconscious. But Foucault rejects Freud’s formulation because it is based on the concept of innate libidinal drives which are construed as being thwarted of direct expression by the mechanism of repression and redirected or channelled into alternative avenues.

Basically, his critique of Freud’s concept of repression emerges from his rejection of a view of power which sees it as censorial and prohibitive. In my view, he quite rightly rules as inadmissible the ontological pre-existence of sexual drives. But this does not, of itself, invalidate the proposition that once elicited, desire, as it attaches to the carer, is not subsequently *psychically* repressed. A more sympathetic interpretation of psychoanalysis indicates that repression has in fact a *creative and productive role* in psychic development or, put in other terminology, the construction of subjectivity. It is the blocking of direct expression of desire cathected to the carer and its rechannelling which allows for the construction of a social being. In this respect, then, repression has a *positive* function in the constitution of the subject. Indeed, for Freud, repression is pathological precisely when the emotions - or more precisely, the ideational representations - on which it is operating (and which are themselves socially produced) are so firmly prohibited that they do not surface into consciousness in another form by attachment to other (symbolically linked) ideas. Because Foucault is concerned with a ‘de-centring’ of the subject such a productive and positive function of psychic repression is overlooked thus allowing him to represent repression, as theorised by psychoanalysis, as wholly negative. This is integral to his critique of power which he claims is always conceptualised (particularly with respect to sex but in other areas as well) as always operating negatively via censorship and prohibition and, in opposition to this, to his own emphasis on the productive role of power. But in attacking and discarding the psychoanalytic concept of repression it seems that Foucault comes close to conflating together the specific mechanism of psychic repression and the more general notion of *social* repression of sexuality.

He is not the first to make this slippage: the early work of Wilhelm Reich, which attempted to forge a synthesis between psychoanalysis and Marxism (by theorising working class domination as a dialectical relation between material exploitation and sexual repression), was seriously flawed by an attempt to extrapolate from *psychic* repression as Freud analysed it (as a very specific mechanism of mental functioning) to *social* repression of a dominant social group over another (Reich, n.d.; 1972; 1975).²⁹ Reich’s linkage between psychic and social repression of sexuality and, in turn, that between personal (sexual) and social liberation was influential in the gestation of the sexual liberation movement in the 1960s. This suggests, then, why Foucault makes psychoanalysis an object of his critique.

Also, in dismissing the notion of any social repression of sex or sexualities Foucault also fails to make adequate allowance for the very real occurrence of such forms of coercion, a point which is made by Jeffrey Weeks. Certain regimes or cultures have quite explicitly employed sanctions, ostracism or outright physical violence. As an obvious example of the latter, Weeks points to Nazi Germany (1981: 9). We do not need to

²⁹ This possibly unintended sleight-of-hand has been argued by the present writer elsewhere (Coleman, 1978). It has also been noted by Weeks (1981) and Poster (1984).

rely merely on what might be considered such 'aberrant' extremes: in Australia the National Party Government of Queensland recently enacted tough anti-homosexual laws in a wave of AIDS hysteria, also directing the police to destroy condom vending machines on university campuses lest their availability tempt students into sexual indulgence. More recently, the police there accidentally came across the private diary of a young male homosexual and, on the basis of the 'evidence' in it, prosecuted the man and all those he named therein as his lovers at one time or another.

Despite these reservations, there can be no doubt that Foucault has prompted a fundamental rethinking of simplistic accounts of Victorian prudishness and of the politics of sexual liberation. He, quite correctly in my view, has demolished the radical position which equates sexual freedom with political practice directed against the repression of sexuality by capital. He has made it clear that the link between power and sexuality has developed and operates independently of class politics, although at certain points historically there are interactions between the two. Accordingly, he has seen it necessary to trace and analyse sexual politics and the construction of sexuality quite specifically, rather than relegating it, both theoretically and politically, to a subordinate position. By implication too, he has shown that struggles in the field of sexuality will not be resolved automatically by any utopian socialist revolution.

The End of 'Grand Theory'

By arguing that sexuality has a certain autonomy, he has also rejected the Marxist claim that ultimately all explanations for social organisation should, at least in the 'last instance', lead back to the mode of production. This is not to suggest that sexuality should be seen as separate and divorced from other aspects of social or economic life, but that sexuality, sexual relations and practice are not determined in the way that any orthodox base/superstructural model would conceptualise them. The links and interactions between them and production and state activity need to be examined in their historical specificity and cannot be predicted according to any abstract theoretical formula: rather, these relations are a matter for empirical investigation. Although in Foucault's account they operate in the modern era to sustain and reinforce power, this could imply that such is not necessarily the case: that hypothetically, sexual elements of life could be contradictory to the deployment of power in other areas, although certainly not in the way theorised by the sex radicals.

In attacking Marxism, Foucault has also distanced himself from all 'grand theories' which attempt to explain the totality of society in one great compass according to a pre-specified framework of development, functions, articulations and relations. In terms of methodology of analysis, this is perhaps where Foucault has been most radical and influential; this shift having major implications for much social theorising and also for political practice.³⁰ He has rejected overarching explanations which claim to explain everything and yet, at the same time, has avoided the pitfall of triviality accompanying much micro-sociology which is not informed by wider social theory. Foucault prefers to emphasise localised struggle and the particularity and plurality of discourses and forces. He wants to show how power operates at the micro level of everyday life through discipline and norms, and that power and struggle are integral and inevitable elements of any society: "A society without power relations can only be an abstraction", he insists. (1982: 223).

One of the problems with Marxism and other totalising systems, according to Foucault, is that they represent history as a progressive movement towards some ultimate goal of equality, freedom, peace or whatever. Similarly, liberal or bourgeois thought with its roots in the enlightenment exalts the rationality of modern society. Foucault is quite right to subvert beliefs or theories which view history as progress. Whatever their politics or objectives, they smack of Christianity and beliefs in millenarianism, the second coming, or heavenly salvation. To the sociologist who emphasises the dynamic nature of society and sees change as emerging from conflict, it is a complete contradiction to accept any notion of a society moving towards, and ultimately achieving, 'a goal'. Such a conceptualisation involves the idea of a static society - an untenable possibility.

³⁰ It is also, for some, where he is most disconcerting, pointing towards a way of theorising the social world - or more precisely, aspects of it - which entails losing the sense of 'certainty' accompanying adherence to a totalising theoretical system. This development is interesting in the light of certain conclusions to be drawn below regarding Right-Wing women and the comforting certainty they gain from simplistic explanations for the seeming chaos of a threatening world.

Power and Resistance

Foucault is not saying, however, that the power relations which exist in a society at any particular time are inevitable or necessary; on the contrary, they exist in a “more or less open field of possibilities” (1982: 221) and are always liable to transformation or modification, because “wherever there is power there is resistance” (1980a: 95). In contrast to the analytics of power which he is attempting to develop, Foucault argues that most theories of power are characterised by a “juridico-discursive” view of how it operates and says that this concept of power has four features.

Firstly, power is always seen as negative, as operating by prohibition, exclusion and censorship. Secondly, sex is defined in binary terms as licit/illicit, good/bad, etcetera, and subject to laws and rules as to what is permissible or not. In this sense the pure form of power is the legislature. Thirdly, the aim of power is construed as the renunciation and suppression of sex through prohibition and sanction. Fourthly, the supposed “logic of censorship” allegedly operates by refusing permission and preventing things being said, thereby denying their existence. Foucault says that according to this view of power, censorship mechanisms link together the “nonexistent”, the illicit, and the inexpressible so that each is seen as the principle and effect of the other. Power is construed as operating over sex in a uniform way at all levels - whether it be the law, the father, or the censor - the effect is obedience. So, on one side there is the rulemaker and on the other, the subject who obeys. (Foucault: 1980a: 83,4)

According to Foucault, this way of understanding power defines it as anti-productive and anti-energy. In itself, power is seen as doing nothing other than preventing individuals from acting in certain ways. Supposedly, it is acceptable and tolerated as long as it is seen as merely placing certain limits on action whilst leaving a large measure of freedom intact.

Historically, then, we still conceive of power in terms of the monarch and the judicial system, says Foucault. Whilst he agrees that many of these forms still operate, he says that new mechanisms of power, irreducible to the law but operating by “technique” are far more penetrating in their effects. The project of constructing an analysis of power which does not take the law as its model involves discovering principles and their operations outside of this traditional theoretical framework. He says that power needs to be seen as much more productive and positive, as working through technologies, tactics, mechanisms and strategies rather than always downwards via prohibition. We have to conceive of “sex without the law and power without the king” (Foucault, 1980a: 90).

In the old order, sovereigns exercised power quite specifically over the life (and death) of subjects. They had the right to put subjects to death or could refrain from exercise of that right. They could “*take* life or *let* live”. (Foucault, 1980a: 136, emphasis in original) But since the Classical Age, power has undergone a “profound transformation” and now operates by managing, organising, monitoring, reinforcing, optimising and generating. It has become concerned with the administration of the actual *living out* of the lives of subjects, of the quality of their lives: it has become a “positive influence on life”. (Foucault, 1980a: 137)

Most understandings of the nature, form and operation of power are, Foucault claims, misunderstandings. He says that power does not emanate from some central point and work downwards as it is characterised to do in theoretical approaches which see it as located in the institutions of the state (Foucault, 1980b: 198). Nor does it take the form of the law and compliance to rules. Finally, he insists, it is not a systemic form of domination in which the power of one social group pervades the rest of society. Rather, he says, power is everywhere: it is “permanent, repetitious, inert, and self-reproducing”. It is

the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organisation;... the process which, through ceaseless struggles and confrontations, transforms, strengthens or reverses them;... the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly,... the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies. (Foucault, 1980a: 92,3)

Foucault thus proposes that power is not a resource like some tangible entity which can be taken, acquired, shared, maintained or lost. Rather, its sources are innumerable, operating in the field of unequal and dynamic

social relations. It is immanent, then, in many sorts of relations: those based in the economy, or on knowledge, or sex. Relations of power are the *effect* of the divisions and inequalities in these, at the same time as they are *integral* to these divisions. What is more, their operations within these divisions, rather than being prohibitive, are specifically productive.

Nor is power a dual relationship between rulers and governed; it comes not from above but from “below”. Power relations run through all of society, in production, in families, in institutions and organisations.

For Foucault, all power is exercised with particular aims or objectives and intentions. But paradoxically, it is not an effect of the decisions of individuals, groups, classes, or the state:

the logic is perfectly clear, the aims decipherable, and yet it is often the case that no one is there to have invented them, and few who can be said to have formulated them. (1980a: 95)

It does not derive from individual or collective will nor from particular interests. (Foucault, 1980b: 188)

Lastly, resistance is immanent in every power relation, but it can never be external to power. Yet there is no single source of all rebellion or refusal. Though resistances are innumerable, each resistance is specific. They can take myriad forms:

resistances which are possible, necessary, improbable ... spontaneous, savage, solitary, concerted, rampant or violent;... quick to compromise, interested or sacrificial. (1980a: 96)

But resistances are not mere reactions to dominance or necessarily doomed to defeat although they can only exist within relations of power. They are an irreducible opposite in these relations, spread unevenly throughout them, varying in time and density, occasionally producing individual or group mobilisations and inflaming particular areas of social life or behaviour.

This concept of resistance becomes much clearer in Foucault’s more recent essay, “The Subject and Power” (1982). Here, he gives a less abstract account of the nature and exercise of power and of power relationships and it therefore should be considered in conjunction with the earlier work on power. He states that freedom on the part of the individual or of individuals whose behaviour is influenced in a power relationship is an important and necessary component to the exercise of power. Only for so long as subjects are free, and remain so to act in a diversity of possible ways, does a relationship of power exist. Instead, where options are totally foreclosed - and outcomes of behaviour or responses are determined - we are dealing with a physical relation of constraint which is equivalent to slavery. (Foucault, 1982: 221) Central to a power relationship, then, are “recalcitrance of the will and the intransigencies of freedom”. Foucault is not suggesting here any “essential freedom” in human nature or ‘the spirit’, rather what he calls an ‘agonism’: a combat or contest with strategies of reaction and permanent provocation on both sides. (1982: 222)

Having argued that permanent resistance is at the core of a power relationship, Foucault goes on to indicate what is involved in the exercise of power: it consists always of an individual or group acting upon *the actions* of an agent or agents who are capable of responding in, at the least, more than one way; of managing the possible behaviour or actions of others in order to influence the outcome; of directing, or organising, or governing the possible fields of conduct of subjects. In this sense Foucault’s insistence on the productive outcome of power is clear. It does not prevent, rather it enables action or even provokes it, or alternatively it makes some actions more difficult; “it incites, it induces, it seduces”. (1982:220) Only at its most extreme does it have recourse to absolute prohibition but even then a free agent has the option of defiance.

Foucault maintains that power does not operate directly or immediately upon others, *but upon their action*. He characterises the former not as a relation of power but of violence, which is exercised on bodies or things by forcing, breaking, bending, destroying or by closing off all possibilities for action by the subject, who is reduced to total passivity. (1982: 220) Yet power as such is not a function of consent either, of the voluntary surrender or transfer of rights. A relationship of power can be the *result* of consent but that is not its fundamental nature. Power relations do not necessarily exclude the use of violence or consent but they do not need them; they can be the instrument or the results but are not the nature of power. (1982: 219,20)

To understand the nature of power we need to study its exercise, and resistances to it. Most theories of power use the concept in an all-embracing way, he claims, and tend to reify power as if it were a 'thing', presupposing the existence of some mysterious entity. This avoids questioning its actual nature, its origins and the complex processes and relations which constitute it; instead, the focus is on its effects (1982: 217). Yet power as an entity does not exist, says Foucault. It exists only when it is in action, even when its potentiality is integrated into permanent structures. (1982: 219) Power, then needs to be understood as dynamic and in terms of process.

Foucault claims that the most appropriate empirical starting point towards an understanding of power should be actual resistance to it, taking account of different forms of power and different resistances. By observing the "antagonism of strategies" which are entailed we can uncover power relations, their location, where they operate and the methods which are employed. (1982: 211) Movements which oppose the power of men over women, of parents over children, of bureaucracy over people's lives, of psychiatry over patients, and the medical profession over the populace and particular groups within it such as women, all have certain characteristics in common, he says:

- they are not 'anti-authority' as such, or directed at any particular form of government or political system, and although they may erupt more easily in certain countries, they cross national boundaries.
- rather than being aimed directly at those who wield power or gain by it, their resistance is against the effects of that power over people.
- they are concerned with the present reality of power effects rather than subsuming their struggles into total theories of resistance to any overarching enemy, or looking to some future eclipse of the whole social system. That is, they are 'immediate struggles' aiming at the exercise of power in its actual effect on people's lives here and now.

Yet even more importantly:

- they stress individualism and the right to be different, while at the same time attacking that which isolates and atomises individuals and attempts to force people to act according to what they are 'supposed' to be, to what is defined as their identity. Thus, they are against the "government of individualisation".
- they are aimed at the way knowledge and expertise is linked to power in its effects, but they are not against knowledge as such in the sense of being sceptical or relativistic. Also, they oppose secrecy and mystification and question the rule of the qualified, knowledgeable 'expert'.
- lastly, all these struggles centre around a determination to assert individual identity and refuse the categories and definitions thrust upon people as a function of administering their lives and managing the state and the economy.

In sum, says Foucault, all these movements of resistance are aimed at a technique or form of power: not at a class, elite, group or an institution of power. (Foucault, 1982: 211,2)

A Structuralist Straitjacket?

One of the most frequent criticisms directed at Foucault has been that his work on power is too vague and unlocalised, and that if power is everywhere, the possibility for democratic, much less radical change, is remote (for example, Poster, 1984: 161,3). In terms of the link between power and sexuality, it has been said that whereas Foucault stresses the importance of local struggles and micro powers, these remain abstract without any indication of how they operate in practice. Consequently, Poster claims that despite Foucault's aversion to totalising systems, he ends up himself with a totalising, unified view of the history of sexuality. (1984: 136)

There is, I would agree, possibly some merit in these criticisms, but if one tries to appreciate what Foucault has been doing in his work, and what he has *not* been attempting to do, they become somewhat blunted. Furthermore, it should be pointed out that Foucault never intended to present a systematic theory of the development of modern society or the role of sex and power in that development; indeed, he was expressly opposed to such a project. Accustomed as we are - by our intellectual legacy of totalising theories - to expect

that a written history should render such an account, we look for completeness and an assurance that all the knots are tied. We want either further elaboration within an already articulated framework or an alternative which can justifiably claim to explain reality more adequately than that which it seeks to displace. It is in Foucault's refusal to consolidate any sense of certainty that he is at his most iconoclastic. Indeed, I would suggest that a major element of his project is to show that these taken-for-granted expectations of the role of theory are in themselves *effects* of the dominance of reason in its relation to power. Therefore, it would be counterproductive to his deconstruction of rationality to satisfy such demands. In his work he consistently and rigorously refuses to set up any 'true' theoretical system or to write total histories. As Sheridan says, what emerges are tentative hypotheses and invitations to discussion (1980: 212). His purpose is to open up questions - without 'true' or complete answers - for debate and criticism, not "to lay down how the book should be used". (Foucault, 1980b: 192)

Nevertheless, the first volume of *The History of Sexuality* does appear at times to present power/discourse/sexuality as a deterministic, structural straightjacket which leaves no *theoretical* space for agency or counter action, despite his insistence on resistance and localised struggle. Its conclusion that "bodies and pleasure" should provide the avenue for struggles against power appears inadmissible in its own context and even feeble. Indeed, it has an essentialist ring to it which, given Foucault's insistence on the historical and social construction of sex and sexuality, would be anathema to him. The need, then, to deal with the subject and agency became urgent and, in fact, one can see this as a central concern in much of his following work. In "The Subject and Power" (1982) he conceptualises power as operating in such a way that the outcome is never determined or guaranteed according to the intentions of those who exercise it. This allows for unintended consequences and multiple effects, and also, by implication - although Foucault does not use this terminology - for contradictory outcomes. To point to the importance of contradiction for the possibility of resistance does not necessitate calling on dialectics as a law of social change and historical development. Social dynamics *do* give rise to contradictory effects.³¹ Thus the terrain of political struggle is constantly in flux and the effects of contradictions are open to be capitalised on by opposing interests. How they are perceived and acted upon by agents are crucial elements in how outcomes are decided, rather than any pre-given structural determination.

To say, as does Foucault, that power is everywhere, is to refer to the dynamic and changing nature of society and to the political nature of social relations. Power is *always* relational and hence a necessary corollary of its operation is resistance. So, it is always in process, always attempting to achieve its ends, but also, always failing to succeed. The balance, then, is always in question. The chances for democratic or radical change are no more doomed, but also no more necessary or inevitable than those for domination. The direction of social change is an open question. What is critical and of most analytic interest are the *effects* of ongoing power struggles, not some ultimate result (a result, which, in a sense, never comes). Ultimately, then, I would argue, Poster's criticism can be seen to bear the same stamp as those radical totalising theories which look to some millenarian utopia without power relations. Moreover, there is a sense in which such critiques implicitly assume power *per se* and its operation on sexuality to be always and necessarily a negative, even malignant, force. This is not what Foucault is arguing. He makes clear that he sees power as productive; I would suggest that it would be a mistake to view it as inherently bad. For one thing, it is an irreducible element in the development of cultural themes and shared meanings. Ultimately, how one evaluates the operation of power depends on the particular context, processes and political interests at stake.

There is, perhaps, more justice in Poster's claim that Foucault's work on sexuality is too abstract for it to be useful in understanding the actual specifics of how struggles in the domain of sexuality are waged. It could be

³¹ For example, the capitalist drive for market expansion in the post-war period helped create a consumer/leisure/pleasure orientation in people which is somewhat at odds with the producer orientation or work ethic which employers want of them in their role as workers. This in turn meant constant pressure on employers for higher wages and shorter work-time. Even more relevant to the present work, it also acted as a spur to the creation of a youth culture promoting the sexualisation of teenagers, which in turn gave extra impetus to the 'need' for contraception and abortion. Similarly, by pulling women into the workforce it encouraged their financial independence. Both these latter movements worked against norms regulating women's sexuality and their role in the family, and against the perceived need for population expansion. These somewhat schematic examples are sufficient to indicate that even an intended or 'successful' outcome can at the same time produce effects which contradict the initial intent or work against the interests of power operating in another domain.

countered that subsequent volumes were intended to fill this lacuna, but that Foucault's change of direction and his untimely death have left us without that benefit. But, as things are, Poster's charge remains one with some weight, which can only be properly evaluated in the empirical application of the insights Foucault does provide. Certainly, without any systematic theory or methodological recipe there is no obvious format for research and analysis. Foucault has doggedly refused to present us, as it were, with a new 'paradigm' setting down the basic assumptions and the ground rules for the conduct of 'normal science' (Kuhn, 1970). Analysis of the struggle over abortion and of Right-wing moral movements undertaken in later chapters will demonstrate to what degree Foucault's theorising about sex and power is of utility in unpacking the politics of sexuality and the discourses employed by the various protagonists.

Foucault's more recent conceptualisation of power-relations (1982) as necessarily involving acting intentional agents, free subjects and a field of possibilities adds a more concrete dimension to his analysis of power operations and thus, as inferred above, negates the deterministic framework often implied by *The History of Sexuality*. This is not to suggest, of course, that subjects are totally free to act within an unlimited range of possibilities. Apart from the strategic exercise of power which attempts to limit or make difficult possible options, power linked to discourse in the wider sense makes only a narrow field thinkable or conceivable given the finite range of meaning and understandings available in any particular society or culture, and the historically specific constitution of subjectivity. Nor, in allowing for intentionality, does it imply that the outcomes of power relations are only, or even, in accord with the intentions of agents.

I would suggest that it is helpful to see Foucault as, in a sense, dealing with power on two levels. On the one hand, we can conceptualise a micro level where individual or groups exercise power by influencing the actions of subjects. This is the level of intentionality, of the specific operation and effects of strategies, tactics, manoeuvres, techniques, relationships of power, and of deliberate political action and resistance. And on the other hand, there is the macro discursive level where power has produced effects of truth which, in turn, reproduce power and power relations. These infiltrate and are diffused throughout the whole social body. This is the level of the production, transmission and circulation of discourses; it is the level where knowledges which have assumed the status of truths operate, where widely shared sets of understandings and meanings about the nature of things, and about why they are and should be the way they are, are disseminated, communicated and consolidated. We can understand it, in a sense, as the 'paradigmatic' level.

In posing these two conceptual levels, I do not intend them to be understood as separable in any other way than analytically. Their very existence is interdependent. Components of both are 'operationalised' in every human action and each produces the other. Nor am I suggesting some split between material and ideological domains as this is normally construed, as between the 'real' and the 'imaginary', or action and ideas; but rather, that each is inextricably part of the other. As Foucault says, the concept of ideology entangles us in a number of problems. As it is usually construed, ideology is subordinate and derivative of some "material, economic determinant"; and is characterised as standing in opposition to 'truth' (however that is defined). (1980b: 118)

Understanding these two levels allows us to grasp why Foucault says that power operates not from above but 'below'. Most theories of power, he claims, as in the juridico-discursive model, conceive of power as emanating from above, from a ruler, the state, a class or an elite. Similarly, theories of ideology construe it as being the ideas of rulers imposed on, and in turn accepted and internalised by, those against whose interests it operates.

As distinct from these conceptions, Foucault emphasises that need for an "*ascending analysis of power*" which concerns itself with power at its local, extreme point of operation. He says we should examine the specific and minute mechanisms, their histories, the tactics and techniques employed at the most basic level of the exercise of power. The processes involved here are twofold: these mechanisms become invested, used, changed, taken over and extended by "ever more general mechanisms and forms of global domination". (1980b: 99) Also, it is at this level that procedures for the production of knowledge are put into play: "methods of observation, techniques of registration, procedures for investigation and research, apparatuses of control" (1980b: 102). It is from here, at the micro-level of power, that knowledge emanates and develops and gradually becomes organised to circulate as true discourse. What is going on with all of these processes is

“much more and much less than ideology”. The apparatuses of knowledge which are formed are not ideological constructs (in the sense in which ideology is usually understood): the production of ideology may be associated with major forms of power, but they are not reducible to each other.

Towards a Method

With reference to sex and its relation to power, Foucault says he wants to examine ways in which discourses are produced and how these are linked to the production of power, how meanings are produced and represented as knowledge, and how these can cause mistaken beliefs and misconceptions to circulate by assuming the certitude and value of truth (1980a: 12). He posits certain rules towards a methodology for investigating the operation of power on sexuality.

Power has established sexuality as a target of investigation and knowledge, it has become invested with “techniques of power” and procedures of discourse. Sexuality, then, is enclosed within discourses of power and truth, there being no exteriority to power in this field. Therefore, the project of inquiry needs to look at local centres of this operation, such as the sexualisation of children, or the categorisation and production of perversions and identities emerging from these procedures: this, Foucault terms “the rule of immanence”. Because it is not a matter of identifying who has power and who lacks it, one must look for the ways in which relations and patterns of power are transformed and modified, as they necessarily are, the field being dynamic, mobile and never static: the “rule of continual variation”. These local centres and patterns of change can function because they are part of an overall strategy, and conversely can only function if enclosed by these points - this is Foucault’s “rule of double conditioning”. (Foucault, 1980a: 98,9).

The last methodological rule which Foucault poses, he terms the “tactical polyvalence of discourses”. According to this, what is said of sex should not be seen merely as the visible surface of these power mechanisms for it is *in* discourse that power and knowledge are linked. Discourse must be seen as “a series of discontinuous segments” which do not operate in any unitary, stable, or necessarily consistent way. Nor should we conceive of discourse as divided between licit and illicit, or dominant or subordinate - they all operate *within* power. It is these heterogeneous elements which need to be studied in terms of who is speaking, from what position, from what institutional context, and within “the shifts and reutilisations of identical formulas for contrary strategies.” (Foucault, 1980a: 100). Neither discourses nor silences (the latter of course being as much of a discourse as what is said) are necessarily either servants of, or resistances to, power. “Discourse can be both an instrument and an effect”.

Discourse transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it. In like manner, silence and secrecy are a shelter for power, anchoring its prohibitions; but they also loosen its holds and provide for relatively obscure areas of tolerance. (Foucault, 1980a: 101)

The same strategy of power can contain different and even contradictory discourses, and furthermore, similar discourses can be utilised within other, even opposing, strategies. Thus, they need to be examined in terms of their productive utility within any given tactical manoeuvre. (1980a: 102).

Discourses are tactical element or blocks operating in the field of force relations! (Foucault, 1980a: 101)

Sex and Discourse

Foucault says that up until the end of the eighteenth century three codes governed sexual practice, apart from public opinion: canon law, the Christian pastoral, and civil law. Each of these defined a division between what was permitted and what was forbidden, and all centred on the marriage relation. For example, there were rules about fertility, frequency and abstinence of sexual behaviour. In one sense, then, sex “was under constant surveillance”. Other areas of sexuality, however, remained confused within official pronouncements, such as sodomy and the sexuality of children. (Foucault, 1980a: 37)

Under these codes no clear qualitative distinction existed between breaking the rules of marriage and other sorts of uncondoned behaviour. Whilst some offences were seen as more serious than others - adultery, rape, incest were all considered grave sins - they were marked out only by degree. Even “abominable acts” against the “laws of nature” were not defined as *qualitatively* different. (Foucault: 37,8)

All of this changed, according to Foucault, with the explosion of discourses concerning sex in the eighteenth and nineteenth centuries, and gradually the ways of dealing with it were modified. Less attention was directed at the marriage relation (its primary linkage up until then was with the system of alliances). It was afforded more privacy - having apparently become subject to normalisation - and the focus fell instead on children's sexuality, homosexuality, madness (frequently seen as deriving from sexual abnormality) and qualitative divisions between, for example, adultery and rape, and sodomy, sadism, necrophilia, etcetera. The general category of debauchery split into divisions between, on the one hand, offences against marriage and the family, and, on the other, those against nature (the latter more likely to become subject to, and punishable by, law). This explains the fascination with Don Juan who spanned the divide: violator of marriages but driven by sexual madness. The precarious, the bizarre and the ambiguous were likely to be labelled as sick and certainly as scandalous; frequently they were incarcerated, sometimes in prisons but more often in asylums. (Foucault, 1980a: 40).

This particular sort of preoccupation with sex, Foucault maintains, is characteristic of Western culture, the West being the only civilisation which has developed a "*scientia sexualis*", or a 'science' of sex. This is in marked contrast to the treatment of sex as an erotic art form in Eastern cultures. A "genealogy", or a tracing of the historical development of this scientification of sex is crucial to Foucault's thesis: in the modern era sex is inextricably linked with truth, knowledge and power, both in discourse, and simultaneously, in the constitution of our subjectivity. Transformations in the purpose and practice of the religious confessional, Foucault argues, have been pivotal to the development of this peculiarly Western phenomenon. Accordingly, he devotes considerable attention to the confessional's injunction to the putting of sex into discourse, and how, ultimately, this came to embody the truth of the self. Imperialised by medicine and psychiatry, the assumptions and procedures of this process were refined to provide the foundations of a scientific corpus of knowledge and a method of investigation of sex. By tracing the decisive moments in these transitions, Foucault's project is to show how we have arrived at a point where the ways we have invented for 'telling the truth of sex', and the urgency to do so, are inseparable from power.

Foucault traces the development of the explosion and multiplication of discourses on sex (in part at least) to the Catholic Pastoral and the sacrament of penance after the Council of Trent. Prior to this, the treatment of sex in confession was characterised by painstaking physical detail of actual sexual practice. Gradually this was replaced by an increase in discretion, but also by a widening of what was to be included in confession. Details of specific activities were focused on less than a new and scrupulous examination of desires, thoughts, fantasies and the most subtle sexual eruptions in the mind accompanying even apparently casual bodily action. The flesh became the root of all evil "at the expense of some other sins" and its effects were seen as permeating the whole person. (Foucault, 1980a: 19) Nothing was beyond the scope of the confession, however trivial, if it could be connected to the flesh. It was as if the potential for impurity lurked in every niche of the body and mind and only the most concerted vigilance could avoid its influence and traps. Everything which could possibly be linked to sex had to be put into speech, every desire or suspicion of it transformed into discourse. Censoring of vocabulary, propriety of expression was subordinated to the "subjugation" of sex into speech and to devices for making this process (of incitement) "morally acceptable and technically useful". (Foucault, 1980a: 21)³²

The putting into discourse of sex was also an act of transformation, of reconversion: the speaker was beset by a feeling of temptation in the body, but simultaneously, experienced the love of God resisting it. This "increasing valorisation of the discourse of sex" was meant to replace, intensify, reorient and to modify desire. Foucault claims an immediate connection between the seventeenth century pastoral and similar processes in literature, such as that of *My Secret Life* and the writings of De Sade: both centre on the talking of sex in the minutest detail. What was so strange in this practice was not the particular sexual activities, but rather the compulsion to recount them. It was the actual act of writing that produced pleasure! (Foucault, 1980a: 21)

³² Foucault does point out, almost as an aside, that this pertained, of course only to a tiny elite, but claims that the central point is that the injunction was gradually institutionalised.

Since at least the Middle Ages the confessional gradually developed as the primary means of rendering truth. Within the Church, rituals and techniques were put into place to refine the sacrament of confession. Gradually this vow of truth became central also to the legal system; no longer did others vouch for the individual as much as the individual vouched for the truth of his or her statement or confession. (Foucault, 1980a: 58) We have become a “singularly confessing society”, declares Foucault; in religion, law, medicine, education, family and personal relationships, we confess our sins, crimes, thoughts, desires and troubles. We confess to others and to ourselves, in both public and in private. If it is not voluntary it can be enforced by pressure or even by torture. “Western man [sic] has become a confessing animal”. (1980a: 59)

Literature too has been transformed, from narrative to the revelation of deep truths. Truth has come to be seen as axiomatically liberating, and power as silencing. These principles have in fact become major themes in Western philosophy. If truth cannot surface we assume it to be submerged by the weight of power. Truth has become intrinsically linked with freedom. But, cautions Foucault,

One has to be completely taken in by this internal ruse of confession in order to attribute a fundamental role to censorship, to taboos regarding speaking and thinking; one has to have an inverted image of power in order to believe that all these voices ... repeating the formidable injunction to tell ... are speaking to us of freedom. (Foucault, 1980a: 60)

The transformation of sex into discourse, and the multiplication and proliferation of diverse sexualities are, then, two elements of the same process, linked together by the “central element of confession”.

In the confessional, the subject who speaks is also the subject of the statement. The confession is a power relation between the speaking subject and the demanding, prescribing, judging authority partner. The act of confessing transforms the speaker by exonerating, redeeming, purifying and *liberating* them. The truth of sex has for centuries, says Foucault, been caught within this form of discourse. The confession is a

... ritual in which the truth is corroborated by the obstacles and resistances it has had to surmount in order to be formulated;... the expression alone produces intrinsic modifications in the person who articulates it. (Foucault, 1980a: 61)

The “agency of domination” resides in the authority partner who questions, listens and is “not supposed to know”. The discourse of truth has its *effect of power* in the one who speaks and is thereby changed.

The confession is the archetypal means of producing the truth of sex despite substantial changes in its form wrought by Protestantism, the Reformation, eighteenth century pedagogy and nineteenth century medicine. It has spread into relationships between teacher and pupil, parent and child, patients and doctors or psychiatrists. It is no longer merely a description of the details of sexual practice but rather a reconstruction of thoughts, images, desires, obsessions, degrees of pleasure, etcetera. Eventually it coalesced with nineteenth century sexology and the invention of a “confessional science”. The object of this - sex - was paradoxically both unmentionable but nevertheless of such importance that it urgently required concerted study, classification and careful discussion.

The Science of Sex

These seekers of truth, however, were faced with “a theoretical and methodological paradox”: how could one have a *science* of the *subject*? how valid was introspection and experience as evidence? how did this all accord with models of scientific investigation? Thus, the rules of disciplinary inquiry required that scientific discourse and confessional procedures be merged. Sexual confession was codified into scientific terms by the following set of principles and methodological procedures:

- “*a clinical codification of the inducement to speak*” (Foucault, 1980a: 65, emphasis in original): confession was imported into the examination via the personal history and interrogation through hypnosis, by the foraging up of forgotten memories and by the method of free association. These processes of formalisation transformed confession into a ‘scientific’ procedure.
- “*the postulate of a general and diffuse causality*” (Foucault, 1980a: 65, emphasis in original): sex was seen as polymorphous in its capacity to cause symptoms, with the effect that virtually every malady could

be traced to a sexual basis. Hence, because of the “limitless dangers” posed by sex, the examination/confession had to be meticulous, thorough and searching.

- “*the principle of a latency intrinsic to sexuality*” (Foucault, 1980a: 66, emphasis in original): because sex was construed by its very nature as elusive and clandestine, it had to be painstakingly pursued. As it could hide itself within, and from, the individual, it was the duty of the questioner to forcefully prise it away and facilitate its projection into speech.
- “*the method of interpretation*” (Foucault, 1980a: 66, emphasis in original): the truth of sex was not self-evident even when delivered in speech so it needed to be deciphered and interpreted by the specialist listener. The confession, then, was merely a representation; it could only become a discourse of truth by being filtered through this expert process of translation.
- “*the medicalisation of the effects of confession*” (Foucault, 1980a: 67, emphasis in original): imported into the domain of medicine, sex became re-catalogued in terms of its normality or, conversely, the characteristics of its pathology, rather than in merely moral terms as formerly. It became amenable to therapeutic intervention, the focus of a systematic specification of diseases according to instincts, tendencies, conducts, and so on. Thus, the truth of sex became necessary both for a medical diagnosis and for a cure.

Thus, sex has become a secret which we are compelled to pursue, and yet its nature eludes us. Nevertheless, we have come to believe, says Foucault, that it *must* be tracked down because of the ubiquitous dangers it poses. We construe it as working its wily and insidious damage by disguising itself in every hidden niche in the body and the mind; we take for granted the absolute necessity of hounding it out and transforming it into speech.

Contrary to this ‘obvious’ truth, Foucault contends that we miss the point by seeing what is secret about the individual as contained in sex. Rather, the issue is that sex has become the theme whereby a variety of techniques of power have developed with the body emerging as the site of their operation. The nineteenth century did not *refuse* sex, he insists. On the contrary, it produced a machine to construct ‘true’ discourses of sex, as if sex itself hid a fundamental secret:

... as if it [society] needed this production of truth. As if it was essential that sex be inscribed not only in an economy of pleasure but in an ordered system of knowledge. (Foucault, 1980a: 69)

Sex, then, has come to be viewed with suspicion. It is seen and experienced as a source of anxiety pervading the self like a capillary system, as a point of evil, darkness and fear within the individual. This gives rise to two processes: firstly, we demand the truth of sex, and secondly, we look for the truth of ourselves within sex. The interplay between these has given rise to a knowledge of the subject in which sex is seen as fundamental, as determining the nature of subjectivity, as making us ignorant of our true self because it masks and hides its secrets. The constitution of subjectivity, of the unconscious, of a truth of the self which can only be known via interpretation by another have all been part of the production of discourses on sex. Yet crucially, this has not been due to any ‘natural’ element in sex *per se*, but rather to “tactics of power immanent in the discourse.” (Foucault, 1980a: 70)

Thus, since the sixteenth century the confession of sex has gradually been detached from its religious origins and incorporated into relations within the institutions of the family, medicine, education and psychiatry. The last century and a half have witnessed the building of complex mechanisms for the production of sexual discourses. Through these processes ‘sexuality’ has come to “embody the truth of sex and its pleasures”. (Foucault, 1980a: 68) This development of ‘scientia sexualis’ has itself been accomplished by the actual *production* of sexuality, the object about which discourses of sex must speak the truth.

What Foucault says needs investigation is the “economy” of discourses: how they operate and via what techniques and strategies, and what they need to work, and the effects of power underlying these techniques, strategies and elements and transmitted by them. It is these, rather than any system of representation, which determine the content of the discourses. To discover the history of sexuality and the truths which the discourses render, one must examine the actual history of the discourses, not merely the contents. (1980a:

68,9) We need to examine why and how sex became so important that it had to be taken account of, analysed and classified not just in the moral sphere, but increasingly, in attempts to regulate, direct and organise society. Why was it that sex became something that had to be dealt with in 'the public interest' (so that those who were 'forced' to do so prefaced the topic by showing a seemingly distaste for introducing it whilst pointing out the urgency of managing and administering sex and ensuring its appropriate uses)?

For example, one central issue recognised as economically and politically important - because of its relation to the labour force, to growth and to the availability and distribution of resources - was 'population'. It became apparent that population had particular, specifiable variables: rates of marriage, birth, death, number of children, age of marriage, etcetera. Likewise, it was recognised that illegitimacy and birth control practices could have effects in the economic and political spheres. It became necessary to know and to plan for all of these factors and where appropriate, to control and manage them. Sexual conduct in this sense, then, was not a private matter; the needs of any particular moment required that it be harnessed, changed or redirected in ways appropriate to the public interest. This led to campaigns to control sexual behaviour which were to go beyond moral or religious exhortations. The state not only had to know about sexual behaviour but needed to ensure that people controlled and channelled sex appropriately, according to prevailing economic and political demands. Ultimately these campaigns became what Foucault terms "anchorage points" for the various eugenicist and racist movements of the nineteenth and twentieth centuries. Other areas which became pivotal points for intervention included children's sex, the bodies of women, and the perversions, as we shall see.

Foucault argues that the West has annexed sex to a logic of rationality, and even more importantly, to a logic of desire, whereby knowledge, truth and pleasure are bound to sex. It is through this logic that we come to 'know' ourselves and our natures, and assume our identities. He asks why is it that we have constructed this great project of pursuing sex as truth, and why do we demand of sex not merely the pleasures it can afford, but the truth of itself, and consequently of ourselves. Why has sex come to be posed as something which binds and enchains us, so that our liberation is dependent on us breaking free? Have we come paradoxically to the point where, in order for all to be subject to the power of sex, we need to be promised that liberation is possible? (Foucault, 1980a: 79)

Modern society, he declares, is "perverse". The power exercised on sex is not that of laws or taboos. It doesn't set boundaries on sexuality, rather it extends and multiplies it. Sex is not excluded but *internalised* in that which characterises bodies. Power works on sex in modern society by marking out specific areas of maximum saturation (the institutions of the family, the school, psychiatry, etcetera). Sexuality in modern society is the product of the "encroachment" of power *onto* and *into* bodies and their pleasures. The West has not invented new pleasures or perversions but it has "defined new rules for the game of power and pleasures" (Foucault, 1980a: 47). Medicine, psychiatry, prostitution and pornography have tapped into the "multiplication of pleasure" and the "optimisation of power which controls it". Pleasure and power are not opposing forces which cancel out each other; rather they operate to reinforce the other. "They are linked together by complex mechanisms and devices of excitation and incitement." (1980a: 47)

Foucault says it is not a matter of the truth or falsity of sex, but rather of the fact that so much emphasis is placed on understanding it. This compulsion to discover the truth - 'the will to knowledge' - maintains and reinforces both the ongoing production of sexual discourse and its effects. (1980a: 11)

Whilst there has been an explosion of talking about sex over the last three centuries, the vocabulary, and where, and between whom, it could be spoken has been rigidly codified. Illusions and metaphors came into use which *said* much more than they appeared to say. Specific areas of conduct and social relations were clearly defined by propriety and marked off either by silence, by tact or discretion: such as those between parents and children, teachers and pupils, masters and servants. By such codification language and speech became politicised; they became integral components of the new sets of social relations emerging. Simultaneously, there was an increase and proliferation of specific discourses on sex implicated in the exercise of power. Ways of speaking of it were institutionalised, but this only constituted a compulsion to speak and tell more and more. (Foucault, 1980a: 18)

These discourses - in the areas of population, children's sex, medicine (and later psychiatry), and criminal justice - did not develop apart from or against power: they were intrinsic to, and a means of, the exercise of power. Sex was not hidden; on the contrary it was forced into discourse. Additionally, each individual has their own sexual discourse along with those which were institutionalised. According to Foucault, we have become a society which can never say enough about sex, can never find all there is to know of it, can never get to the bottom of it and therefore are compelled to continue talking about and dissecting it endlessly.

There is not then, only one discourse on sex, but many: demography, biology, pedagogy, ethics, amongst others. In the Middle Ages the "theme of the flesh and the practice of penance unified and organised the way of speaking of sex". The former represented the theoretical discourse and the latter its individual application. Since then, it has not been just a matter of the growth of discourses but also a massive diversification of the points from which they emanate and the frameworks for knowing it, all joined together by a complex web. (Foucault, 1980a: 33,4)

Foucault says that in the *ars erotica* of numerous other civilisations - including Rome, Islam and the East - *truth was derived from pleasure* and was unrelated to any moral law of the permitted or forbidden. Knowledge was drawn from practice and fed back into the refinement of pleasure, which was evaluated in terms of intensity and effect, not utility or morality. Masters in *ars erotica* guided disciples through initiation to mastery of the body and its pleasures. (1980a: 57) In comparison with cultures which practise the *ars erotica*, the relation between pleasure and truth is inverted in the West: *pleasure is derived from truth!* Doctors developed a study of sex in which the aim was not pleasure but power, "constructing around and apropos of sex an immense apparatus for producing truth". (1980a: 56)

With the use of the term 'apparatus' Foucault is attempting to identify systematic relationships between a variety of forms consisting of "discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions", and to take account of what is said as well as unsaid (1980b: 194). Between these "heterogeneous elements" there can be a wide variety of interactions between positional shifts and functional changes so that, for example, at one time a discourse may serve as an institutional programme but at another, as a justification or mystification of a practice. Also, he says that an apparatus is a "formation which has as its major function at a given historical moment that of responding to *urgent need*. The apparatus thus has a dominant strategic function". (Foucault, 1980b: 194,5, emphasis in original) Examples relevant to the present project which will be elaborated on below include the Royal Commissions and inquiries and the scientific evidence presented to them about, for instance, the deleterious effects on women of methods of birth limitation and prevention, administrative measure concerning registration of births and the regulation of private hospitals and lying-in homes, laws prohibiting the advertising of birth control information and devices, the enforced difficulties in acquiring contraception and discourses on the immorality of its practice, restrictions against women working and their exclusion from the basic wage, exhortations to increase family size, the setting-up of baby health centres and welfare measures to promote the health of children, and of course, the veil of secrecy shrouding abortion and the manufactured horror of the experience of it. These are only some of the related elements comprising apparatuses formed to meet the perceived "urgent need" of underpopulation in Australia earlier this century.

The Management of Sex

Scientia sexualis constituted sex as a "problem of truth". Discovering its secrets was seen as necessary because it was, at the same time, both potentially useful and dangerous. In the nineteenth century, sex was also at the core of the emerging study of the biology of plant and animal reproduction, and yet there was no interaction between that and the medicine of sex. Whilst the former was proceeding according to the principles of western scientific enquiry the latter merely took from it some spurious reflections of scientificity, itself being cast so thoroughly in moral, economic or political considerations. Whereas sex was the object of its study, Foucault says its aim was, in fact, to prevent its emergence, to remain systematically blind to really seeing or understanding. It stubbornly refused to uncover that which it claimed to study, constructing an apparatus for the production of truths which it always finally veiled. From before, but with particular emphasis from the nineteenth century onwards, sex and truth have been linked, and whilst the

nexus may have altered over time, contemporary discourses are still grounded in that inheritance. *Scientia sexualis*, with its coupling of knowledge/ power developed from the confessional, still incorporates its fundamental techniques.

Medicine extended its domain to incorporate into it a host of bizarre and scandalous behaviours which had formerly been the province of the law. This allowed for a certain relaxation or even permissiveness in the severity directly accorded them, but this was accompanied by a proliferation and strengthening of controls via therapeutics and pedagogy. An array of aberrant or grotesque creatures, scarcely before noticed, was subjected to minute and detailed scrutiny in the process of diagnosing and categorising; each was compelled to speak up and confess its nature and pathology. What was at stake here was not prohibition or repression, claims Foucault, but rather the operation of power. He outlines four specific processes in which the management of sex became integrally linked to the working of power in people's identities and bodies:

- a principal target was the sexuality of children, around whom “indefinite lines of penetration were disposed” (Foucault, 1980a: 42, emphasis in original). A massive campaign mobilised the attention and endeavours of adults to search out and prevent child masturbation. Always beyond control the project was bound to fail, but for Foucault, it was the effort expended in the enterprise which was significant. In the process a tangled but coherent web of procedures and strategies formed around the child.
- the “persecution of the peripheral sexualities entailed an *incorporation of perversions* and a *new specification of individuals*” (Foucault, 1980a: 42,4, emphasis in original). For example, Krafft-Ebing's minute classification of perversions and perverts was not meant to exclude them and their sexuality but to submit them to rationality, and construct an ordering of “disorder”. The perversions were incorporated into identifiable individuals and they were turned into a catalogued species. This had the effect of solidifying the perversions so that they became tangible realities. Sodomy, for instance, once defined as an act, became personified in the homosexual who was seen as having a particular lifestyle, a framework for understanding and even a specific anatomy. The perverse sexuality of the homosexual was seen as permeating his whole being, as being his nature: the homosexual became a species.
- this form of power had the effect of producing “*perpetual spirals of power and pleasure*” in bodies and forms of sex (Foucault, 1980a: 44,5, emphases in original). The medicalisation of sexuality meant that it was constantly watched and watched for, sought out and identified, its least manifestation sufficient to characterise individuals. The need to track it down in individuals made for close physical proximity between the investigator and those who were subject to minute questioning and probing. The exercise of power became invested with pleasure: the questioner was impelled to venture further, was rewarded with pleasure by every discovery, and thus prompted to seek more. Those questioned were singularised by the attention their confessions received so that the telling itself afforded a gain of pleasure. The exercise of power *on* pleasure, then, itself became invested *with* pleasure - “pleasure spread to the power which harried it”. In turn, as power attempted to identify pleasures *they* became invested *with* power - “power anchored the pleasure it uncovered.” Thus, certain relations - those between parents and children, doctors and patients, teachers and pupils, psychiatrists and their hysterical and perverted patients - became charged with pleasure and power. Searching and monitoring, hiding and evading, confronting and scandalising; all may have appeared to aim at the prohibition of infertile sexualities. But in fact, another mechanism was operating: the proliferation of power and pleasure. Bodies and sexualities were traversed and captured within a web of power and pleasure.
- the nineteenth century was characterised by “*devices of sexual saturation*” (Foucault, 1980a: 45, emphasis in original). To say that society attempted to restrict sexuality to the legitimate monogamous couple misses the point; this same movement intensified sexuality by establishing a network of power and pleasure. For instance, the family was saturated with sexuality, exemplified in the concentration on infantile sexuality, the perils of masturbation, the separation of parents' and children's bedrooms, the dangers of servants, the importance of puberty. Similarly, with educational institutions. In both areas the hierarchies, sets of relations, architecture, and the prohibitions (which by saying “no” accorded immeasurable importance to the proscribed) invested and saturated them with power and pleasure.

It is incorrect, then, says Foucault, to conceive of sex (as Freud did) as an unruly and anarchic drive constantly threatening power which attempts to repress and restrain it. Nor is sexuality itself the most formidable or unmanageable component in relations of power. What makes it significant for the operation of power is its capacity to be mobilised in so many different ways and to act as a pivotal point for various strategies.

Strategic Lines of Attack

Foucault distinguishes “four great strategic unities which, beginning in the eighteenth century, formed specific mechanisms of knowledge and power centring on sex” (1980a: 103):

- Firstly, “*a hysterization of women’s bodies*” (1980a: 104, emphasis in original). The female body was described and explained as being “thoroughly saturated with sexuality”. This process fed into another, whereby, because women’s bodies were seen as inherently prone to disease, they were incorporated into the domain of medicine. Given also their allegedly basic sexual nature they were identified as functionally related to the biological reproduction of society, to the proper upbringing of children “by virtue of a biologico-moral responsibility”, and to the family situation. They were personified positively in ‘Mother’ and negatively, as ‘nervous women’. The figure which emerged out of this strategy as the object, target and anchorage point of knowledge and power was that of the “hysterical woman” (1980a: 105).
- Secondly, “*a pedagogization of children’s sex*” (1980a: 104, emphasis in original). This involved a “recognition” of the inherently sexual nature of children and their proclivity for indulgence in sexual practice, most particularly masturbation (as evidenced by the two-hundred-year campaign against it). Whilst children were physically capable sexually, they were reproductively not, so sexual activity was simultaneously both ‘natural’ and abnormal. It posed, “physical and moral, individual and collective dangers”, a tendency construed as threatening at the same time as it was important for the social fabric and the future adult. “The masturbating child” emerged as the figure produced by this strategy (1980a: 105).
- Thirdly, “*a socialization of procreative behaviour*” (1980a: 104, emphasis in original). Power operated to achieve this in three major areas and by a variety of processes all aimed at converting reproduction from a private to a public matter. Economically, the family became the target of state policy and was made subject to a developing array of welfare, taxation and legal measures. Politically, pressure was brought to bear on the married couple to exercise a sense of responsibility towards society as a whole in their procreative behaviour, to limit or expand their family as the situation demanded. Medically, all birth control practices were declared reprehensible and damaging both for the individual and the race. The target of knowledge for these strategies was “the Malthusian couple” (1980a: 105).
- Lastly, “*a psychiatrization of perverse pleasure*” (1980a: 105, emphasis in original). A biological and psychic instinct was conceptually isolated as a separate entity and defined as sexual. All deviations from what were seen as normal manifestations of it were subjected to examination and categorisation, and treatments and cures sought for all such anomalies. The figure produced and targeted by this strategy was the perverse (male) adult (1980a: 105).

What was involved in these strategies was not the repression of sex. Nor was it even the development and practice of forms of regulation, control and mystification designed to banish what was useless or disruptive and instead, to invigorate and harness what was of utility in sex. In fact, declares Foucault, what was at stake was “the very production of sexuality”.

Sexuality must not be thought of as a kind of natural given which power tries to hold in check, or as an obscure domain which knowledge tries to uncover. It is the name which can be given to an historical construct: not a furtive reality that is difficult to grasp, but a great surface network in which the stimulation of bodies, the intensification of pleasures, the incitement of discourse, the formation of special knowledges, the strengthening of controls and resistances, are linked to one another, in accordance with a few major strategies of knowledge and power. (1980a: 106)

The Deployment of Sexuality

In the process of constructing this entity identified as 'sexuality', its deployment (from the eighteenth century on) was first superimposed upon, and then gradually displaced, the primacy of the deployment of alliance as an apparatus of power. The deployment of alliance operated via a system of regulations stating what was permitted and what was prohibited; one of its main aims was to "reproduce the interplay of relations" and maintain laws regulating them; it was based on marriage and lineage, kinship ties and status; and its economic function concerned the inheritance and distribution of wealth. (Foucault, 1980a: 106) In sum, then, it was functionally geared to the maintenance and reproduction of a stable social order, hence its connection to the legal system. But with economic and political changes it decreased in importance.

Conversely, the deployment of sexuality operates via "mobile, polymorphous and contingent techniques of power" (Foucault, 1980a: 106); it operates to continually expand its domain and avenues of control; it connects to bodily stimuli and degrees of pleasure; and its economic functions are multiple, but operating mainly through "the body that produces and consumes". Its "reason for being" is in "proliferating, innovating, annexing, creating and penetrating bodies in an increasingly detailed way, and in controlling population in an increasingly comprehensive manner" (Foucault, 1980a: 107). Both systems, then, - alliance and sexuality - link up with the arrangement of sexual partners but each operates in a different way.

The deployment of sexuality was built on, and is still embedded in, the operation of power through alliance. In line with its genesis in penance and the confessional - where questioning was formerly centred on the legitimacy or otherwise of sexual relations and partners - it was redirected in the eighteenth century to the 'flesh', the body and pleasure. The new family form emerging at this time became the point of interaction between alliance and sexuality, in that the law penetrated sexuality, and in turn the body and pleasure penetrated alliance. The site of operation for both is the family: that institution which over the last two centuries has become the primary point of investment for emotional desire and the intensification of sexuality. Consequently, we can understand the obsession in the West over that time with incest. The family, whilst maintaining its regulatory function for alliance, was becoming the "anchorage point" for a whole new technology of power via sexuality. This transformation produced the hysterical woman, nervous, frigid, and obsessed; the 'bad' mother or the neurotic daughter; the masturbating child, precocious, sickly, its energies spent, its future blighted; and the perverse adult - the impotent, sadistic, perverse husband, or the homosexual son.

The appearance of these figures, constructed out of the contradictions between alliance and sexuality, and the impact of the latter on the former, propelled the family to cry out for assistance from doctors, educators, psychiatrists, priests, "from all the 'experts' who would listen" (Foucault, 1980a: 111). Aberrant individuals provided the impetus for, at the same time as they were the result of, those strategies. It became apparent to those professional listeners that the basis of the alliance system - the family - was also the breeding ground for all "the misfortunes of sex". So, from the mid-nineteenth century, the family, with the help of the experts, subjected itself to scrupulous, searching examination and unreserved, though tortuous, confession.

The family was the crystal in the deployment of sexuality: it seemed to be the source of a sexuality which is actually only reflected and diffracted. By virtue of its permeability, and through the process of reflections to the outside, it became one of the most valuable tactical components of the deployment. (Foucault, 1980a: 111)

Theoretically, Foucault reminds us, the supposed repression of sexuality in the eighteenth and nineteenth centuries has been traditionally linked with the requirement of capital to discipline the bodies (and the minds) of workers to the new regime of the factory. Consequently, in this traditional view, the repression of sexuality was a necessary tool of the bourgeoisie for the optimisation of labour capacity, and was directed *downwards* at the working class. But, as Foucault argues, it was within the dominant classes that the technologies of sex and power were initially applied, and with the greatest vigour and energy. Apart from anything else it was only in families of the privileged that sex could become subject to the detailed intervention of medicine and subsequently psychiatry.

Power and the Body

What was at issue here, says Foucault, was the marking out of *differences* between the 'body' of the bourgeoisie and that of the working class. The aristocracy has always affirmed, and in part justified, its superior social position in terms of the quality of its 'blood': that quality measured by reference to its ancestry. The rising bourgeoisie could stake no such claim. Instead, it set about creating a 'class' body differentiated by its health, vigour and vitality: a body which needed to be cared for, protected and strengthened. Yet these processes were not repressive of sexuality - certainly not of the exploited classes nor even of the bourgeoisie - rather, they were integral to the 'self-affirmation' of the new ruling class. What was involved was not

the renunciation of pleasure, or a disqualification of the flesh, but on the contrary the intensification of the body, a problematisation of health and its operational terms: it was a question of techniques for maximising life. (Foucault, 1980a: 123)

A "technology of sex" was an important resource for achieving this differentiation of a 'class body' with its guarantee of a superior descent and race. Sex became a central target because of both the dangers it posed and the opportunities it presented: for instance, the inheritance of insanity or weakness versus that of vigour and health. Again, we can see here, says Foucault, the roots of those particular forms of eugenics and racism which have manifested so horribly in the twentieth century.

The obsession of the bourgeoisie with its own body and sex was in stark contrast to its refusal to recognise the same amongst the exploited classes in terms of the conditions affecting them, at least until it was eventually forced to do so by epidemics, venereal disease and the prevalence of prostitution, all arising from the unhygienic, overcrowded and poverty-ridden surroundings to which the urban proletariat was subject. Once this was acknowledged, along with the need for a steady and able labour force and, consequently, for demographic controls of population, the machinery for the strategic dispersal of sexuality was applied within the working class. Various public hygiene and welfare measures, such as housing, medicalisation and schooling were instituted, but only when the dominance of the bourgeoisie was so firmly established that the deployment of sexuality within the exploited class posed no threat. (Foucault, 1980a: 126)

Here, Foucault seems to be suggesting that just as sexuality is integral to the constitution of individual identity in the modern era, so too can it be for the self-affirmation and assertion of a class. The already established ascendancy of the bourgeoisie meant, however, that whereas the deployment of sexuality had been central in establishing that ascendancy, its importation into the working class was as a means of surveillance and regulation, and functionally served the interest of the ruling class. The construction of sexuality, then, is a bourgeois creation, and the deployment of sexuality has different effects in different social classes. Thus, we should recognise, says Foucault, that different classes have different sexualities.

Just as we should not speak or conceive of *sexuality* as being universal, we should not accept the idea of there being such a thing as sex 'in itself' as something ontologically prior to and outside the social, as something existing independently of power whilst at the same time serving as a prop to it. For Foucault sex *itself* is a "complex idea" formed by the deployment of sexuality. Contrary to this, of course, sex has always been conceived of as something fundamental with its own specific nature and laws, as something more than bodies, functions, sensations and pleasures.

Thus, within those four central strategies combining together power and knowledge this thing called 'sex' was conceived in quite specific ways. In the hystericisation of women's bodies, it was defined in three ways: as something which belonged to both men and women; but belonging in particular to men, and somehow lacking in women; and yet at the same time as integral to the bodies of women by virtue of the function of reproduction and the constant upheavals (hysteria) caused by the effects of that functioning. In the process of the sexualisation of children, it was seen as present automatically (in the organs of the body) but absent physiologically (in terms of reproductive functioning). So, it was present in physical activity, but not in reproductive utility; or again, active in manifestation, but hidden in its effects of eventual mature pathology, as in frigidity, impotence, sterility, etcetera. In the process involving the psychiatrisation of perversions it was defined by the peculiar linking of instinct and function: in fetishism, for example, instincts were seen as fixed to various objects as a result of individuals' specific history and biology. And lastly, in the socialisation of

procreative behaviour, 'sex' was seen as bedevilled by the tension between reality (particularly economic factors) and the demands of pleasure, with the latter constantly attempting to overrule or bypass the laws of reality. This is exemplified in that "notorious fraud" of *coitus interruptus*, or in any form of birth control, whereby pleasure insists on its satisfaction despite attempts by the law to block it. (Foucault, 1980a: 153,4)

The notion of sex produced via the theorising of it immanent within these four strategies served several functions. Firstly, in grouping together elements of anatomy and physiology along with behaviour and pleasures, it created an "artificial unity" which was then presented as a "causal principle", an ever-present but hidden meaning; "sex was thus able to function as a unique signifier and as a universal signified" (Foucault, 1980a: 154). Secondly, this "fictitious unity" linking sexual behaviour and pleasure with anatomy and reproduction enabled the study of human sexuality to lean on the biological sciences and consequently benefit from the aura of 'scientificity' lent thereby. Finally, by defining sex as an irreducible 'given' upon which power works by blocking and thwarting, power is conceived of totally in terms of law and taboo. Hence the real relationship between power and sexuality is hidden, and "what gives 'power' its power" is obscured (Foucault, 1980a: 155). Sex, which is produced, mobilised and constituted by the deployment of power working on and in bodies, is taken as always, already given in human nature and being.

Discipline and Regulation

This insidious expansion of power within bodies, or *over* life, which replaced the previous regime of sovereign power to *take* life or let live, Foucault argues has taken two major forms, one operating via the *disciplines*, and the other via *regulatory controls*.

The first, which he refers to as an *anatomo-politics of the human body* developed historically in the seventeenth century and focused on "the body as a machine" (1980a: 139). It worked to *discipline* bodies so that they were integrated most efficiently and usefully into economic systems. The disciplines worked, however, not via repression, but through techniques which ensured the optimum utility, exploitation, and if necessary, docility of bodies. The sites for the operation of the disciplines were the growing number of "universities, schools, barracks, and workshops": they were institutionalised in the military, in education and the apprenticeship system.

The other, what Foucault calls a *bio-politics of the population*, developed later historically and centred on the species-body; on reproduction, birth, longevity and on the variables which could affect the levels of those factors, such as housing, public hygiene and migration. The need to *regulate* and control the population - in size, composition and health - gave rise to the development of demography and to analysis of the links between populations and resources, and of the distribution of wealth. (1980a: 140)

The development of these new techniques acting on the body and the processes of life constitutes a new era in terms of the organisation and operations of power. Foucault refers to it as an era of *bio-power*. Initially, during the eighteenth century, the politics of the body and that of population developed separately, but in the nineteenth century they joined together, most particularly, in the deployment of sexuality. Thus, in the four central strategies via which sex was politicised, these disciplinary and regulatory measures combined. In the hystericisation of women and the sexualisation of children the aim and effect was *discipline*, which was achieved via *regulatory* means mobilised around the notions of race, hereditary and public welfare. In the case of women, the importance of duty to their children's wellbeing, to the stability of the family institution and hence to the overall society was stressed. Central to this was the subjection to medicine of women's bodies and their sex. The sexualisation of children was achieved by means of the campaigns against the epidemic of masturbation and the dangers it presented to the future adult, the society and the race as a whole. On the other hand, with population control and the psychiatrisation of perversions, the combination of disciplinary and regulatory techniques was reversed. The result was *regulation* accomplished by the application of *discipline* and constraint on, and by, individuals. Thus, at the point where the body and the population intersected sex became a critical target for a power based on "the management of life rather than the menace of death". (1980a: 146,7)

For Foucault, then, the regulation of population relies ultimately on individuals exercising discipline on their own bodies and desires (Foucault, 1980a: 147). I would argue, however, that this discipline is not only a

result of external normalising pressures as portrayed by him, but initially, and crucially, of processes of internalisation integral to the individual's journey through Oedipus (that process being a social/psychic one) and into the ranks of socialised human beings. Only when this primary disciplining has been achieved can secondary societal procedures of normalisation - a function of the subsequent passage through a diversity of socialising processes and institutions and relationships - effectively come into play, by working on and intersecting with that foundation. The attainment of subjecthood, then, is a necessary prerequisite for the operation of the more particular processes of discipline to which Foucault refers.

An important point of criticism of Foucault is also relevant here, and that is the implicit inference in *The History of Sexuality* that it is primarily *men's* bodies which are disciplined in the interests of controlling population. This is apparent from his discussion and from the sites of discipline to which he refers - the military, the education system, the barracks and the apprenticeship system. Yet there is little doubt that it is *women's* bodies at issue with regard to population, and that it is women who are primarily responsible for exerting discipline, both on their own bodies and those of men. To put it another way, we could say that women's subjectivity is constituted 'in discipline' much more so than men's ever is. This is exactly the procedure operating in the case of the normalising schism dividing 'good' and 'bad' women, the contours of which will be marked out in detail in Chapter Four.

This raises another extraordinary oversight in *Volume One*: the failure to recognise the figure of the 'normal, potent (sexually-driven)' male as a social construct with a history and the crucial part he plays in the history and politics of sex and the operation of power in the modern era. Foucault deals with women, children, pervers and the married couple as the figures emerging from the 'four great lines of attack' so that the presence of the 'normal sexually-active male' is limited to one half of the disciplined Malthusian couple: surely an inadequate representation of he who is seen as personifying the paradigm of the human biological sexual drive. Hence, whilst Foucault is at pains to emphasise the historical construction of sexuality, and even of sex itself, he fails to address that exemplar against which all those other figures are defined. Finally, this leads back to the inadequacy of posing those 'masculine' sites as those areas primarily implicated in the discipline of subjects. This is not to negate their efficacy or suggest that the practices wrought there were not of historical significance; rather, it is to suggest that the institution of overarching importance in the process of instilling discipline into bodies is the family and that furthermore, an understanding of how that comes about needs be critically informed by psychoanalysis.

The Politicisation of Life

Foucault willingly grants that bio-power was essential to the development of capitalism in that bodies needed to be adapted to the new processes of production. Crucially, however, their potentialities had to be promoted, their abilities optimised: it was not just a matter of changing them nor, if at all, of repressing them. It was therefore necessary to ensure that at the same time as bodies were mobilised and activated they remained manageable and governable. Just as the institution of the state was developing at this time with one of its main functions being the maintenance of the relations of production, anatomo- and bio-politics - by various institutions such as the family, school, police and the army, and medicine - was operating "in the sphere of economic processes" to maintain and reinforce these. Bio-power was essential also to the organisation of social hierarchies of domination and subordination as capital expanded, drawing people into forms of production involving unequal distribution of wealth.

Foucault claims that the development of bio-power heralded a new phenomenon in western countries linked with, but not caused by, the rise of capitalism:

... this was nothing less than the entry of life into history, that is, the entry of phenomena peculiar to the life of the human species into the order of knowledge and power, into the sphere of political techniques.
(Foucault, 1980a: 141,2)

Prior to this period life and living were very uncertain matters constantly threatened by the spectre of death, particularly through starvation or epidemic. With revolutions in agriculture and production these ravages gradually abated and a certain security in living was attained. The growth and exercise of knowledge in the field of agriculture and the introduction of various techniques generally promoting survival and life in general

cleared a space for the application of knowledge to the *process of life itself* and for its control and modification.

Western man [sic] was gradually learning what it meant to be a living species in a living world, to have a body, conditions of existence, probabilities of life, an individual and collective welfare, forces that could be modified, and a space in which they could be distributed in an optimal manner. (Foucault, 1980a: 142).

This historical movement was profound: it ushered in a new regime in which human beings (in the West at least) were no longer subject to the vagaries and possible imminence of mortality, and a sense of continuity of the experience of living was established. Thus, *living* became politicised in that it became a field for control by knowledge and for the operations of power. Power was no longer merely a matter of taking life or allowing it; rather, it was the exercise of control over living people, it worked to transform and modify life by altering the conditions of existence through the application of knowledge:

... what might be called a society's 'threshold of modernity' has been reached when the life of the species is wagered on its own political strategies. For millennia, man [sic] remained what he [sic] was for Aristotle: a living animal with the additional capacity for a political existence; modern man [sic] is an animal whose politics place his [sic] existence as a living being in question. (Foucault, 1980a: 143)

The development of bio-power had numerous implications. One was the increasing emphasis on the *norm* in the regulation of human life at the expense of the administration of justice and law, despite the explosion of legislation that has accompanied the growth of the state. The law needs to function, says Foucault, only as the last resort; it is always "armed" but rarely operationalised. The aim of power now is the continual supervision of everyday life, the utilitarian administration of human existence. "Such a power has to qualify, measure, appraise, and hierarchise ... it effects distributions around the norm." (Foucault, 1980a: 144) The juridical system does not cease to be important but it itself functions more as a norm. We live in a "normalising society" which is the product of the operation of power directed at life.

With this framework Foucault provides a means for beginning to contextualise the history of abortion struggle. Australian laws regarding abortion are a legacy of nineteenth century British statute law enacted as part of a massive and sustained legislative campaign by the state designed to regulate and administer the populace. But law by itself was insufficient: more important were the processes whereby power came to invest lives and bodies, as people became the objects of knowledge and subject to its truth. Abortion, by virtue of its 'victimless' nature and the need experienced by women to control family size or hide the consequences of illicit sex, could never be held in check by juridical intervention. But, given its intimate association with sex, it was invested with whole new sets of meanings as power/knowledge saturated and permeated people's bodies. These meanings operated as 'truths' at the level of actual experience of the self, of identity, of societal and self-definition. During the early twentieth century the need for, or the experience of, abortion was not only a secret, illegal and often unpleasant event; it became integral to the identity of particular categories of people: the 'slut', the foolish easily-seduced girl, or the irresponsible wife incapable of restraining her husband's reckless lust (or worse, her own) or the selfish woman more concerned with her comfort than with her duty as 'Mother'. As Foucault puts it,

it is ... one of the prime effects of power that certain bodies, certain gestures, certain discourses, certain desires, come to be identified and constituted as individuals. (Foucault, 1980b: 98)

Importantly, what has also been produced is resistance to, and struggle against, the invasions of power but these can only be mounted in the same space and terms as the power they oppose. Thus, fundamental to most understandings of resistance is the notion of an essential nature or essence of human life projected as "basic needs" and as the fulfilment of individual and human potential; the very same principles fundamental to the development of bio-power. The new conception of humanness which derived from, and was integral to, bio-power was taken as given and formed the basis for struggle. The language of resistance was phrased in terms of assumed fundamental human rights: "the 'right' to life, to one's body, to health, to happiness, to the satisfaction of needs"; the 'right' not to be oppressed or alienated, the right to self-discovery and to the realisation of inherent human possibilities. (Foucault, 1980a: 145) This conception of 'rights' - so integral to resistance and claimed as *a priori* in the condition of humanness - was a conception so alien to the classical system of law that it would have been incomprehensible. Thus, once abortion emerged in the mid 1960s from

the public silence cloaking its everyday existence the claim of 'rights' was the discursive keystone, mobilised first by proponents of liberalisation, but rapidly imperialised by opponents of this 'freedom' in the name of the foetus' 'right to life'.

We can speak, then, of an ideology of right which derives from the theory of sovereignty. Despite the demise of absolutist monarchy the theory of sovereignty continues to function both as an ideology of rights and as a major organising principle for the legal systems of western societies. (Foucault, 1980b: 105) It guarantees the legitimacy of the power of the state as the instrument of the delegated collective rights of citizens and at the same time allows for the articulation of theories of 'natural' or individual sovereign rights. This democratisation of sovereignty over the last two hundred years or so has been accompanied by the development of a whole new form of power operating through the disciplines of the body. (1980b: 104) Disciplinary power was both essential to, and allowed for, the devolution of monarchical right to the citizenry; but at the same time its effective domination was disguised by the theory of sovereignty and rights. The latter is, in effect, "superimposed" upon the mechanisms of discipline which permeate the social body like a tightly-knit web ensuring its cohesion and engendering new discourses of the rule of law or rights. Conversely, the rule of the *norm* derived from domination of the human sciences. Foucault says that in modern society we are subject both to the rule of law and to normalisation but that the latter is steadily encroaching onto terrain regulated by sovereignty. Disciplinary procedures of normalisation linked to scientific knowledge come increasingly into conflict with the juridical system and ultimately come to prevail in their effectivity without ever finally rendering the legal system obsolete.

Against encroachment by this form of power there is no discourse within which to articulate resistance except that of the theory of sovereignty and rights. This recourse though to human, natural, or individual rights leaves us still trapped within power because this very discourse is firmly grounded in the theory of sovereign right. Along with disciplinary mechanisms, it constitutes the two major poles for the deployment of power in society.

Historicising Sexuality and Sex

It is in this context that we can make sense of the importance attributed to sex in the modern era, and of the processes whereby it became politicised. Sex is the avenue via which power works on and within both the life of the body and that of the species. It has been the central point for the development of a technology of power over life, having provided the pivot for the combining together of the disciplines of the body and the regulation of populations. Our society has become one of 'sex' or, more specifically, one "with a sexuality". Power is directed at the body and life, it speaks 'of' and 'to' sexuality through "the themes of health, progeny, race, the future of the species, the vitality of the social body." Sexuality is not merely a symbol, it is specifically "an object and a target". Power is able to mark out, mobilise and give meaning to sexuality because of its alleged insidiousness, its capacity to evoke simultaneously both fear and excitement. Sexuality is itself an *effect* and one particularly charged with *meaning*. (Foucault, 1980a: 148)

Foucault defends himself against the obvious criticism that in analysing sexuality he does not take account of the biological given of sex, that he deals rather with a secondary phenomenon: the representation of sex. He himself observes that it might be objected that all he does is shift to a generalised societal level the very processes and mechanisms which Freud analysed so exactly at the level of the individual but that, in so doing, he eludes the very thing the importance of which psychoanalysis discovered, that is, sex. He points out that, similarly, it could well be argued against him that within his conceptualisation there are only "grounded effects, ramifications without roots, a sexuality without a sex." (1980a: 151)

To these hypothetical criticisms Foucault replies - and this is crucial to his whole analysis - that he is not writing 'a history of mentalities', that his purpose is not to merely show ways in which bodies have been seen or invested with meaning. History should not be construed as building upon a given foundation of biology, he insists; rather, history and biology are locked together in a complex interaction. His project is to construct 'a history of bodies' and to show "the manner in which what is most material and most vital in them has been invested". (Foucault, 1980a: 152)

He says critics might be prepared to grant that sexuality is socially and historically constructed through the operations of power. But the notion that sex is ontologically prior to and independent of power - that at most it is the point to which power attaches and from which it works - is much more persistent and difficult to dislodge. Yet, on the contrary argues Foucault, sex *itself* is a “complex idea ... formed *inside* the deployment of power”. (Foucault, 1980a: 152, my emphasis) He insists that this is apparent in the way the concept of sex was actually constructed in the four “great lines” of the deployment of sexuality: women and hysteria, the sexuality of children, perversion and population regulation. The effects of these central strategies has been so all pervasive that we have come to construe sex as the dominant, though hidden, force in our development as individuals and as the fascinating secret of our being. We have come to believe that self discovery and liberation can be gained via knowledge of the mysteries of sex. Sex has come to have the status of an essential, fundamental drive, rather than being seen as a socially and historically constructed phenomenon.

We must not make the mistake of thinking that sex is an autonomous agency which secondarily produces manifold effects of sexuality over the entire length of its surface of contact with power. On the contrary, sex is the most speculative, most ideal, and most intimate element in a deployment of sexuality organised by power in its grip on bodies and their materiality, their forces, energies, sensations and pleasure. (Foucault, 1980a: 155)

He argues that basic to any adequate history of sexuality must be a refusal to attribute some primordial autonomy to sex but instead, to demonstrate “how ‘sex’ is historically subordinate to sexuality” (1980a: 157). To see sex as belonging to the real world and sexuality to that of the realm of illusions and ideas is a false division and misses the point; it is through the historical construction of sexuality that sex, as we understand it, has been produced as “a speculative element” essential to the operation of power/sexuality.

Commenting subsequently (1980b: 190,1) on this distinction between sex and sexuality, Foucault said that when he first started writing *The History of Sexuality* he intended showing how sex was “obscured and travestied” by the development of this “strange growth” we know as sexuality. He realised, however, that this formulation was itself still captured by a juridical conception of power; that he was still thinking of sexuality as something constructed by power to oppose, suppress and inhibit some fundamental (ahistorical) entity of sex. This realisation led to a radical revision of his whole analysis and to

... the idea of sex as *internal* to the apparatus of sexuality, and the consequent ideas that what must be found at the root of that apparatus is not the rejection of sex, but a positive economy of the body and of pleasure. (1980b: 190, my emphasis)

Thus, we should not deceive ourselves into thinking “that by saying yes to sex, we are saying no to power” (1980a: 157). To resist power’s hold, Foucault claims, we need to counter the agency of sex with “the claims of bodies, pleasures and knowledges”. Such resistance cannot be external to power but operates by effecting “a tactical reversal of the various mechanisms of sexuality”:

the rallying point for the counterattack against the deployment of sexuality ought not to be sex-desire, but bodies and pleasure (1980a: 157)³³

Sex and Subjectivity

Sex, that “ideal point made necessary by the deployment of sexuality and its operation” (Foucault, 1980a: 155) is the central element in the constitution of modern subjectivity, identity and individuality. As such, sex is the process through which we must all pass to be transformed into conscious, knowing subjects able to act in a world which we can meaningfully interpret and able to make sense of our identities and bodies in relation to that world (Foucault, 1980a: 155). The ultimate irony of this process - ‘real’ though it is (in the sense that it does ‘work’ to produce our subjectivity) and imaginary at the same time (in that it is necessarily a ‘misrecognition’) - is that

... we have arrived at the point where we expect our intelligibility to come from what was for many centuries thought of as a madness. (Foucault, 1980a: 156)

³³ It is Foucault’s failure to elucidate his meaning here which allows for the criticism that he is implicitly posing some form of essentialism, despite his refusal to countenance sex as fundamental and therefore, as independent of power.

For Foucault, there is nothing pre-given or essential in the nature of the human subject; there are no innate drives, essences or desires. He rejects as totally misdirected any subjectivist humanism. (It is for reasons such as this that he has frequently been labelled a structuralist.) Human subjects are social and historical constructs and achieve their identities and sense of themselves as subjects through complex processes - processes in the modern era of sexuality, power, knowledge and truth - "[t]he individual is an effect of power" (Foucault, 1980a:98). Individualism, self-awareness, conscience, the consciousness of the self as a person: all are a result of the prevailing construct of sex.

It is through sex, in fact, an imaginary point determined by the deployment of sexuality - that each individual has to pass in order to have access to his [sic] own intelligibility (seeing that it is both the hidden aspect and the generative principle of meaning), to the whole of his [sic] body (since it is a real and threatened part of it, while symbolically constituting the whole), to his [sic] identity (since it joins the force of a drive to the singularity of a history). (Foucault, 1980: 156,157)

Not only are we produced as subjects through sex, we come to see our sexuality as the core of our being, as containing the secret of our self, and as holding the promise of a personal fulfilment to be realised through constant self-examination.

This is Foucault's final inversion of the repression hypothesis. The problem is not to free sex from repression; on the contrary, it is *through sex that we become what we are*. Via the same process too, we are trapped within our culturally limited horizons of self-experience and knowledge. We cannot think or practice other than within the limits of the knowledge which has produced us.

In some aspects this insight has similarities with Althusser's theory of the ideological production of subjectivity: we become subjects by (mis)recognising ourselves in ideology as individual, transcendental egos. Both Foucault and Althusser reveal a debt to Lacan and his theory of the mirror-phase by seeing the process through which our intelligibility or self-recognition is attained as "imaginary". In this sense too, Foucault's 'discourses of sex/knowledge' and Althusser's ideology have some common features. Althusser viewed ideology not as an ensemble of false beliefs propagated by a ruling class and imposed on us but more as a means of knowing and understanding the social world that made sense *precisely because* we were constructed within and by it. In this theorisation Althusser was attempting to do away with the notion of 'false consciousness' which plagued Marxist humanism. However, in trying to avoid the epistemological fall into relativism by identifying an anchor for truth, he proposed his (infamous) distinction between ideology and the science of historical materialism. In part, it was to avoid this whole 'can of worms' that Foucault made discourses the object of his analysis:

The analysis of discursive practices made it possible to trace the formation of disciplines (*savoirs*) while escaping the dilemma of science versus ideology. (Foucault, 1985: 4).

That "Foul Pit" of Relativism

But in sidestepping this perennial problem Foucault has in turn been accused of relativism. It has been objected that his project of subverting truth leaves him open to the accusation that there is no way of knowing that what he says is true (Philp, 1985: 79). Whilst to some extent this criticism is logically valid - it is the fundamental criticism levelled at relativism and the paradox of it (Mann, 1983: 327) - it simply misses the whole point of Foucault's enterprise for a number of reasons. He would see the very posing of the question, 'how do we ascertain what is true?', as itself enclosed within the tyranny of reason which has come to dominate the modern era since the Classical age. If we were to be absolutely rigorous philosophically we can never be completely certain of any truth posited in the social or human sciences (or even in the natural sciences).³⁴ All ultimately derive from empirical observation and inductive logic or, even less exactly, from interpretation and are, theoretically at least, open to error, falsification, revision or contest. The endeavour to firmly establish some rock-firm basis for knowledge is part of what Foucault calls "the will to truth", which is itself implicated in the exercise of power. The positing of universal reason, of *a priori* fixed characteristics of human nature, of universal features of society, of absolute moral categories or given natural rights are all

³⁴ This very statement, by virtue of the fact that it is a statement affirming something to be the case, is itself captured within the paradox of relativism.

futile attempts to establish solid epistemological or ontological guides for intellectual, political or ethical practice. Ultimately their role is to reassure and to engender in us a sense of control of, and in, the world. In understanding this we can see how knowledge is firmly linked to the exercise of power.

Put simply, Foucault is not concerned with philosophical questions of truth or falsity. Rather, his focus is on *what is defined and taken as truth, and therefore acted upon and within*. In understanding social organisation and action this is the critical issue. We can take an analogous example of the fundamental importance of this from Freud's theorisation of the Oedipus Complex: whilst the threat of castration (or the 'reality' of it for a girl) is not 'real' or 'true', the infantile perception of its validity is absolutely critical for the shaping of (masculine and feminine) social subjectivity.

For Foucault such efforts at establishing ultimate guides to truth are misdirected and criticism in these terms beside the point. In subverting valorised knowledges he is not saying that they are false: he is simply not interested in their philosophical status in this sense. What he is critiquing are discourses of knowledge which have acquired the status of 'truths' in our pre-eminently rational society, and from that lofty position are employed as self-evidently obvious ways to order, regulate, govern, hierarchise, categorise and classify the social world and subjects in it. Knowledges are ways of making sense of the world, of attributing causality and establishing relations between elements, of theoretically and cognitively organising what otherwise would appear as meaningless, disordered and chaotic so as to govern and administer a *sensible* world in practice and to act intelligibly within it as subjects.

So, Foucault is not interested in satisfying the demands of those who accuse him of relativism by proposing new 'truths' to replace those he subverts: instead, he refers to his own works as "fictions". He is an iconoclast, concerned with *undermining the relations of power which are embedded in the formation and maintenance of what is taken to be true*. In the final analysis he is not saying that truth and falsity in their rigorous sense are relative, but rather that this is irrelevant. It is *what is historically and socially privileged as knowledge which is important*.

This privileging is not the result of any conspiracy by a ruling elite but rather, emerges and is inseparable from micro-relations of power between individuals and groups as well as from what are perceived to be the pressing problems and needs of society. The practices of medicine, psychiatry, law and criminology Foucault points to as constituting not only relations of power at the level of individuals, but also opportunities for observation, examination, confession and documentation, giving rise to expanding knowledges about the sick, insane, criminal and delinquent. These knowledges in turn were invaluable in the invention of techniques of power to deal with the regulation and disciplining of populations, health and welfare, measure to control or encourage reproduction and fertility, rehabilitation or incarceration of the useless, dangerous or vagrant. In such ways the development of the human sciences and the deployment of power over life and living have been indissolubly linked. In this sense we can see the pun implicit in Foucault's use of the term 'discipline'. Its double meaning of, on the one hand, a body of knowledge and, on the other, to control, order or punish, captures the conjunction between truth and power. Social 'problems' have come to be technical problems, to be solved by advancement of knowledge and the application of ever more refined techniques. That the formulas derived from these knowledges have met with, at the most, limited success has not served to invalidate them but instead, have acted as a spur to further development and social experiment.

The putting aside of the question of philosophical certainties has, of course, implications for oppositional theorising and political activity. Foucault's stance undermines any resort to an alleged *a priori* "natural law or human dignity" as the basis of resistance. Consequently, Dreyfus and Rabinow are moved to ask rhetorically of Foucault, "what are the resources which enable us to sustain a critical stance?" (1983: 205). I would argue that the search for any such firm ground leads one back again to totalising systems and the positing of irreducible, essential givens. The hope for "some new and safer cultural paradigm [which] could focus our practices" (Dreyfus & Rabinow, 1983: 205), for the touchstone of some prescriptive guide to action that can be established beyond doubt as legitimate, is a futile longing for the certainty afforded by the ways of thinking subverted by Foucault. To Dreyfus' and Rabinow's question he would reply that resistance should be directed towards what is perceived as the "greatest danger" in a society at a specific time. Unplacated, they suggest that it "might seem that if Foucault wants to give up one set of dangers for another, he owes us a

criterion of what makes one kind of danger more dangerous than others” (1983: 264). The point is surely that according to Foucault’s analysis there cannot be any universally acceptable principle to evaluate what is ‘most dangerous’. It must remain a matter of judgement in the particular circumstances and there is no easy way of codifying it. Also, one thing that oppositional political movements have shown us is that we are at any one time confronted by numerous dangers all of which need to be resisted. For example, the nuclear threat, the devastation and pollution of the environment, male domination, the oppression of Aborigines, the centralisation of media and the development of information surveillance systems, *inter alia*, are all issues which require confrontation and struggle. Resistance in these diverse fields cannot be reduced to one overall struggle or subsumed into one composite movement given their different targets and goals, varying processes and effects, tactics and strategies, different enemies, and the fact that at times they may even come into conflict one with another. There is no pre-existing principle fixed across time and space which we can apply to privilege one over others. Moreover, for theoretical activity to be directed to locating one is reductionist and only serves to obfuscate the specifics of each issue. For Foucault, to engage in the production of theory aimed at anchoring truth,

... is to commit the undignified folly of speaking for others - of prescribing to them the law of their being. It is to offer a new orthodoxy, and thus a new tyranny. (Philp, 1985: 68)

The Politics of Certainty

There is one other relevant point that should be raised in this context but rarely is. All of the movements mentioned above are customarily identified as Left wing - however loosely that term may be used - by those either involved in or supportive of them. Whilst there may sometimes be certain disagreement between or within them about specific goals or tactics (and even bitter and sometimes personal disputes) there is some general recognition of all being on the ‘same side’. Conversely, moral authoritarians, anti-abortionists, pro-family campaigners and anti-feminists are just as clearly seen as Right wing and frequently dismissed as ‘fanatics’ or ‘fascists’. Similarly, opponents of welfare, anti-conservationist developers, free marketeers, big business and capital in general are also seen as pursuing oppressive policies adamantly opposed to equality, democracy and to the interests of the Left. The question arises, then, by what criteria have all of these latter individuals and groups arrived at their assessment of the ‘greatest danger’? The tendency on the broad Left is to see them as motivated variously by ignorance, intolerance, religious fanaticism, hatred, greed or the desire to dominate. But any Left position which insists that its own theory or practice is firmly grounded in, and established as necessarily correct by reference to, universal reason or allegedly ‘given’ specifics of human rights or nature, must equally insist both that its opponents are wrong and that their struggle is the result of either psychological disturbance (obviously inadequate as an explanation), intentional self-interest or a form of false consciousness.

While self-interest is satisfactory for a partial explanation in some of these cases it is clearly not adequate for all. It would be difficult to sustain the argument that, for instance, Right-to-Lifers are operating from direct self-interest, at least in terms of the actual goals espoused. Conversely, to see their convictions as false consciousness is to lead one back into all the muddy problems associated with that concept, problems which Foucault’s work avoids. This should lead us to question the initial premise from the Left which claims its theory and practice as ‘right’ and ‘correct’, because the implication of accepting this is that an opponent is necessarily wrong and misguided. We would be forced to admit, then, that not only do we have no resources for definitively evaluating the truth or correctness of theories on the Left but equally that we have none for arguing as false the contradictory theories emanating from the Right.

This would be seen by many, of course, as the ultimate relativist trap, politically speaking. But the difficulties involved in all of this were brought home to me by participant observation amongst Right-wing women undertaken as part of the research for this thesis. It became profoundly clear to me that these women were absolutely certain of the correctness of their position and of the evils of the threatening authoritarianism of feminism. The theories supporting their practice may have been simplistic in academic terms, although they did have a certain coherency. But these women were utterly convinced by them and of the need to ‘do something’ about the menace posed by feminist successes. Moreover, they honestly (as far as I could judge) saw feminism as coercive and oppressive of women, of men and children, and as wielding enormous power through government and various state agencies and institutions. They had a sense of certain knowledge that

they were right. In addition, they saw themselves as an embattled and beleaguered group fighting to get a hearing, with their interests pushed to one side by the insidious infiltration of feminism and feminist ideas into the bureaucracy and the media, and yet involved in a morally correct battle for the overall good of society. My impression as a participant observer was that these were genuinely held convictions, based for them on irrefutable truths about God and irreducible differences between the sexes, and utterly impervious to the most 'reasoned' arguments to the contrary. Whilst some of their leaders may have been partly motivated by 'empire building' and self-aggrandisement, the general impression I gained was that they were very well-intentioned women motivated by genuine beliefs.

It is suggested here, then, that the hope for reason or some universal principle to render the key to correct analysis or practice is not only a futile one philosophically but, more importantly, an academic game of intellectuals which does not take adequate account of people's everyday theorising about the world. Dreyfus' and Rabinow's request that Foucault provide some 'criterion' for ascertaining the greatest danger is, in the end, a watered-down version of the search for truth. Any such criterion, for it to be really valid, would have to apply to *all* political theory and practice, not just that broadly conceived of as Left wing, otherwise it begs the question of why the politics of the Left are assumed to be the 'correct' politics.

I would argue that such a conclusion should not lead one to doubt the utility of theoretical or political activity. Nor should it lead to despair or nihilism, nor to a retreat into personal subjectivity and experience as the only 'valid' guides. Such reactions could be likely the more one has previously enjoyed a sense of 'certain' knowledge about the world whether it be a consciously articulated doctrinal theory such as an unreflexive Marxism or a set of taken-for-granted 'sensible' assumptions about hierarchies and social order based on God and/or nature. The loss of such certainty can also lead to a form of 'born again' experience - either in terms of religious certainty or of a 'new' totalising theory.

What can be developed instead is a genuine reflexivity in theorising, analysing and action, an awareness of one's assumptions, of the possibility of being mistaken or misdirected, of not having taken into account all relevant factors, of never assuming that any particular analysis is definitive. Analysis, theorising, strategies, tactics and practice need to be constantly open to the possibility of revision and re-evaluation in the light of new insights or changing developments. Perhaps this is what Foucault means when he advocates a "hyper-active pessimism" (1983: 264).

Instead of dismissing relativism - that "foul pit" - what needs to be grasped is that, in a sense, *a relativist position can only ever operate at the intellectual level, never at the level of action and practice*. That is, whilst it possible to philosophically assume a relativist position towards truth and an understanding of the world one can only conduct oneself coherently in that world in a practical sense if one operates on a mass of assumptions about how the world makes sense and why it is the way it is. All subjects act in the world in ways meaningful and rational to them (however irrational or prejudiced they may occasionally appear to others). Acting intelligibly in a world intelligible to the actor is definitive of subjectivity. To act relativistically would, as it were, entail making no assumptions or conclusions about how the world is organised nor about how elements of it are or are not connected. This would in fact make action of any coherent or aim-directed sort impossible and would be equivalent to a form of psychotic disengagement with one's society and surroundings.

Truth and Subjectivity

The attribution of sense and meaning to one's surroundings necessarily involves cognitive judgements of causal relations, expectations of anticipated outcomes and the imposition of categories of classification onto perceived realities. These sets of understandings are derived partly from direct experience but mostly they are shared with others (particularly those similarly positioned in the social world) and are adopted through processes of socialisation and interaction. This intelligibility is not neutral, nor is it the product of unadulterated reason especially when applied to the social world or to evaluative, moral or political judgements: it is an effect of power both at the macro level and at the level of subject construction. Intelligibility, which is always embedded in power, is both a condition and an effect of subjectivity. When subjects act they do so at what might be called a 'manifest' level, deliberately engaging in actions in order to achieve something or because of some reason or other, but at another 'latent' level I would like to suggest that

we can understand them as simultaneously engaging in an ongoing process of affirming and testing the congruence between their intelligibility of the world (and thus their relation to it) and the social and material world itself. Subjectivity (or, perhaps more precisely, the experience of stable subjecthood) is, then, always contingent upon the degree of fit between the two. This implies that we need to conceive of the subject not as fully made or fixed once constituted, but as a process constantly being affirmed and validated as well as being formed, reformed, reproduced, and to some extent altered in everyday interaction with the social environment. We can see this as another dimension of what Jeffrey Weeks refers to as the 'fragility' of subjecthood, a concept which is dealt with in detail in the following chapter.

To return then to the question of truth, I would like to suggest that truth is an effect of this complex and dynamic relation of correspondence, apposition, accommodation and reconciliation between the intelligibility of the self to the subject, and the intelligibility and meaning of the social world to the subject. That is to say, that for the subject to experience itself as a subject it must experience itself as an agent, as empowered, as in control and able to act meaningfully in a world meaningful to it. Subjectivity, then, is an unstable and ever-vulnerable construction having constantly to construct and reconstruct itself and its 'truth': truth about the world, and truth about itself in relation to the world.³⁵ Any potential threat, from whatever quarter, to the truth of the self or that of the world necessarily jeopardises and risks fracturing the relation of congruence between the subject and its world. Certain accommodations or incorporations can be made as long as these are benign and do not fundamentally or obviously contradict the truths already established. Otherwise subjects will bring to bear various means to ward off or deal with the danger.

The initial and most frequently employed strategy is to deny any substance to the threat by outright dismissal: by ridicule, by reason (however rational or otherwise), or through condemnation of the source or the substance by associating it with some already rejected entity and ideology (for example, communism or, conversely, fascism). In most cases this is adequate as the subject shares intelligibility and meanings with others in its immediate milieu so that they can be reasserted and sustained. If, however, this fails and the danger becomes even more palpable or even tangible in that it stimulates mass mobilisation or social change in media representation, the law, the state or other institutions; or it endangers the subjects' own intelligibility by disruptions in the realm of personal experience (unemployment, marital breakdown, illness) - the only resources then are passive acquiescence, adaptation or resistance. The first is injurious to the truth of the self and engenders a sense of despair and lack of control as the relation of congruence between the self and the world is fractured; the second involves the subject in reconstructing either or both its own intelligibility or that which it has of the world so that a new fit is established; the third means that the subject sustains both and actively engages in measures calculated to reinforce them by acting on the self or the world.

So the Right Wing women were fighting not merely feminism, abortion, sex education, easy divorce, pornography, promiscuity and so on; they were, at the 'latent' level, fighting to retain and reaffirm their sense of a solid subjecthood by maintaining intact the relation of congruence between their intelligibility of self and that of the social world. The effect of this ongoing dynamic is the production and reproduction of truth.

This suggests that we need a fuller theoretical elaboration of the construction of subjectivity and of its ongoing dynamic of reproduction, maintenance and transformation, and the relation between these processes and the production of truth and the exercise of power. The reorientation of Foucault's focus to 'techniques of self' in his last works suggest that this may indeed be the direction in which he was heading. Certainly, it is a dominant theme in the work of Jeffrey Weeks, to which we shall now turn.

³⁵ This is not to suggest that truth is a product of the individual: on the contrary, much of its force derives from the fact that it is shared with others. Indeed, the individual whose truth is largely or totally divorced from that of others, is also divorced from reality, it being defined by others as a function of shared truths. Such an individual, in turn, is defined as psychotic; he or she no longer shares meaning or the 'truth of reality' with others.

CHAPTER THREE

JEFFREY WEEKS

Over the past generation, many of the old organising patterns and controls have been challenged, and often undermined, and sexuality has come closer than ever before to the centre of public debate. This has produced a crisis over sexuality: a crisis in the relations of sex, especially in the relations between men and women, but also, perhaps more fundamentally, a crisis around the meaning of sexuality in our society. In the resulting confusion there has been an unprecedented mobilisation of political forces around sexual issues. (Weeks, 1985: 16)

Sex, says Jeffrey Weeks, has become intensely politicised over the last few decades. Whereas a politics *of sex* would have been inconceivable once, sex is now a battleground on which opposing beliefs and strategies clash in a fierce contest over its nature, and the means and need to regulate it. This is not to suggest that hitherto, sex was outside of power; on the contrary, claims Weeks, it has long been a pivotal point for the operation of power, a conduit for numerous anxieties and a fertile terrain for the production of truths implicated in power relations. (1985: 16) But recently, the long dominant consensus on the nature of sex - as a rebellious energy requiring concerted effort to stem its potentially disruptive influence on the individual and social order - has been strenuously questioned in public debate and in personal and self-consciously political practice. Furthermore, in this process the 'problem' of sex assumed a wider symbolic status, on the one hand as a metaphor for freedom and on the other, as representative of the ills plaguing western society. (Weeks, 1985: 17) The era of 'permissiveness' - at its zenith hailed by proponents as ushering in a new age of personal freedom - is now seen as problematic even by its erstwhile supporters, whilst its former detractors easily claim confirmation of their predictions of moral degradation and social decay. Yet, even though the 'sexual revolution' has been rejected it has left a potent legacy in a widespread concern and anxiety over sex at both the personal and political levels: for many, the old truths now being vehemently reaffirmed lack the ring of certainty they had for previous generations.

The Historical Construction of Sexual Identities and Discourses

The work of Jeffrey Weeks is both a product of, and in intervention in, the era of permissiveness and its aftermath. Since 1977 he has written a trilogy of books centring on the politics of sex and sexuality. Three major themes traverse his work to date, themes which are central to the focus of this thesis.

The first is an emphasis on the social, historical and political constitution of (sexed and gendered) identity, particularly group identity. In *Coming Out* (1977) Weeks pursued this theme in the context of tracing the interaction of processes of social categorisation and self-definition involved in the emergence of a homosexual identity. Arguing that 'the homosexual' is not a product of nature, that there is no such thing as a 'fixed' homosexual identity but that rather, homosexuality, as we understand it, is an historically produced category (and identity) leads, in turn, to Weeks questioning heterosexuality as a supposed given in nature. Once the assumption that sexual preference is biologically determined is abandoned, then the very foundations supporting the idea of distinct and fixed masculine and feminine identities - and their correspondence with biological sex differences - are fundamentally undermined. (Weeks, 1985: 6)

In *Sex, Politics and Society* (1981) Weeks turns his attention to the intersection of social and psychodynamic processes involved in the production of identity at the level of the individual subject. He traces the ways in which sex, and the terms for thinking about it in which our modern meanings of sexuality are deeply embedded, have developed over the last two centuries. During this period, he argues, what were formerly disparate activities and realms of meaning became unified into an organised field of knowledge and 'sexuality' was imbued with a deep symbolic significance. Weeks stresses that what we now understand as sexual has been historically constructed in interaction with particular social forces - particularly those involved in the shaping and transformation of gendered subjectivity and sexual orientation - but also, and inseparably, with social and economic changes which gave rise to new configurations of class relations. Thus,

he demonstrates how transformations in industry and production were accompanied by unprecedented shifts of population which altered community, kinship and family systems. Marriage and fertility patterns also changed, producing concern over questions of population and its associated variables and prompting state intervention in family organisation and the regulation of sexual behaviour. 'Private' areas of social life, regulated formerly by Church or community, became subject to political and legislative controls. Yet these transformations were never unilinear, he says, in that attempts to regulate population and behaviour could only ever be incomplete. The ordering and classifying of groups and practices - processes integral to the production of knowledge and to regulation - afforded space for self-definition and the emergence of sub-cultures of resistance: from informal networks of information regarding abortion to groupings of individuals assuming homosexual identities. Through the Victorian era until the present Weeks traces the interaction of strategies, ideologies, political processes and class relations which form the map of meanings and institutions within which struggles over sexuality were contested. Although his specific focus is the historical development of the politics of sexuality in Britain, he provides numerous insights applicable to the analysis of sexual politics and the struggle over abortion in Australia in the period covered by this thesis. Along with his own research, Weeks draws together into a coherent framework theories, concepts and research from a diversity of sources including Foucault, social-interactionists, sociologists and historians.

The third theme Weeks identifies as guiding the direction of his work is a concern with "the limiting and defining effects of the existing scientific, moral and political discourses on sexuality". (Weeks, 1985: 5) This is the subject of his third book, *Sexuality and its Discontents* (1985) which he describes as being about:

... ways of thinking about sex, about the ideas, meanings and myths that sketch the outline of our sexual lives. It is concerned with the categories of thought, the inventions of the mind that have organised the way we think and live our sexuality. (Weeks, 1985: 4)

Here, Weeks is concerned with identifying and analysing bodies of theory which permeate modern meanings of sexuality, with drawing out the assumptions embedded in and reproduced by them and showing how particular 'truths', and definitions which emerge from them, are mobilised in the politics of sexuality. Following Foucault, he argues that sex has come to be a central focus of personal and social concern and anxiety, and has assumed a significance not previously afforded it historically. It has embedded in it the potential for both pain *and* pleasure, both anxiety *and* affirmation and, importantly, both identity crisis *and* stability. (Weeks, 1985: 3) The confusion and ambiguity surrounding sex has made of it a "contested zone" in which varying sets of beliefs clash over its nature, effects and ways of dealing with it. Weeks says that the lack of any one received 'truth' of sexuality which can command societal consensus has led to a searching for new (or old) totalising certainties capable of restoring a sense of order and quelling anxieties.

Apart from tracing the history of the present in terms of the derivations of meanings we invest in sex, Weeks' project in *Sexuality and its Discontents* is to intervene at the level of political struggle by exploring an alternative possibility for understanding sex, one which attempts to break free of established assumptions and associations. Building on the reality of diverse sexual practices and identities, he proposes a "radical pluralist" perspective based on the politics of choice and heterogeneity, a position which would acknowledge the possibilities of difference yet not fail to confront the accompanying ethical dilemmas.

This third text incorporates concepts and insights which Weeks has developed in the former two as well as introducing new ones of particular relevance to this thesis. Accordingly, this chapter will concentrate on *Sexuality and its Discontents* with a view to emphasising that which is of most utility to the analysis of the abortion struggle in Australia and the emergence of the Moral New Right and anti-feminist movement. Of distinct relevance is Weeks' concern with discourses on sex and sexuality. As will become apparent in later chapters, the 'truths' propounded in those discourses reverberated still in the debates over abortion and in the discourses of moral puritans and anti-feminists. Weeks also deals at some length with the characteristics of the era of 'permissiveness' - the period of the 1960s and early 1970s - and with the New Right "moral

absolutist” backlash against that time of ‘promiscuous moral decay’. Thus, as these are integral to the present work, a close focus on these elements of Weeks’ analysis is essential here.³⁶

In analysing the discourses and processes at work in the contemporary politicisation of sex, Weeks identifies a number of conflicting philosophical, and hence political, frameworks within which struggles over sex have been waged. He argues that the thrust of each can be traced to the assumptions it makes about the relations between the polarities of two major dichotomies: ‘nature’ and ‘culture’, and ‘sex’ and ‘society’.

Philosophical Dualism: Nature Versus Culture

He contends that most theorisations of sex, and of the relation between it and the individual and society, are implicitly, or more often explicitly, locked within a naturalistic, biologically fundamentalist framework. (Weeks, 1985: 63) He points out that such claims - which resort to nature to explain human subjectivity and even social organisation itself - have a long, although diversified, history. Weeks suggests that their attraction stems from their apparent ability to provide a firm bedrock for subsequent theorising - which seems to flow logically and naturally from the initial ‘obvious’ truths - and thus from the ease with which they simplistically reveal the essence of the human condition. The stumbling block, however, is the fact that there are a number of diametrically different and competing versions of the alleged qualities constituting our basic natures. These range from those which claim that humanity is fundamentally evil or selfish, to others which assume that goodness is the distinguishing characteristic of the human condition. Weeks reminds us that whatever specific nature is postulated in any instance is a reflection of the value system operating, rather than being the product of any so-called objective investigation. Furthermore, whereas the diversity and complexity of human behaviour and cultures should be sufficient to alert one to the dangers of postulating any fixed or given human nature, this has in no way daunted attempts to do so.

But for all the arguments revolving around precisely which qualities are fundamental to human nature, there has been unequivocal agreement that one element in particular - sex - has its origins and impetus in nature:

Nowhere is this [search for our basic nature] more true than in relation to our sex. It *appears* to be the most basic fact about us.... Sex has become, as Michel Foucault famously polemicised, the ‘truth of our being’. (Weeks, 1985: 62, emphasis in original).

Yet curiously, despite there having been almost universal consensus for a century on the existence of a sexual essentialism, researchers and commentators have failed to agree on the specificity of this supposed nature (yet this has not dented the zeal of those committed to the approach). Indeed, modern sociobiology, with its apparently sophisticated attempt to locate sexual (and thus human) essence in the DNA seems no closer to ascertaining the ‘real’ truth than were the sexologists of the nineteenth century. It now begins to seem, Weeks suggests, that the search for our basic sexual nature is *itself* the problem, rather than being the means towards a definitive solution. At issue here, he maintains, is the legacy of those eminent sexologists - most prominently Krafft-Ebing, Havelock Ellis, Freud, and the later Kinsey and Masters and Johnson - in shaping the way we conceptualise and thus live our sexuality.

‘Modern sexuality’ is in part at least an invention of sexological pens, and like all such inventions its effects have been contradictory. (Weeks, 1985: 63)

Thus, the discursive parameters within which the politics of sexuality have been waged since the early 1960s derive, in very large part, from the truths of sexuality propounded by the sexologists. This is a critical point in terms of relevance for the present study, and hence a detailed examination of Week’s discussion of the sexologists is warranted here.

³⁶ Apart from tracing the discursive history of our ways of thinking sex and sexuality Weeks is concerned to critique theorisations which he sees as having influenced Left understandings of sex, and others which he argues can contribute to forging a new or invigorated radical theory and politics of sex as a viable alternative to dominant discourses, particularly, those so loudly emanating from the new Moral Right. As the present work is directed primarily to the analysis of public, or ‘mainstream’, discourses, this aspect of Week’s work is not dealt with here, apart from that which is of use analytically.

The Question of Religious Moralism

I would agree with Weeks, and the research undertaken here will confirm, that sexology has been crucial in the production of 'scientific' knowledge about sex; and further, that the truths propounded by the sexologists have saturated the everyday discourses which govern our thoughts and experiences with regard to sex. Nevertheless, there is another major set of discourses which are all too easily overlooked or discounted in terms of their effectivity on the ways sex and sexuality have been thought, debated and fought over. Whilst Weeks pays due attention to the rise of the moral absolutists of the New Right, he does little to indicate that the centuries-old discourses in which absolutism is embedded still continued to resonate in the 'everyday' ways sex was thought and lived subsequent to the discovery of sex as an object of scientific research and knowledge. This is not to suggest that they remained intact or impervious to the influence of the new understandings, but rather, to stress that they were not eclipsed or made redundant in their effectivity. As we shall see, certain Churches and clerics were very active participants in the political struggles over sex from the very outset of the 'permissive' era, both in attempting to shape the discursive parameters and in influencing political and legal outcomes (although not necessarily in the ways they intended). Quite correctly, Weeks makes the point that the Moral Right and anti-feminist movements have a view of sex which stresses naturalism and have eagerly embraced new 'proofs' about sex and sexual difference propounded by sociobiology. Yet, I would suggest that these serve merely as scientific *justifications* and additional evidence for basic 'truths' already 'known' by moral absolutists, rather than being in themselves core elements in the moral-religious discourse.

Perhaps this oversight on Weeks' part stems from a difficulty which many Left social theorists have in dealing with questions of morality or moral norms in elaborating explanations of social relations and behaviour. Religion has long been seen as a peripheral 'superstructural' element, and the emphasis on power and (economic) interests in determining behaviour and structuring social relations has entailed a complete marginalisation of religious or moral concerns. But I would argue that the neglect of these issues is short-sighted in two respects. Firstly, whilst it might be correct that little social behaviour can be *directly* explained in terms of adherence to moral-religious principles, the sense of identity which some people derive from religious adherence and community can influence behaviour; and secondly, religious affiliation can be a decisive factor in public action. Whether the latter is a function of moral conviction, of fear of political or clerical censure or of the public 'presentation of self', on some issues certain religiously affiliated persons do appear to act or intervene according to the prescriptions of religious principles. The present research is replete with examples that lend credence to this claim. Furthermore, it will be apparent that concern for the voting intentions of religious constituents can bear on decision making about 'moral' issues at the formal political level. Hence, in identifying the discursive contours of modern debates on sex and sexuality, I would maintain that more account needs to be taken of the truths produced by moral-religious discourse. So, whilst Foucault traces the genealogy of discourses on the truth of sex back to the sixteenth century confessional, from that point onwards he presents them as detached from any substantive religious or moral inputs and seems to relegate the latter to mere epiphenomenal status. Perhaps there is a need to consider whether the pervasiveness of naturalism in accounts of the essence of human beings don't themselves bear the genealogical stamp of a religiously derived equivalence between nature and 'God-given', in so far as humanity, and its ('fixed' and 'completed') nature, has for so long been perceived as a construct of the divine. Indeed, most modern theologians can accept evolutionary theory by regarding evolution as the process designed and employed by God to create all of nature, including human beings.

This highlights an ambiguity in *Sex and its Discontents*. Whilst Weeks says he is concerned with "the ideas, meanings and myths" which shape the way we think of sex, the text is largely directed towards an examination of formal and systematic bodies of theory about sex (sexology, psychoanalysis, etcetera).³⁷ In so far as these consciously intellectual works filter into popular 'everyday wisdom' or are formative elements in discourses permeating community thinking; or in as much as they are mobilised by scientific or academic experts or by political activists and thereby influence the political process, they can be said to be implicated in power relations of sex. Weeks can justifiably claim that that this is so with elements of sexology, cultural

³⁷ Hence his interest in contemporary French theorists who are producing radically new (but highly 'academic') insights which Weeks claims are of utility in forging a rethinking about sex and sexuality.

anthropology and psychoanalysis and, more recently, with sociobiology, but this neglects those other discourses which it could be argued have been equally significant in moulding our modern ways of thinking of sex. I am referring in particular here to those ‘commonsense’ sets of understandings about sex which dominate popular thought about sex. And whilst these are heavily laden with essentialist premises, they are also burdened with moral connotations derived in large part from Christianity. Nor are the latter merely a ‘gloss’ on our ‘real’ understandings; they are integral components, which have influenced much of the direction and emphases of discourse. It is this neglect on Weeks’ part to take account of widely diffused and unsystematic, but politically salient discourses, and to concentrate only on formal, ‘scientific’ bodies of knowledge which I see as problematic, given that his project was to investigate the discursive foundations of the way sex is conceptualised.

Weeks says that the sexologists, as the pioneers of sex research, were adamant that they were contributing to knowledge by recasting in the enlightenment tradition an area hitherto dominated by the Christian-Judeo moralistic emphasis on the flesh and sin. (1985: 70) Armed with the prestige, method and objectivity of scientific enquiry, their project was to discover the true nature of sex, its diverse forms of expression and its relation to social organisation. In this, Weeks agrees that they were successful; they forged a new orthodoxy for making sense of sex, one which has been consolidated in the twentieth century. Many of its assumptions and conclusions have achieved dominance in ‘expert’ and informed opinion and, in a bastardised form, have infiltrated popular thinking. Weeks does observe, then, that the sexologists’ legacy has not entirely displaced its ecclesiastical precursor, which he says still exists in parallel in much clerical sermonising and pronouncement and in a repository of community beliefs. Furthermore, he continues, the “science of sexology” never itself totally jettisoned the Christian heritage: it echoes in implicit value judgements and, oft times, more loudly, in the normative therapeutic practices of its disciples. Yet, whilst Weeks, quite rightly, does go on to stress the salience of this normative element in sexology and to trace its effects in the classification of ‘normal’ versus ‘abnormal’ sexualities, he makes no further reference to moral-religious or clerical discourses, nor to their insidious deployment into the meanings and understandings about sex and sexualities held and articulated in ‘everyday’ knowledge and beliefs.

The Science of Sexology

For a century preceding the advent of the sexologists a literature centering on sex had developed in modern countries although, says Weeks, the way it dealt with sex varied considerably: from polemics against the evils of masturbation and moral tracts to self-help manuals and bawdy novels. For example, the later eighteenth and the nineteenth centuries displayed an almost obsessional concern with the dangers of masturbation, attributing lifelong pathologies of stupidity, torpidity, incompetence and impotency to childhood self-abuse. Following insights developed by Foucault, Weeks claims that this way of thinking of sex and its consequences derived from an earlier transition from a focus merely on the specific act as a sin against purity to a concentration on the effects of sex on individual biography and character.

What you did was now more than an infringement of divine law; it determined what sort of person you were. Desire was [seen as] a dangerous force which pre-existed the individual, wracking his [sic] feeble body with fantasies and distractions which threatened ... individuality and sanity. (Weeks, 1985: 66).

This project of locating the source of the sexual impulse in the individual itself, and its further development by the nineteenth century sexologists, Weeks sees (following Foucault) as constituting a pivotal point in the discourse on sex and as marking a radical shift away from the hitherto dominant Christian problematic. Through defining sex as a specialised area of knowledge, Weeks maintains that sexology achieved the power to influence and mould the way we think of it, and consequently, how sexuality and identity are constructed and lived. As experts, the sexologists drew the lines between what was normal and abnormal - and thus established the parameters for understanding sex, sexuality and gender - and substantiated their claims by appeals to ‘nature’. Weeks argues, and this is central to his thesis, that this naturalistic framework for understanding sex has had powerful repercussions. In isolating for ‘scientific’ investigation the sexual instinct and studying its diverse manifestations in individual behaviour:

[s]exology came to mean therefore both the study of the sexual impulse and of relations between the sexes, for ultimately they were seen as the same: sex, gender, sexuality were locked together as the biological imperative. (Weeks, 1985: 69)

In this process of individualising sex, and in the sexologists' refiguration of it as an object amenable to and necessitating *scientific* enquiry, Weeks notes two decisive events. (1985: 67) The first was Charles Darwin's emphasis on sexual selection of partners and reproductive, and hence biological, success. This justified a concern with sexual behaviour in individuals, the nature of sexual instincts, and the differences between the sexes. Thus, sexology was able to draw on the legitimacy of biology and natural history to bolster its claim to scientific status. The second turning point Weeks indicates was the publication of Krafft-Ebing's *Psychopathia Sexualis*. Based on case histories, the number of which multiplied in subsequent editions, the book was so immensely popular that it generated a flood of investigation and publications by other researchers. Following Krafft-Ebing, these works were concerned with tracing the vast array of different expressions of a fundamental and powerful sexual instinct and took the form of minutely detailed catalogues and systems of classification of every conceivable form of sexual perversion. This multitude of abnormalities was each defined as such in relation to a single standard of 'normal' development and behaviour and to a norm of sexual conduct between men and women. The implicit model of normality was the heterosexual male, driven towards the opposite sex by the powerful and overwhelming force of an individualised but natural instinct. "So, the concept of heterosexuality was invented ... to describe ... 'normality'" (Weeks, 1985: 69). Only in inventing and defining the 'normal' did it become possible, as the obverse of the same process, to discover and classify the 'abnormal' as different from it.

Here, Weeks is pointing to a decisive moment in the development of our contemporary knowledge of sex: the discovery of the concept of 'normal' sexuality and the heterosexual male yardstick by which all sexualities were hence to be measured (and evaluated). It is this invention which I claimed above as being so curiously (given its historical significance) omitted from Foucault's account. Thus personified - subsequent to the 'discovery' of *'the homosexual'* as a (perverted) identity in itself, defined in opposition to, and simultaneously defining, the norm - the exemplar of the male heterosexual makes its appearance in the history of sex:

[t]he image of male sex as an unbridled, almost uncontrollable force (a 'volcano', as Krafft-Ebing graphically put it, that burns down and lays waste all around it; ... an abyss that devours all honour, substance and health) is one that has dominated our response to the subject. (Weeks, 1985: 81)

It is this 'figure', so all-important in that others only have meaning by reference to it, that Foucault has overlooked as a "privileged object ... of knowledge" (Foucault, 1980: 105) formed by the naturalisation and individualisation of the sexual instinct. The heterosexual (male) identity was an invention-construction-discovery of nineteenth century sexology. And yet despite its dominance in the work of sexologists and since, Weeks claims that male heterosexuality has been subject to very little investigation in social or historical terms.³⁸ (1985: 190) Of course, if the assumed unity of male sex and masculine identity has been taken as the naturally-given paradigm - by which others are defined in terms of their difference - its aetiology requires no questioning; it simply *is*.

Weeks further contends that the explanations which the sexologists put forward for sexual behaviour and for its diversity of forms in individuals were firmly embedded in an essentialist view of the sexual instinct. Unable to "define its ultimate essence", sexologists were agreed that the sexual instinct(s) was fundamental to the human condition and hence, that it was necessarily 'given' in each individual. Because it was modelled on the 'normal heterosexual male', the instinct was perceived as an overpowering force, the very basis of our being, and hence the kernel of our humanness and our individuality. As conceptualised by the sexologists, then, human beings are first and foremost sexual beings. This view of sex saw it as essentially opposed to social organisation and order and so each individual human trajectory involved an ongoing duel between the driving force of sex and culture. (Weeks, 1985: 81) Lending substance and credibility to these claims, says Weeks, was Darwin's discussion in the *Origin of Species* on the role of instincts in the evolution of species, which provided a crucial input into the development of sexology. Extrapolated to humans, it provoked debate on the origins of behaviour and a search for the driving motor of existence. Speculation centred particularly on identifying the variety of instincts in human beings and the effects of these instincts on their behaviour.

³⁸ A literature on masculine identity - on ways in which it is socially constructed and remade in everyday practice - has begun to appear over the last decade or so. See, for example, Cockburn (1983), Connell et al (1982), Connell (1985), Reynaud (1983).

Some sexologists argued for a single sexual instinct, giving rise to a pansexualist image of humanness although, Weeks maintains, others, like Ellis and Freud, allowed for the sexual drive as one among a number of inherent forces (Weeks, 1985: 83). By theorising in these terms, the latter were better able to account for the psychological and cultural mediation of the sexual impulse. But Weeks argues that the converse of construing the instincts as more generalised impulses was that it became difficult to insist on object choice as biologically determined and, in turn, on heterosexuality as normal by virtue of nature. Yet the sexologists were concerned “to assert the absolute centrality of the heterosexual impulse, rooted as they saw it in natural processes”. (Weeks, 1985: 84) Men and women had evolved differently and so heterosexuality was ‘obviously’ essential to reproduction and evolution.

Hence the enduring paradox: heterosexuality is natural yet has to be attained, inevitable but constantly threatened, spontaneous yet in effect to be learnt. It is this paradox that necessitated the investigation of the true natures of men and women, and of the sexual variations which in all their perverse splendour testified to the instability of instinct alone. (Weeks, 1985: 84,5)

A central project of sexological thought was to explain the differences between the sexes. For Darwin, because these differences operated in the interests of reproduction they required no further explanation: for sexology, however, the differences in reproductive and sexual organs were much more heavily laden with meaning. With the partial exception of Freud, biology was seen as a determining and irreducible social division and immutable differences in gender as characteristic of masculinity and femininity. Whilst the influence of environmental or psychological factors was taken account of in explanations of diverse sexual practices, no such allowance was made in theorising the polarities between men and women: these were insistently deemed to be absolutes. Just as heterosexuality in the sexes was equated with normality, so too was it logical to equate masculine and feminine gender appropriate practices and attributes with the parallel biological divisions. Weeks suggests that “it might well be that dichotomisation is a fundamental mental activity, and certainly gender has long been a fundamental conceptual divide”, but what does change historically and culturally are the *meanings* invested in the cognitive boundaries we draw. (Weeks, 1985: 86) What is not fundamentally necessary, he stresses, is the absolute and exclusive demarcation drawn between genders. Yet these ways of seeing are so ‘obvious’ and ring true to ordinary ‘commonsense’. He argues that instead of being explanatory in themselves, the associations drawn between each sex and a particular set of gender characteristics and appropriate sexual behaviours are social constructs which urgently need explanation. Why was it, he asks, that in the nineteenth century it became so necessary to define and theorise these distinctions, and why was any blurring of them so intolerable? (1985: 85)

Weeks maintains that this emphasis on distinctions and dualisms permeated much nineteenth century theorising about sex and gender. It was as if social order depended on strict divisions and a pristine clarity defining all manner of sexual differences. Moreover, these polar opposites were not merely descriptions; on the contrary, they were loaded with symbolism and hierarchical values.

Vice/virtue, hygiene/disease, morality/depravity, civilisation/animality, nature/culture, mind/bodies, reason/instinct, responsibility/non-responsibility ... women were closer to morality and animality, to body and instinct, to nature and non-responsibility. Men to the opposite. (Weeks, 1985: 87)

The dichotomisation in sexological thought between normal and abnormal led also to a concentration on perverted or deviant sexual practices, says Weeks, most particularly homosexuality. Whereas the Christian tradition had always made a distinction - based primarily on reproductive utility - between allowable and prohibited sexual practices, the emphasis had always been on *the act*. So, whereas sodomy was execrated, a sodomite was merely someone who practised a particular, though vile, sexual practice. Drawing on Foucault, Weeks points to the role of sexology in defining the homosexual as a species, as a particular sort of person. The focus shifted from identifying an act to defining a specific identity. But whereas Foucault argues that the nineteenth century construction of ‘the homosexual’ was an effect of power working to regulate and control sexuality, Weeks suggests that this theorisation, whilst attractive, is too simple. (1985: 93) Instead, he stresses the role of agency on the part of subjects in forging their identities. He points out that a male homosexual subculture existed at least as far back as the seventeenth century in England and even further back in other parts of Europe. He suggests, also, that the sexologists’ concentration on homosexuality was a function of

trying to understand a phenomenon which was *already* becoming apparent in society. Hence, claims Weeks, rather than “creating” the homosexual, the sexologists were responding to an already emerging reality.

Here, Weeks is not claiming that the sexologists were merely reactive, but rather, that the process of homosexual identity formation was *interactive*. Sexology did define the parameters within which male and female homosexuality has since been conceptualised but the definitions were not simply imposed on, and passively accepted by, gay men and lesbians. They in fact provided a conceptual space within which homosexual subjects, as actors, could construct their identities and senses of self, even if they themselves did not define the boundaries within which homosexuality could be thought. Before that, there were no categories established which homosexuals could use to think or understand their subjectivity: they were “defined out of existence” by *not* being defined. (Weeks, 1985: 94) So for Weeks, then, the sexological descriptions provided the means for homosexual actors to recognise and affirm themselves.

Importantly too, part of the sexologists’ project was to enlighten the study of sex in the interests of justice, humanity and law reform. Their faith in scientific progress was also a belief that rationality, knowledge and the uncovering of truth would facilitate social reform in the area of sex. They campaigned publicly against “the inequities of censorship, the marriage and divorce laws, lack of birth control, penal sanctions against abortionists and homosexuals and others”. (Weeks, 1985: 71) Indeed, some of the sexologists (Ulrichs, Ellis, Weininger) were themselves homosexual. Sexology, then, was not only the ‘scientific’ study of sex; it was also a self-consciously social and political reformist movement. Nevertheless, its effects were doubled-edged: whilst it did provide new ways of understanding sex which were mobilised in the cause of reform, much of this was done by pathologising categories of people or practices, submitting them less to legal controls but more to an array of strategies and apparatuses of regulation such as in the practices of medicine, psychiatry, psychology and education. (Weeks, 1985: 181)

The sexologists sought to find the truth of our individuality, and subjectivity, in our sex. In doing so they opened the way to a potential subjection of individuals within the confines of narrow definitions. But these definitions could be challenged and transformed as much as accepted and absorbed. This suggests that the forces of regulation and control are never unified in their operations, nor singular in their impact. We are subjected to a variety of restrictive definitions, but this very variety opens the possibility of resistance and change. (Weeks, 1985: 95)

Philosophical Dualism: Sex Versus Society

Another great and related antagonistic polarisation threading its way through sexological thought - and more latterly through anthropology, sociology and biology - is that between sex and society. (Weeks, 1985: 96) According to Weeks, this debate stems from another associated difficulty: that of identifying the relative determination of biology, psychology and culture in the formation of sexual practices and subjectivities. But as he points out, the pre-given existence of the very elements and the relations between them which are *in need of explanation* are themselves taken for granted in the way these problems are posed. ‘Sex’ and ‘society’, he insists, are not ontologically given categories; rather, they are products of historical processes, constructed in interaction with each other. Their dichotomisation is the result of artificially imposed cognitive boundaries, rather than being a direct reflection of reality as is supposed. Like all other dualisms permeating nineteenth century, especially sexological, thought, they are perceived as contradictory and opposed elements. He claims that this perception has had crucial significance for the way that sexuality and sexual relations have been theorised.

The two major and opposed frameworks which have emerged from the problematic thus conceived, are the “repression model” and the “liberatory model”. (Weeks, 1985: 97,8) In their broad outlines these parallel the two extreme positions in sexual politics, what Weeks refers to as the “absolutist” and “libertarian” models for conceptualising sex, which will be dealt with in more detail below. He argues that the strict demarcation drawn between the sexual and the social prompts searches for “false universals”. This is reflected in the conflicting demands (depending on how the relationship is construed) for tight restraints on sexuality in the interests of social order and stability or for complete hedonism as the avenue to freedom. Whereas both positions accept that the sexual instinct is given by nature, the former sees it as a socially disruptive biological force which needs to be quelled by culture; the latter as potentially liberating of our ‘true selves’ but suppressed by society. Our sexuality, then, is conceived as either biological in origin or as cultural. The question is, asks

Weeks, if a biologically-based framework is rejected, does this imply unproblematic acceptance of a culturalist alternative?

Since the sexologists, there have been various attempts to identify the relation between sex and society which have stressed the dominance of culture in shaping the sexual. Weeks sees two main schools of thought as having emerged within this tradition: one within anthropology and sociology, and the other in ethnology. But he argues that neither deals adequately with the complex processes at work in “the making of sexuality”. (Weeks, 1985: 99)

In anthropology, Bronislaw Malinowski, influenced by the work of the sexologists (and particularly Freud, although he later rejected psychoanalysis because of its insistence on the trans-cultural applicability of the Oedipus complex) embraced an instinct model of human sexuality. He saw sex as a “dangerous” and powerful force which needed to be tightly controlled and channelled by cultural practices. (Weeks, 1985: 102) For Malinowski, then, instincts were potentially dysfunctional for society. Hence, he posed a more malleable sexual instinct which could be shaped and regulated by cultural norms and taboos into appropriate, positive social behaviour. The study of diverse customs and practices in ‘primitive’ societies made it apparent, however, that the way this was achieved was distinct to each culture. This led him to a cultural relativism in which each society was accepted and studied in its own terms and within its own system of meanings and intelligibility. It also entailed the rejection of a single model of human development spanning all cultures. (Weeks, 1985: 101) But Weeks says that as a consequence, any attempt to explain the historical development of cultural formations was seen as unnecessary. Instead, the emphasis in anthropology turned to intensive and detailed field work in which the aim of the researcher was to thoroughly immerse him or herself in the culture and all its distinctive shades of meaning and customs. (1985: 103) Furthermore, argues Weeks, Malinowski operated with a model of the instincts which prevented him from breaking out of a framework which posed sex and society as dichotomies. Whilst, on the one hand, he allowed for a certain malleability of the instincts as necessary for adaptation to particular circumstances; on the other, he assumed certain instinctual tendencies to be fixed and therefore impervious to any cultural influence. For him, instincts were construed as ‘needs’ and, in classic teleological functionalist terms, he saw the function of culture as ensuring the satisfaction or the repression of these needs as appropriate, as crucial for the attainment of adult genital heterosexuality. (Weeks, 1985: 102) As Weeks points out, this simplistic view of the instincts neglects the radical insights in Freudian psychoanalysis whereby the attainment of adult heterosexuality is seen as problematic and in need of explanation rather than being viewed as the result of instinctual givens which culture is organised to ensure.

It was Malinowski’s position on instincts which was the target of a critique of his work by cultural anthropologists such as Ruth Benedict, Franz Boas and Margaret Mead. (Weeks, 1985: 103,5) This school totally rejected any form of biological determinism at work in human development or the production of culture, but posed instead - if implicitly, suggests Weeks - a universality of human *psychic* characteristics. In the work of Boaz, for instance, this had both a theoretical and political impetus: the former in the emphasis given to Durkheim’s insistence on the autonomy of culture and the latter in an explicit rejection of the eugenics movement so influential in the USA in the early twentieth century. By emphasising cultural determinism, it challenged prevailing racist doctrines which saw certain races and nationalities as innately inferior. Influenced also by behaviourism, it stressed conditioning as the pivotal determinant of psychological development. Margaret Mead’s pioneering ethnographical work was undertaken as an intervention in contemporary debates in America about the universality of patterns of adolescent development and intergenerational conflict. Based on her research in Samoa, she stressed the dominance of culture over any alleged human nature by showing that certain characteristics and patterns, taken for granted in western societies as ‘natural’, were not indeed universal. (Weeks, 1985: 106) She demonstrated that the experience of sexuality, patterns of development, the content of sex roles, and even gender itself, could be different in other societies.³⁹ Nevertheless, she ended up by arguing for the necessity of cultural distinctions between the sexes in terms of ‘complementarity’ but gave no explanation as to why this was supposedly necessary or of how these differences came about. The irony of this failure, contends Weeks, is that Mead implicitly falls back in

³⁹ Recent criticism of her research in Samoa by Derek Freeman does not negate the influence that this work had at the time and since.

the end on biology as the final determinant. Even though her whole project was to challenge taken-for-granted assumptions about sexuality and sex roles ultimately, she herself could not question the sex-role divided family unit “as the irreducible pre-given norm of social relations”. (Weeks, 1985: 107).

The contribution of the anthropologists was, nevertheless, of considerable importance, asserts Weeks. By demonstrating the diversity of cultural forms it threw into stark relief the inadmissibility of many assumed universals allegedly underlying social organisation. This opened the way to a questioning of social, sexual and moral norms as absolutes, particularly those regulating gender characteristics and sexual behaviour. But lacking an historical consciousness, anthropology was not in a position to explain the origins of the family, gender differences, social change or patterns of sexual behaviour and relations. This opened a theoretical gap which inevitably invited explanations in terms of biology or psychology. (Weeks, 1985: 108) Weeks suggests that this gap derives from a totalising view of ‘the social’ common to the work of both Malinowski and his culturalist critics:

... culture is taken to be a unified whole, expressing a common spirit, which moulds and organises the givens of human nature or the psyche.... As a result the complexity of the social, its ever-partial and provisional unifications of disparate social practices, relations and discourses, its contradictory effects in the constitution of individual subjectivities, is lost. (Weeks, 1985: 107,8)

The ‘Science’ of Sociobiology

This theoretical vacuum is presently being exploited by the naked biological determinism of sociobiology, a recent development in total contrast to the cultural emphasis of the anthropologists. Although it only emerged in the mid 1970s, and hence postdates the era of permissiveness, its appearance has been propitious for those determined to combat and reverse the moral and social decay they see as having characterised the last several decades. Because of its exclusive focus on nature as the source of all forms of social, sexual and gender organisation, sociobiological knowledge has been seized on by anti-feminists as ‘scientific’ evidence for the inevitability, and necessity, of a sex- and gender-divided and hierarchical society. Thematically, it follows on from the sexologists and the anthropologists - its basic formulations being centred on the relation between nature and culture and between sex and society - and therefore I will deal with it at this juncture, before proceeding on to Week’s account of permissiveness and the moral absolutist backlash.

Sociobiology is a new synthesis which grandly claims to explain all social institutions and behaviour by reference back to human genes.

So, everything from jealousy and spite to feudalism, entrepreneurial skill, xenophobia, male domination and social stratification, from hair colour to sexual patterns, are dictated by the human genotype, the particular assemblage of genes selected and preserved in the course of evolution. (Weeks, 1985: 109)

Evolution, as ‘survival of the fittest’, is re-interpreted by sociobiologists, not in terms of species or even individual survival, but in terms of the gene. Hence, those genes which are successful in each generation - in that they are reproduced - unite with other survivors, thus producing an assemblage of the more successful genes. Genes, then, according to this emergent discipline, are characterised by selfishness; they are in competition against others for their survival and reproduction and multiplication. As one sociobiologist, Richard Dawkins, puts it:

We are survival machines - robot vehicles blindly programmed to preserve the selfish molecules known as genes. (quoted in Weeks, 1985: 112)

But sociobiology is no mere metaphor for the process of evolution, asserts Weeks; it goes much farther, subsuming all individuality, culture and forms of social organisation in its cosmic explanation. The latter are merely constructed by individuals in the pursuit of means for ensuring genetic success, it claims. Needless to say, sex is seen as merely functional, or more correctly, as indispensable to gene survival. According to the sociobiologists, we have evolved as two different sexes requiring each other for reproduction only because this arrangement allows for diversity and hence adaptability. The explanation for sexual difference, then, is simple, fundamental (and reductionist): two-sexed reproduction is the most efficient arrangement for ensuring survival of genes. Yet the relationship between sexual partners is ambiguous, claims sociobiology. On the one hand it is antagonistic in that both have different gene pools. Furthermore, partners have contradictory sexed

natures. Males are naturally promiscuous because they have a vast number of sperm all carrying their genes and hence, they have an interest in maximising the 'spread' of these. In contrast, females are by nature monogamous; with few ova they incline towards saving energy and conserving. On the other hand, the relationship is one of mutual exploitation. Each 'uses' the other to enable gene reproduction. Also, bonding ensures that offspring (reproduced genes) have a better chance of survival. (Weeks, 1985: 112,5)

Hence, all the gender characteristics which are commonly linked with each sex are taken by sociobiologists not only to be biological in origin but to be efficient adaptations. And, despite the fact that sociobiology has been used by others to justify sexism, racism and other social inequalities, Weeks observes that sociobiologists remain unmoved. They simply deny any political intention in their work and fall back on the claim of objective scientific impartiality. (Weeks, 1985: 116)

Although sociobiology arose from within the discipline of biology, Weeks claims that most biologists and evolutionists reject it. It has been subject to strenuous immanent critique, most fundamentally for its reductionism and its imperviousness to verification or falsification. (Weeks, 1985: 115) For Weeks, however, its significance lies elsewhere; in the scientific credence it has afforded the long tradition of biological determinism and in the popularity it has engendered since its beginning in 1975 (with E.O. Wilson's initial publication, *Sociobiology: the New Synthesis*). The fact that within such a short time it could attract considerable lay attention, Weeks suggests is testimony to the attraction of such a theory; one which purports to explain domination, exploitation and inequality as unavoidable, indeed necessary to the 'natural' order of things. Sociobiology, he asserts, is a radical and pseudo-scientific justification for the political *status quo*. If the critiques - and there are many - are ignored, it provides a total, but wonderfully simple, explanatory framework for all of the intricacy, contradictions and diversity of social and sexual organisation, relations and patterns of behaviour. No sociological theory, contends Weeks, could hope to match its lack of complexity and purported explanatory power. Furthermore, sociobiology's 'commonsensical' explanations about the nature of gender and heterosexual pair relations appeals to what most people already 'know' anyway. (Weeks, 1985: 117)

Consequently, it lends itself well to anti-feminist rhetoric. If male domination over women *is* deeply grounded in nature and therefore inevitable, feminist claims for equality are, *ipso facto*, doomed to failure. Similarly, the feminist critique of masculinity is pointless and irrelevant if men really *are* aggressive by nature and less nurturant. If the limits on equality between men and women are fixed by nature and genetically programmed, any rationale or justification for social policies aimed at mitigating sex inequality is automatically indefensible. (Weeks, 1985: 118)

As we shall see in Chapter Eight, sociobiological concepts and the form of reasoning which the discipline employs have been avidly incorporated into anti-feminist discourses. In fact, it has provided the legitimacy and framework for a forceful new *secular* anti-feminist discourse within the New Right, one which does not rely on (nature as) God, nor on appeals to morality as the basis of social order. Instead, it calls on science - which everyone 'knows' deals only in 'objective' facts - to argue for the inevitability, indeed the necessity, of male domination, and of clearly demarcated (traditional) sex roles and masculine and feminine characteristics. 'Fortuitously', this scientifically-based anti-feminism sits happily with, and complements, the theological-moral discourse against gender equality which centres on the (divinely designed) nuclear family. Also, whereas the latter is propagated mainly by women, it shall be apparent that these sociobiologically-inspired anti-feminist discourses are propounded and articulated by men; particularly male 'experts' privileged, by their academic qualifications and standing, to speak the 'truth'.

But as Weeks comments, it is not just anti-feminists who have found sociobiology attractive. (1985: 118) Certain feminist and homosexual elements have been seduced by its appeal, albeit for reasons different from the New Right. The recently emerged 'cultural' feminism - so ably critiqued in Segal (1987) - argues a position which extolls the superiority of women's essential differences from men. Writers such as Mary Daly and Adrienne Rich don't merely accept that there are biological limitations on gender; they actually glorify certain qualities - such as nurturing, gentleness, intuition - which they claim are the essence of woman. The doctrine of sociobiology has also found acceptance amongst sexual minority groups. Homosexuality would at first sight appear to be a strong invalidation of the thesis of 'the selfish gene'. To explain away this powerful

contradiction, Wilson claimed that homosexuality was actually functional for genetic success. Because homosexuals have no responsibilities to offspring, (their own reproduced genes), they are especially well placed to put their energy into assisting relatives, thus ensuring that the genes they hold in common will survive and flourish. With this tenuous bit of finagling, homosexuals are decreed 'born, not made'. Therefore, as products of 'nature', sexual minorities can justly claim equal rights. (Weeks, 1985: 119)

For all the public debate over sex, sexuality, and sexual relations which marked the period before the emergence of sociobiology it was still possible, says Weeks, for a branch of the 'scientific' study of sex to appear which was, if anything, more firmly rooted in nature than the work of the sexologists. If moral absolutism is the social backlash against the permissive era, sociobiology could be said to represent the scientific reaction against it. This suggests that in terms of fundamentals, the upheavals of the sexual liberation movement did little to alter the dominant sets of understandings in which sex was conceptualised.

In fact, with ways of thinking about sex locked into dichotomous polarities and nature construed as the fundamental explanatory principle, it was not the emergence of any new 'truths' about sex which prompted the shifts and changes characterising the "permissive moment". And although the meanings and value judgements governing sex and its regulation were vehemently challenged as an integral part of the 'sexual revolution', the basic assumptions about its aetiology remained largely unquestioned.

The Characteristics and Contradictions of Permissiveness

Dismissing the simple calendar periodisation of the 1960s decade Weeks relocates the 'permissive' era in the years from the mid-1950s to the mid-1970s, acknowledging variations between countries and the relevance of national specificities as well as international influences. (1985: 21) He maintains that there was no unified set of causes or strategies precipitating the swing towards the counter cultural or sexual 'liberation' movements, but rather a complex amalgam of economic and social factors. He identifies four principal areas as important both in the changes and in producing the conditions giving rise to the subsequent reaction against the alleged 'excesses' of the period.

One major transformation of the period, he claims, was the colonisation of sex by the market: the commercialisation and commodification of sex through the expansion of consumer capitalism in the post-war boom. (1985: 21) As some of the most salient instances of this transformation, Weeks points to specifically sex-oriented commodities and particularly to Heffner's *Playboy* magazine, sold as a thinly-veiled accompaniment to masturbation, as well as to sex therapy, the "modernisation" of prostitution and to sex manuals.⁴⁰ But possibly more significant was the technological development of effective birth control measures (for the market rather than *for* woman) which, as Weeks observes, allowed for the splitting off of sexuality from procreation and hence for expansion of the pursuit of pleasure. (1985: 24) He says that the elevation of erotic pleasure as an end in itself provided for new market potentialities and opportunities. Courtship itself became an industry with the proliferation of commercialised meeting places - dance halls, discos, bars - facilitated by the greater mobility provided by an expanding motor vehicle industry (and including venues specifically dedicated to homosexual liaison). Intervention by the market into the hitherto relatively private realm of sex meant not only its commercialisation but also, says Weeks, the eroticisation of much of everyday life. Sex came to pervade everyday life through television, films, newspapers and magazines and through a new emphasis in clothing and fashion, music and entertainment. The distinction between public and private was eroded by an extension of what was defined as publicly permissible.

Weeks points secondly to a "shift in sexual relations" (1985: 25) between men and women brought about largely through the new emphasis on the sexuality of women's bodies in advertising and by the promulgation of an ideology and lifestyle stressing sexual liberation. Just as potent, if less immediately obvious, was women's increased participation in the workforce. This provided the extra income essential to the expansion

⁴⁰ It is arguable that an influence just as pervasive - especially in terms of sex as the core of identity - is what John Berger (1972) describes as stealing one's image and selling it back in the form of a product. Berger points out that a distinctive feature of much advertising is that it operates to make the perceiver mildly dissatisfied with her or his own self image, the wholeness of which it promises to restore with the purchase of a particular commodity. What is being sold back is 'glamour', sexual desirability or qualities definitive of personal (particularly sexual and gendered) identity.

of consumer capitalism; women, in fact, were the primary targets of the boom in consumption. But in emphasising that women's increasingly important role as workers allowed for their new economic function as consumers, Weeks does not take sufficient account of the emerging reality of a growing economic independence amongst working women. It is arguable that the actuality, or the possibility, of financial independence from men has been a powerful element in the construction of a diversity of feminine identities over the last several decades and thus a factor in the determination on the part of many women to take control of their reproduction and of their sexuality. Weeks does claim that there is ample evidence to indicate changes in women's actual sexual practice during this period and points, for example, to the high incidence of pre- and extra-marital sex for women. Nevertheless, he says, the "sexualisation" of women was both contradictory and double-edged. The image of woman as sexual person and partner vied with that of her as mother and companionable wife. (1985: 25). Likewise, whereas there was undoubtedly more scope for sexual experience and enjoyment by women, sexual liberation in the main benefited men and was defined within the parameters of male desire and pleasure. The two processes bearing on women's sexualisation - 'liberation' and consumption - intersected in "the material reality of family life". Weeks says that given their subordinate position in the labour market, marriage remained the source of women's economic security and status. And, as he expresses it, the "ideology of voluntarism" surrounding the marriage relationship veils what is often a reality of "iron determinism, especially for women: economic, cultural, moral - and sexual". (1985: 27).

Yet, he says, historically, a new element has entered into the definition of the 'proper' marriage. The traditional idea of marriage which had evolved over the last two centuries was of a union based on the free choice of partners. But it was not until fairly recently - with the influence of the sexologists in the 1910s and 1920s - that sexual intimacy and fulfilment came to be seen as an important ingredient of that union; and then - in the post-war period - as the defining characteristic of marriage choice and success, "whatever the reality", says Weeks. (1985: 27) This shift has not been merely in the realm of ideas or attitudes but one firmly rooted in a changing material reality: alterations in patterns of work and urban living, attenuated neighbourhood and community and kinship ties and, more recently, the expansion of suburbanisation and the privatisation of family life. One upshot of these processes has been the inordinate concentration on marriage (or coupling) as the central medium for personal and sexual happiness. Yet, argues Weeks, such high expectations have also become the source of burdensome pressures witnessed, for instance, in the increasing proportion of marriages that end in divorce. As he says, "sex has become the cement that binds people together". Ironically, it is also a very fragile basis for a relationship. (1985: 28)

Such shifts in the field of sexuality elicited a variety of responses. Whilst these differed between countries and cultures, legal controls regarding sex became a common area of contest. It was this agitation around the "regulation of sexuality" that Weeks sees as the third important characteristic of the politics of sexuality during the period. Through the 1960s and 1970s most Western societies, in one form or another, liberalised laws in respect of abortion, censorship and homosexuality. The most thoroughgoing reforms, and the earliest, were achieved in Holland, West Germany, Sweden and Denmark. A primary impetus for change in Britain was the Wolfenden Report on homosexuality and prostitution published in 1957 (Weeks, 1981: 239). Although regretting a decline in moral standards, the Report advocated a utilitarian approach to the control of sexuality. The aim of the Committee was not liberalisation *per se*, but the exploration of various forms of control and regulation with a view to identifying that which was most effective. A central principle spelt out in the Report as guiding the Committee's investigations and recommendations was that the state should intervene in private life only to the degree that it was necessary to prevent harm to others. The conservative view, that a function of the law was to impose a particular moral code and form of behaviour on society, was rejected in favour of the argument that its purpose was the maintenance of "public order" and the protection of the vulnerable and weak. (Weeks, 1985: 242). Outside of those provisos, then, the Report accepted that the law had no concern with private life. Yet, paradoxically, whilst it argued that the legal code forfeit its regulation of *private* morals, it allowed for a strengthening of control over *public* displays likely to cause offence. For example, the first legislative initiative based on Wolfenden (1958) decriminalised prostitution whilst simultaneously tightening controls over public soliciting. Weeks points out that this move to "privatise" prostitution had the double effect of hiding it from view whilst exacerbating the "commercial exploitation" of prostitutes through an expansion of brothels and call-girl agencies.

In Britain, other legal changes followed: obscenity was liberalised in 1959 and 1964, male homosexuality and abortion in 1967, theatre censorship in 1968 and divorce in 1969. (Weeks, 1985: 30) The legitimate limits of legal intervention in personal behaviour and its effectivity were constant themes running through debates over the changes, rather than an unqualified commitment to personal freedom. Weeks argues that such reforms (and similar ones in other western European countries) also represented:

... a clear shift from laws rooted in religious moralism or even deriving from ecclesiastical precedents, to new forms of regulation dependent upon more utilitarian calculations. The secularisation of the law was perhaps the most significant feature. (1985: 29)

In the United States the principles at issue were different: the rhetorical strategy within which struggles were fought was grounded in the language of 'rights'. (Weeks, 1985: 29) Unlike Britain, the USA is a federation of States and criminal law governing sex and related matters is the province of individual States' legislation. Also reflecting that nation's historical origin, the constitution itself embodied "an official secular ideology". And, in marked difference to the British constitution, it guarantees to its citizens specific rights which cannot be overridden by legislation. Whereas in Britain, then, struggle took the form of campaigns, lobbying and coalitions at the Parliamentary level to achieve statutory changes, in the USA States laws were challenged in the courts on the grounds of infringements of rights guaranteed by the constitution or even in an attempt to have new classes of rights instated in the constitution, as in the campaign for an Equal Rights Amendment on the grounds of sex. To exemplify the differences between the countries Weeks indicates the case of abortion law reform. The English Abortion Act of 1967 - the result of "delicate manoeuvring, parliamentary persuasion and political stealth" - did not remove abortion from legal control but placed its administration in the hands of medical practitioners who became responsible for deciding if it was justified in each case; in contrast, the American campaigns succeeded in having States' abortion laws declared invalid by the Supreme Court in 1973. (Weeks, 1985: 29,30)

As later chapters will demonstrate, the abortion reform movement in Australia gained much of its impetus from events elsewhere and the debate borrowed from the discursive parameters already articulated in both the UK and in the USA. The question of the state's right and its duty to intervene in private life and matters of morality was a central issue but so too were claims made from the discourse of rights. Australia, like the USA, is a federation but its constitution does not allow for challenges to State criminal law. This meant that campaigns for reform had to be mounted on a State-by-State basis. As well, the Commonwealth Government has responsibility for the Territories' criminal codes. Thus, whereas at the beginning of the 1960s each State and Territory had roughly similar legislation on abortion derived from British law, by the mid-1980s abortion in Australia is governed by an array of diverse statutes and case precedents. Moreover, as will be demonstrated, this outcome is the result more of inter- and intra-political party agendas than of the substantive issues and principles at stake in the abortion debate or, directly, of the campaigns for reform.

In neither Britain nor the USA (nor, we could add, Australia) was anything like full liberalisation of legal controls over sexuality achieved. Yet, as Weeks points out, those reforms which were won had enormous symbolic value, both to their supporters and their opponents, and represented - at the highly formal and tangible level of the law - a host of other social changes occurring around sex and morality. Here, Weeks is making a very important point, and one borne out by the analysis in this thesis. Not only did legal changes matter symbolically and provide a specific aim for struggle (or resistance), they were concrete goals or events on which media - and therefore public - attention could focus. In their tangibility they provided an overt and eventful substance which the press media latched onto as 'news', and in that process, legal change, or attempts to achieve it, became converted into the public face of the politics of sexuality. Furthermore, the legal status of abortion (or homosexuality, or pornography, or prostitution) has very real effects at the level of experience or even identity for those involved. Not only does it have a bearing on all the actual conditions of the practice (or the way homosexual subcultural life is organised, or the market in, and procurement of, pornography or prostitution) but it is a powerful influence in shaping the meanings attached to these practices or activities and even to definitions of the self.

The final change which Weeks sees as characteristic of the period between the mid 1950s and 1970s was a transformation of what was defined as 'political'. Due in part to the increasing complexity and

bureaucratization accompanying the expansion of state activities since the War and to the consequent emergence of conflict and resistance over issues like housing, welfare and health, whole new areas of social life became intensely politicised. He says that in these processes of change older areas of conflict - class, race and ethnicity - took on new dimensions and threw up new political movements and forms of struggle, as in the case of the black civil rights movement in the USA or of opposition to the Vietnam War. Influenced by those processes and by shifts in gender relations and controls over sex, the late 1960s saw the emergence of the women's and gay movements, with both, but particularly the former, unequivocally pushing 'the personal' onto the political agenda. Weeks argues that this "has profound implications for the future of democratic politics" in that it raised to the fore the issue of "*sexual* democracy" (1985: 31, emphasis in original). Further, it has led to a questioning of the legal and moral control of sex in terms of *justice*, counter-posing against such sanctions the right of individuals to self determination and, by emphasising *collective* organisation, proposed alternative forms of political mobilisation. Hence "questions of identity, pleasure, consent and choice", hitherto incomprehensible in political terms, have become pre-eminent public issues. Although emerging from the broad-Left, the new movements challenged traditional class politics as well as the stranglehold over morality held by authoritarians. But Weeks points out that in the late 1970s and early 1980s it was the latter - the moral authoritarians - who were able to respond most effectively to all these changes by constructing a 'new' Right-wing politics of their own to counter the successes, or as seen by them, the excesses, of the "sex progressive" movements. Meanwhile, the Left was floundering: it was incapable of adequately dealing with the politicisation of sex and was even less able to mobilise a coherent theory or practice against the threats emerging from the Right. At the present time, claims Weeks, it is the moral authoritarians and the New Right who are re-writing the political agenda.

Yet what is curious about this, he says, is that they have been able to do so at the same time as general support for liberalisation of sexual morality and controls has been growing and still "*continues to grow*". (Weeks, 1985: 33, my emphasis) To support this claim Weeks points to various opinion polls conducted between the late 1970s and early 1980s which showed increased acceptance of abortion, and argues that homosexuality was also the subject of increased toleration, if not actual acceptance. (1985: 36) But to some extent, Weeks undermines his own claim on this point when he later argues that the AIDS epidemic has provoked a 'moral panic' directed at the victims of the disease - the homosexual community - rather than at the disease itself. (1985: 45) This suggests that much of the new toleration towards homosexuals achieved in the 1970s was tenuous and tentative. Weeks observes, quite rightly, that AIDS has provided the Moral Right with the perfect weapon for a campaign of "fear and loathing" against homosexuality and homosexuals. But, as media reports over the last several years make apparent, this re-emergent aversion towards, and discrimination against, homosexuals is not limited to supporters of the Moral Right: it is pervasive within the community at large. The example of abortion is a qualitatively different one, despite it being perhaps the central moral issue as far as the New Right is concerned. Unlike homosexuality, abortion is not just the concern of a marginal group or an activity associated with only a small minority. Like contraception before it, abortion is an issue in which many heterosexuals recognise that they themselves, or members of their families, have, or could have, a stake. Abortion not only allows control over the possible consequences of sexual acts and over the number and timing of children; it also destroys evidence of illicit or teenage sex, prevents public shaming and avoids 'ruining' the lives of pregnant adolescent girls. Parents, in particular, are often more than willing to have their daughter resort to abortion in preference to her having a baby. Indeed, it is likely that the more an ex-nuptial pregnancy is perceived as disastrous or shameful, the more abortion is an attractive option. It is arguable, then, that tolerance of abortion is not necessarily correlated with a liberal attitude to sexuality in general. Even preparedness to have an abortion is of itself no indicator of a favourable disposition towards liberalisation of sexual codes or sanctions *per se*.⁴¹ Conversely, prejudice and sanctions which only target minority groups show real signs of being able to secure a growing popular support as they do not infringe on the interests of the majority of the populace, as the growing gay phobia shows. Similarly, in the 1980s there has been an acceleration of demands for tightened controls against other activities only

⁴¹ See Chapter Seven for the results of a survey commissioned by the Catholic Church which showed that Catholics have abortions at the same rate as non-Catholics and that even members of the Right to Life had admitted to having the operation at the same time as they continued to actively campaign against abortion.

participated in by a minority, such as pornography and prostitution, a reaction against feminism and feminists, and in another vein altogether, a renewed and vocal resentment against minority ethnic groups.

Whether Weeks is right or not about increasingly liberal public attitudes, he grants that when Ronald Reagan was elected in the USA (1980) and Margaret Thatcher in Britain (1979) there was sufficient groundswell of support for traditional virtues and morals for it to be seized on and mobilised electorally. In the USA this was particularly the case, he says, and issues overtly coalescing around sexuality were ingredients in Reagan's success. Jerry Farwell's Moral Majority (and others such as anti-abortion campaigners) backed his bid for the Presidency, seeing the opportunity to turn around the accumulated changes of a decade of permissiveness. Many ingredients of the New Right's policy, however, were not in fact 'new' - they dated back into the 1960s or even before (Weeks, 1985:37) - but its emphasis on issues related to the family, morality and sexuality provided a convenient point for drawing together concern about other issues: "the economy, race, law and order, defence".

'Social issues' ... provided an ideological framework through which to construct and organise a potentially powerful mass base, to articulate genuine social anxiety through a referential system in which 'sexual anarchy' became the explanation of social ill. (Weeks, 1985: 34)

Anti-Permissiveness and Economic Crisis

In explaining the emergence onto the political centre stage of social and moral issues primarily as a backlash against a decade or so of 'permissiveness', Weeks fails to take adequate account of the importance of material circumstances in generating the ideological conditions fertile to a right-wing seizure of the moral ground. This is a curious omission on his part as he is well cognizant of such factors in social change and has elsewhere (1981) stressed the necessity of taking them into account. And earlier, he discussed the economic and social transformations precipitating the era of permissiveness (1985: 21). He does make passing reference to the reaction against 'sexual anarchy' as symbolizing a more dispersed anxiety about a wider range of social ills, such as the economy, defence, law and order. But I would insist that these have been decisive factors in splitting open a gap favouring the production and dissemination of moral-religious discourses invigorated in their new Moral-Right form, and particularly those which link moral turpitude and decline to economic and social problems and policy.

Since the early 1970s the economies of most Western nations (not to mention those of developing countries) have been sliding inexorably into crisis; lurching from recession to mild but artificial recovery and then back into deepening recession. Simultaneously, high inflation and unemployment, depressed productive investment, low growth rates or high inflationary growth (that is, growth unaccompanied by increases in productivity) confounded orthodox economics. In the face of stagflation neo-Keynesian prescriptions faltered and monetarists, supply-siders and economic libertarians stepped in to fill the theoretical vacuum. Although spectacularly unsuccessful in producing the means necessary to restore the 'good times', the new economic doctrines have achieved ascendancy in one form or another. Crucial to this has been the electoral appeal these ideas have generated when translated into the policies of political parties. I would argue that the clue to this success lies in the way that they have so easily tapped into 'commonsense' myths, prejudices and greed and into fears and insecurities engendered mainly by economic downturn and the social changes linked to it, such as inflation, unemployment, rising costs, increasing crime and violence, drugs. In the case of the USA, a perception of diminished American prestige and power internationally also fed into the reactionary shift.⁴²

Voters in 1980 were certainly expressing revulsion at what they perceived as an assault on traditional moral values. That particular beachhead, however, had been established over a decade before, and the evangelical preachers had been fighting ever since to enlarge it, but with no great success. Not until a general backlash mood swept the country, precipitated by such matters as the Persian Gulf and the

⁴² Similarly, the reaction amongst many Britons to Thatcher's 'decisive' handling of the Falklands War and the surge of national pride at the victory was adroitly linked by her to the idea of strength of national and moral character and was a potent factor in her re election.

inflation rate, did the moral issue become an election factor, symbolizing for many the whole downward drift of the nation.⁴³ (Lipset & Raab, 1982: 63)

Thus, economic and political changes cleared a space receptive to the Moral Right's exhortations against social and moral disintegration.

Importantly, those espousing the new economic doctrines have advocated strong and uncompromising measures by 'tough' leaders and an end to the 'wishy-washy' (and expensive) welfare reformism of the post-war years. Significantly, those targeted by the new 'post-ideological' pragmatism have been the poor and the weak or those who through collective action (especially trade unions) are seen to interfere with the semi-magical power of the market mechanism to achieve optimum economic conditions. Programmes of social justice or equity have been castigated, not merely as failures in their own terms, but as largely to blame for contemporary economic ills in having led to massive expansion in the size of governments, to overtaxing and deficit spending. It is alleged that excessive taxation has removed the incentive for entrepreneurs, investors and workers; that easy access to welfare income has encouraged unemployment and marriage breakdown and led to the demise of the work ethic. Unions have been blamed for excessive wage gains, which economic 'rationalists' claim have both fuelled inflation and further sapped the profits of business, allowing little return for reinvestment in productive activity. Conversely, in line with what is almost a mystical faith in free markets, constraints and regulations inhibiting the actions of the economically powerful have been eased.

Thus, for almost a decade-and-a-half Western societies have been plagued by an economic crisis which has deepened over the time rather than eased, creating a generalised sense of anxiety and uncertainty. I think the backlash against 'permissiveness' has to be understood in this context. It has roots in common with a surging intolerance of welfare 'excesses' and the supposed taxation drain financing them. A telling example of those links is the widespread prejudice in Australia against single parents on Supporting Parents Benefit.⁴⁴ Similarly, in the USA this is the group which was most persistently targeted by the New Right both for funding cuts under Reagan and as the subject of anti-welfare diatribes. As we shall see in Chapter Eight, New Right ideologists such as George Gilder blame an astonishing array of America's social ills on 'women on welfare' and, in doing so, link the phenomenon to sexuality and the damage allegedly done to masculine identity by the women's movement.

The linch pin between dismal economic conditions and the rejection of, and disillusionment with, sexual liberalisation can be summed up in one word - discipline: preferably self-discipline, but failing that, discipline externally imposed. Moral authoritarians are able to play on a generalised community sense that *other* people (the self-indulgent, the idle, the poor, the workers) should 'pull their weight', become more self-reliant and independent and make the sort of sacrifices required by the 'national interest'. And of course, sexual permissiveness or indulgence is the very antithesis of discipline. Margaret Thatcher tapped the underlying mood perfectly when she called for a return to "Victorian virtues". In almost a direct reversal of earlier times,

⁴³ The Moral Right takes a very hard-line position in favour of strong national defence and nuclear armament. In Australia, where many clergy and churchgoers have been very prominent in the movement for nuclear disarmament, the Festival of Light's Fred Nile has condemned the Palm Sunday peace marches as 'communist inspired' and alleged that those church groups who participate, though well meaning, are dupes of an international Soviet conspiracy.

⁴⁴ This prejudice has been whipped up by media attacks which have managed to imply that beneficiaries are promiscuous girls who have had babies merely to enable them to qualify for government 'handouts' (despite the fact that only a very small minority fit the stereotype of unmarried teenage mothers). Women with children, but without husbands, are defined as 'sexual' rather than as 'mothers'. Therefore, it is often popularly presumed that they have boyfriends 'on the side' but prefer to 'bludge' on welfare rather than be (properly) supported by those men with whom they have sex. The same assumption informs the Department of Social Security in its relentless policing of the sexual lives of beneficiaries. Thus, amendments to the Social Security Act in 1989 placed on the client the onus of proving that she *wasn't* sleeping with a man. If beneficiaries were previously married, they are seen as failing in their duty as mothers by 'choosing' marital breakdown (and financial support by the taxpayer) rather than working at their marriage for the sake of their children. (This prejudice is consistently hammered by Moral Right organisations as we shall see in Chapter Eight) The 1987 Father of the Year in Queensland advocated publicly that all sole parents should relinquish their children for adoption thereby saving millions of dollars in welfare, providing infertile couples with children and the children themselves with proper family environments. Implicitly, his proposal suggests that single mothers don't have the maternal instinct that 'proper' (married) women do, that their offspring reflect the women's sexuality rather than their maternalism, that therefore they are unfit to be mothers or to expect welfare assistance from the taxpayer, and that childless couples have a 'right' to the progeny of ex-nuptial unions.

electoral success has become contingent on political parties and leaders convincing voters that they are prepared to take the necessary 'hard decisions', including cutting or chopping long-standing social programmes.⁴⁵ Economic media commentators warn the populace that if it does not make the sacrifices demanded, or allow the government to do it for them, "the international financial markets will step in with a *discipline* of their own".⁴⁶

In the amalgam of moral and economic New Right doctrine, then, economic decline represents not merely a crisis in international trade and finance, or in burgeoning fiscal and balance of payment deficits, but the inevitable consequence of the moral abyss into which western societies sank in the 1960s and early 1970s. In her inimitable style, Thatcher expresses this nexus succinctly:

We are reaping what was sown in the sixties. The fashionable theories and permissive claptrap set the scene for a society in which the old virtues of discipline and self-restraint were denigrated. (quoted in Weeks, 1985: 18)

The point argued here is that the ascendancy of moral authoritarianism cannot be adequately explained only in terms of an ideological backlash. Its roots are squarely located in the same shift in material conditions which have allowed New Right economic doctrines, and politicians espousing them, to seize the initiative. Both are parallel manifestations of a new popularism which has been able to lock into deeply-seated fears, anxieties and longings for definitive certitudes. This widely-experienced sense of unease has been generated out of the eclipse of a sense of order and continuity by an apparent turmoil and a perceived threat of chaos. One item on the New Right agenda, especially that of the moral authoritarians, is to demonstrate for legislative and electoral purposes the incontrovertible connection, as they see it, between moral and economic decline. The alliances and coalitions between both persuasions have been or are being forged: what remains is to draw out and make explicit in public consciousness the links already grasped intuitively. In the UK, and more particularly in America, they have had considerable success in this project: in Australia there have already been several specific attempts to emulate that success, the most concerted of which has been the import of New Right luminaries to demonstrate the coalition of interests between the moral and economic arms of neo-conservative politics. This will be dealt with in detail in Chapter Eight.

Defending the Family

Correctly, I think, Weeks identifies "defence of the family" as the unifying theme around which anxieties about social anarchy and moral breakdown converge. (1985: 39) 'The family' is an emotive catch cry of powerful symbolic value; for most people it is the locus of a ferment of passions and desires. Family relations conjure up deep emotions of love and hate, security and anxiety. The preservation of what it sees as the 'natural' family with 'traditional' values and roles is of central importance to fundamentalist Christianity, the prime breeding-ground for the new moral politics. Whilst orthodox Christianity's accord a good deal of importance to the family, for fundamentalists the institution is invested with an almost sacred status, encapsulating, in its ideal form, all that is pure and good, and serving as a bastion against evil and disorder. As I have argued elsewhere, for fundamentalists, the family represents a microcosm of the way the world *should* be:

...a social order which is stable [and] hierarchical, in which everyone knows their role, status and position, where social control is embedded in the internal organisation of the system in a rigid morality which excludes the possibility of behaviour and values changing.... What they see as the traditional family is ... the fundamental unit of such a social system. (Coleman, 1986: 12)

Foremost in the campaigns in the USA in 'defence of the family' against, for example, abortion and the Equal Rights Amendment (ERA), Weeks identifies "economically dependent, middle-aged, middle-class, deeply religious women" (1985, 36). These two groups - "embattled Christians and ... morally concerned women" -

⁴⁵ The political trick to this is to identify expensive programmes that do not effect voters in marginal seats; voters want positive action, but not in areas which will affect them personally.

⁴⁶ This sort of language by economic commentators is itself interesting. This example is from Max Walsh (*SMH*, 9.9.89: 13, my emphasis). Similarly, another prominent economic journalist, Ross Gittens, warned recently of Australia's "*permissiveness*" in spending more as a nation than we are earning (*SMH*, 14.10.89: 15, my emphasis).

he sees as the 'natural' constituencies on which the new social purity movement is being built. (1985: 34) For these right-wing women, the arch-enemy primarily responsible for undermining family life, and the security and protection it affords, is feminism. The goals and programmes of feminism strike deep at norms and structures which they experience as essential to their survival. Economic dependence on men has shielded them from the vagaries of the labour market, a benefit enjoyed by them which they see as threatened by feminism. Perhaps, conjectures Weeks, the real fear underlying their hostility to the women's movement is that the last two decades of social change have undermined the ties which bind men to women: ties which hitherto have provided for the protection and stability of dependent women. He points out that one of the central and most persuasive arguments mounted against the ERA was the claim that traditional divisions between men and women would be broken-down. Following Ehrenreich's argument in *The Hearts of Men*, Weeks suggests that easier divorce and a weakening of marital bonds and commitment, particularly on the part of men, threatens women's traditional source of security and that Right-Wing women have projected this threat into a loathing of feminism (presumably because of the importance the Women's Movement places on women's independence).

Also, suggests Weeks, it may be this same fear which prompts the violent opposition to abortion shared by all moral authoritarian women. Whereas for feminists abortion is critical to women's liberation, for its opponents it allows men to shirk their responsibilities and puts the onus of choice about pregnancy completely onto women. (Weeks, 1985: 37) But, as he points out, there is nothing new about these sorts of fears and their connotation with sex. Around the turn of the century many feminists resisted contraceptive aids from concern that they might weaken men's ties to their wives. Similarly, the early feminists' campaigns against male sexual exploitation of women often resulted in a moralistic anti-sex position which advocated more rigid regulation of both men's and women's sexuality. Ironically, today's social purity campaigns by anti-feminists have their precursors in early twentieth century feminist pressure for protection of the family and the maintenance of strictly demarcated sex roles. Then, as now, men were urged to conform to the same standards of virtue and sexual morality as women as the means of warding off sexual anarchy and social chaos.

To the marked disappointment of those moral authoritarians who supported the election of Reagan or Thatcher, Weeks says that the victories did not precipitate the legislative changes for which they were hoping, or even expecting. It would seem that whereas rhetorical support by politicians for issues dear to the hearts of social purists may be a valuable vote catcher,⁴⁷ the pragmatics of power make forceful legislative action far less attractive. Once confronted with the realities of government, New Right-Moral conservative administrations appear to learn that taking on the crucial issues, like abortion, would be politically explosive and perhaps electorally fatal. As Weeks puts it, "cautious pragmatism triumph[s] over election winning ideology" (1985: 39). Certainly, in the Australian context, as we shall see, parliamentary dealings with the abortion issue indicate that legislative action could well have caused some loss of electoral support but that it had little potential for winning it (or at least, that this was the perception which came to prevail amongst many politicians). That is, the outrage provoked by either reforming or tightening the law could far outweigh any kudos gained. Both the Whitlam Government's attempt to liberalise abortion law (1973) and Queensland Premier Bjelke-Petersen's to radically tighten it (1980) caused unprecedented outcries of protest. As following chapters will demonstrate, most politicians appear to have decided that abiding by the *status quo* is the safest course of action.

Nevertheless, what *has* become clear, insists Weeks, is that sexual issues are potentially political issues. (1985: 38) The political nature of the personal was initially realised and claimed by the Women's Movement but, ironically, the Right has since been much better able to seize the opportunity and has forged a politics of personal and private life that has considerable popular support, especially in the United States. There, New

⁴⁷ This widely-held assumption is challenged by Lipset & Raab (1981), at least with respect to the 1980 American elections. From their analysis they argue that evangelical white Protestants were virtually evenly divided in their support for Reagan and Carter. Their definition of 'evangelical', however, is very wide, and did not narrow down to look specifically at the voting patterns of that smaller group of what could be defined as 'fanatical fundamentalists', personified by the followers of the Moral Majority. Arguably, where voting is not compulsory, as in the UK and USA, if a party or candidate can mobilise a much higher turnout from this group than normal by showing strong support for 'moral' issues, they would stand to gain a possibly crucial extra few percentage points of the vote.

Right forces have successfully straddled the whole range of the political agenda. Organisationally, they have managed this at the level of single-issue campaigns, through significant fundraising and legislative activity, right through to the point of welding together explicitly evangelical political movements, such as the Moral Majority; ideologically, they have bridged sexual/moral issues and economic concerns. Whilst the libertarianism of their economic doctrines would seem at first to be philosophically at odds with the absolutist authoritarianism of their moral stance, Weeks shows how ideologists of the New Right like George Gilder - *Sexual Suicide* (1973) and *Wealth and Poverty* (1981) - have forged the two strands into a total ideology, with the family, and assumptions about how it should function and be organised, operating as the ideological fulcrum. In this interpretation civilised society and social order on the one hand and economic stability and progress on the other are dependent on the maintenance of the nuclear family unit. But the attainment of this 'new' society based on these insights all depends on a 'revitalised' role for wives, whose function is prescribed as calming and holding in check the 'rampant' sexuality of the male. (Weeks, 1985: 41) Gilder draws heavily on sociobiology (and, like most moral purists, a functionalist view of social order) to support his polemic, which will be dealt with further in Chapter Eight in the context of his influence on a particular strand of anti-feminism espoused in Australia.

Whilst much of the popular support for New Right doctrines seems to derive from the emotive pull of 'the family' on which it builds, Weeks points out that the actual present-day reality of family life and personal relationships shows an unprecedented diversity of forms - single parent families, *de facto* marriages, 'blended' families, childless two career couples, working mothers - all bear witness to the fact that the 'typical' traditional nuclear family is now statistically *abnormal*.

But the very diversity of these forms ... becomes the source of anxiety. Against this apparently amoral liberalism a hypothetical or mythological 'family' serves as a strong metaphor of order and harmony. (Weeks, 1985: 40)

It is in the USA - the heartland of the new moralism - where this phenomenon of marital and familial diversity is most marked. And of course, what Weeks refers to in neutral terms as 'diversity', moral authoritarians see as family breakdown and as both cause and effect of moral and social decline. Perhaps, in part, this explains why the Moral Right has been so successful there in mobilising itself into a popular social movement. Almost invariably, the private lives of moral authoritarian activists mirror the model nuclear family which they insist is the essential basis of moral and social order. Yet all around them they see and hear of marital breakdown, fatherless families, pre- and extra-marital sex and unmarried couples. To them it must appear that their own lives constitute part of the last bastion against sexual lawlessness, that they are becoming a besieged minority in a sea of sexual and gender anarchy. In the practices of others they see their values ridiculed and marginalised, their way of living undermined. (Weeks, 1985: 36) I would suggest too, that another source of the anxiety threatening social purists stems from their conception of sexual immorality as an insidious and malignant force, exemplified in their use of metaphors like 'contagion' and 'moral pollution'. (One can appreciate how the awful coincidence of AIDS has been such a political 'god-send' to them; not only is it a sign of retribution for abominable sexual practices, but promiscuity can be identified as the 'cause' of the disease and its epidemic spread.) Hence, they see sexual anarchy as having the capacity to infect and contaminate, to defile and corrupt ever more areas of social life and ever greater numbers of people. At risk, particularly, they see (their own?) innocent children and youth, unarmed by their 'natural' naivety to recognise and resist the creeping contagion of sexual depravity. This way of thinking is reminiscent, on a social level, of how Foucault describes nineteenth-century psychiatry's view of the insidious workings of sexuality in the individual, of how it lurks in every hidden niche as a potentially corrupting and perverting power.⁴⁸

⁴⁸ One could conjecture here that the dominant Christian fundamentalist influence in the Moral Right construes sexual, marital and familial aberrations in demonic terms. Like God, the devil is everywhere, and it wreaks its havoc through disguise and guile. Certainly, many, if not most, fundamentalists believe in the real and actual existence of the devil, and historically, Satan has always been closely identified with sex in its most foul and evil manifestations. Perhaps too, in tracing the compulsion to speak of sex - and the pressing need to search out its hidden presence - from its genesis in the confessional, Foucault could have asked whether this legacy was based on the belief that sex could conceal itself so effectively because it was the manifestation of the devil in each individual. After all, in Christian theology, Eve's eating of the tree of knowledge is construed as a metaphor for her lust. (There is an interesting parallel here too with Foucault, in the equivalence between Eve's desire for knowledge and the idea that this could be

Whilst vehement adherence to New Right doctrines and active political participation is confined to a core group of mainly Christian fundamentalists, Weeks claims that the ideology of the New Right has the potential to attract a much wider popular support. (1985: 36) Whilst there are individuals who explicitly and consciously reject the 'normal' family form in the organisation of their personal lives (including gay men, lesbians and some feminists) many of whom would be impervious to the emotional attraction of familial moralism, appeals for the maintenance and strengthening of the idealised hypothetical loving and supportive family haven can strike a deep psychic chord with many, if not most people. (Weeks, 1985: 43) Translated into political party policies which promise, for example, to restore the value of the breadwinner's wage, facilitate purchase of the family home, enhance the authority of parents, minimise family taxation, the theme of 'the family' can tap into much more tangible interests. In coupling the emotional pull of the familial as the foundation of morality and social stability with promises to reassert the economic viability of the traditional family unit, the moral and economic arms of the New Right coalesce into a powerful political force, despite basic ideological contradictions between the two. (Weeks, 1985: 39) Fundamental to this nexus of New Right moral and social policies is the vision of a return to the 'traditional' hierarchical patriarchal family unit with gender-divided instrumental and affective divisions of roles and labour.

Yet, despite an awareness that the familial can engender deep-seated responses in people, Weeks maintains that the Left - just as it has failed to construct a popularly viable politics of sexuality and personal life - has failed to come to terms with the family and familial relationships, or at least to do so - and politically, this is the crucial point - in a form which effectively manages to tap into the psychic dimensions underpinning people's emotional commitment to it, whilst still retaining the integrity of a Left critique. Consequently, this field too, like the related one of sexuality, has been left open to invasion and manipulation by the Right. (Weeks, 1985: 38) Hence opponents of the new pro-family movement have no viable response on which to base a counter-mobilisation. One of the difficulties for the Left is that the message and programme which it must combat is so clear, simple, and so 'obviously sensible' to people, because it builds on their tacit understandings. It is this which allows it to thrive on, and lock into, the lived experience of people's lives and knowledge. 'The family' operates as a metaphor for stability, certainty, and continuity; it affords a sense of belonging and social position, and wards off the sense of anxiety and alienation otherwise threatened by an atomised society beyond its boundaries. It gives a sense of order and organisation to social life at the level of personal experience:

In the New Right version of social order the family has a policing role. It ensures carefully demarcated spheres between men and women, adults and children. It regulates sexual relations and sexual knowledge. It enforces discipline and proper respect for authority. It is a harbour of moral responsibility and the work ethic. This is contrasted to the ostensible moral chaos that exists outside. (Weeks, 1985, 43)

Absolutism, liberalism and libertarianism

Weeks shows how the AIDS epidemic - a fortuitous accident of historical timing - has provided moral authoritarians with the perfect catalyst for a 'moral panic' centred on promiscuous sexuality. Whipped up by sensationalised media and moralistic denunciations of the victims of 'the gay plague', social puritans have been active in turning around the cautious toleration of homosexuals, which Weeks sees as having been achieved through the 1970s and early 1980s. Along with feminists, (who are often represented as promiscuous and/or lesbian anyway), homosexuals constitute the most ignominious threat to the moral authoritarian view of the way society ought to be, their lifestyles being a direct repudiation of marriage, family and sexual order. Weeks uses the example of AIDS to demonstrate that what is being employed in response to it at both the official and public level is, what he terms, an "absolutist strategy" for the regulation and control of sexuality. This is the familiar assumption that there is *one single morality* which should govern the way people conduct their private and public lives. Although not necessarily allied to Christianity, he sees this absolutist set of convictions as most clearly represented in mainstream Roman Catholicism and, of course, in the Protestant evangelical and fundamentalist movements where the New Right has its firmest roots. Until very recently, absolutism was the organising framework of principles on which legislation

obtained through sex.) Because of the Fall each individual is born in a state of original sin; they are no longer wholly good (wholly of God), but both good and evil (of God *and* of Satan). In this sense it is the devil, as sex, which lurks and camouflages itself within us. Sex, then, is so dangerous, so insidious and so feared because it is the earthly representation of Satan.

dealing with sex in any connotation was based, although the forms of regulation differed over time. He claims that most sexually conservative laws still on the statutes were enacted within these terms of reference during the social purity campaigns around the turn of the century.⁴⁹ (Weeks, 1985: 53-4)

In contrast to and conflicting with absolutism, Weeks identifies two other, but much less dominant, strategies within which sexuality has been organised: the liberal or liberal-pluralist position and the libertarian approach. The first was derived essentially from J.S. Mill and nineteenth century liberalism, and it is from this that the emphasis in America on 'rights' is based. But Weeks argues that this provides no unambiguous basis for resistance in that the rights of competing interests can be claimed as having priority, as for example in the conflict over a women's 'right to choose' and the rights of a foetus.

The result can be a dissolution back into the language of moral absolutes in which both sides simply proclaim different truths. (Weeks, 1985: 54)

The analysis in the following chapters will demonstrate how this claim is applicable also to the conflict in Australia over abortion law reform. But the discursive parameters defining the main lines of debate here were a hybrid developed from the American and the British examples. Thus, in Australia, alongside arguments based on rights - which, over time, assumed centrality - the question of the limits of state intervention into private life was also a major theme. Weeks says this framework, the dominant one in Britain for conceptualising the regulation of sexuality and personal life, is another variant of liberalism. Rather than rights, conflict centres on definitions on what is socially acceptable, and what is socially acceptable becomes the yardstick which determines the state's duty to act.

This in turn is based on a wholly artificial distinction between the personal and public, treating them as if they were natural and eternal categories, while actually constituting and delimiting them through legislative proposals. The result has been confusion over the definition of 'private' (Weeks, 1985: 55)

Whilst, as was pointed out above, Weeks says that this form of liberalism (the philosophy underpinning the Wolfenden Report in England) was employed in the 1960s and early 1970s to exact reforms in sexual regulation, it can equally lend itself to an extension of legal controls, or justify enlarging medical or other therapeutic interventions.

The imagined public opinion of the average sensual man can become a tyrannous master when applied to sexual diversity. (Weeks, 1985: 55)

The libertarian approach is most often associated with Wilhelm Reich or Herbert Marcuse, although Weeks notes that its origins date back to the sexual radicals of the late eighteenth century. Its basic argument is that repression of sexuality is a necessary corollary to social domination, hence it maintains that sexual liberation and a true social revolution would necessarily be simultaneous. Weeks says that libertarianism is both "utopian and millenarian" in that it supposes an unalienated, sexually free and healthy subject and society in the future, and it is from this vision of the possibility of perfection that it derives its impetus. (1985: 55) For the counter-culture of the 1960s and the sexual liberation movement of the early 1970s, the libertarian project was persuasive and inspirational: it offered a damning critique of modern society and its sexual morality and, in turn, these movements contextualised libertarianism socially and politically. Nevertheless, like both the absolutist and liberal approaches, it too assumes an essentialist sexual nature, although one which is basically 'good' and fulfilling if allowed free expression. But, as Weeks cautions, feminists have argued that such a view of sexuality can lead to the claim that sex is not only a source of pleasure, but an actual necessity, a claim which has often worked in the interests of men and against those of women. (1985: 56) This feminist critique of libertarianism also highlights the latter's failure to recognise the complexities of sex and of sexuality and gender. Such a failure, argues Weeks, stems basically from the libertarian commitment to an

⁴⁹ Actually, British, and hence Australian, laws against sodomy and abortion go back to the early part of the nineteenth century when both were made capital offences. Over the next half century the laws were tightened but the penalties were reduced. (The history of abortion law is discussed in Chapter Four.) In Australia at least, the turn-of-the-century social purity wave of legislation was directed at laws governing drinking (such as hotel licensing and restrictions on days and hours of opening) and at the advertising of birth control measures and devices.

essentialist sexuality, a view which precludes any recognition of the social and historical production of sexuality.

In terms of understanding sex and its relation to society, then, Weeks argues that all these social or philosophical frameworks are still firmly embedded in a naturalism paralleling that of the 'scientific' theorisations of the sexologists. Each assumes a fixed human nature and a biologically given sexuality as the basis of individuality. This way of understanding, contends Weeks, arose around the seventeenth century (or perhaps somewhat earlier) and was made possible by the development of a concept of the person as an individual subject. The new concept of 'man' - and it was 'man', he remarks, woman being "the natural other" - put a premium on "individual will and responsibility as the starting point of speculation about society". (1985: 121) Bourgeois individualism involved an understanding of the person as a self-knowledgeable, reflexive agent at the 'centre' of society.

The notion of the person, the concept of the self, the French anthropologist Marcel Mauss argued, is a 'category of the human mind'.... All societies, of course, have ways of specifying individuals, through names, position or status, but they are not necessarily specified as *individual subjects*, unique entities with a distinct consciousness of self, who have the will and power to constitute social order and make moral judgements. (Weeks, 1985: 121, emphasis in original)

Thus, human beings come to be construed as knowing subjects, and simultaneously, as objects of their own knowledge. But also, this human-centred view entailed construing the individual as *pre-existing* the social. Therefore, in order to explain the condition of being human, the notion developed that there must be some inner dynamic, and this could only be grounded in nature. It was only one step from this, says Weeks, to an interpretation of the primal quality of this inherent drive as sexual. Yet, if areas of human action and character - including sexuality and gender - are seen as biologically given, he stresses that the possibilities of change and human agency are likewise seen as bounded by the degree of determination theorised. (1985: 120)

An Alternative Framework?

Most theorisations of the interaction between biology and society have emphasised the supposed *limitations* imposed by nature, rather than viewing the body as mere potentiality, and exploring the ultimate reach of culture in shaping humanness and sexuality. This does not mean, of course, that the body is irrelevant; but rather, that it should not be seen as the essential core of humanness, as the source of inner propulsions dictating the shape of subjectivity and culture, and as having its own immanent rationale and meaning. Recently, a critique of this transcendental, unified individual with a given sexuality has emerged - "from within radical sociology, structuralist anthropology, psychoanalysis and Marxist theory" - whose project is to "decentre the subject". (Weeks, 1985: 120) This does not imply that a rejection of humanist doctrine entails a rejection of 'humanist values'; rather it entails the abandonment of any notion that these values are absolutes, given in the 'essence' of some immutable and constant human nature. (1985: 120) 'Humanness' is constructed *in* culture, but not by being imposed on bodies, or learnt through conditioning. How, and the degree to which the social operates to construct and shape human beings, and in particular, sexuality, sexual relations and gender, has recently been opened up to question, even if it has not been resolved.

We can tentatively propose, however, that the body is a site for historical moulding and transformation because sex, far from being resistant to social ordering, seems peculiarly susceptible to it.... Its very plasticity is the source of its historical significance.... [P]hysiology does not supply motives, passion, object choice or identity. These come from 'somewhere else', the domains of social relations and psychic conflict. (Weeks, 1985: 12)

Weeks argues that it is psychoanalytic theory that provides the sorts of analytic tools needed to begin forging an understanding of the psychic/social construction of identity, and its complexities and contradiction. (1985: 123) Freud's theory of the unconscious, unlike other formulations regarding sexuality, deprioritises reproduction, and constitutes a powerful challenge to prevailing assumptions about sexuality and gender, and the differences between men and women. It does this by interposing a psychic domain between biology and social relations which operates according to its own unique principles of mental functioning. (Weeks, 1985: 127)

Most other theories of sex, as Weeks has demonstrated, construed instincts as torrential forces propelling the individual naturally towards adult heterosexuality, and resulting in perversion only when the outlet was dammed. (1985: 128) Freud, however, spoke of drives,⁵⁰ energetic impulses emanating within the body but having no fixed direction, object or aim. According to psychoanalysis - and this is the core of Freud's critical insight - there is no direct interaction or determination between the drives on the one hand, and culture, sexual expression or gender, on the other. The impulses are always mediated, channelled and transformed by unconscious processes, and they obtain discharge only through attachment to ideas or representations. (Weeks, 1985: 129) Thus, there is no predestined or automatic outcome: the route to culturally decreed 'normal' adult heterosexuality is circuitous, hazardous and perilous, and strewn with obstacles; never guaranteed or fully achieved. 'Normality' is a socially imposed standard rather than inhering in nature, and plays its part only by forbidding direct expression of 'anti-social' wishes or desires.

Freud's work is complex but sometimes ambiguous. Amongst the brilliant insights are scattered anachronisms and errors. Often prepared to push ideas to the limits regardless of controversy, he occasionally lapses into normative judgements for lack of more adequate explanation. Whilst the corpus of his work constitutes a vigorous rejection of naturalistic assumptions, sometimes, almost casually, he slips into patent biologism. Nevertheless, maintains Weeks, psychoanalysis remains the most fully developed theoretical framework for understanding the social construction of identity and sexuality. Weeks identifies five elements within psychoanalysis which he claims are of pivotal concern to a "radical theory of sexuality" (1985: 128).

Firstly, and central to Week's project, is "the partial but critical displacement of biology". In theorising the unconscious and its processes, Freud postulated a realm of activity and functioning quite distinct from both biology and social reality. The unconscious is neither the source of instincts nor a repository of repressed drives. Rather, it comprises ideas and wishes prohibited entry to consciousness. (Weeks, 1985:129) Their only means of release is via the subterfuge of the unconscious processes of condensation or displacement, whereby, in attaching to other ideas, they obtain conscious expression, but with their true content masked. The wishes which are repressed are those which directly contravene the reality principle (the norms of social reality), most especially those seething desires of incestuous love (and hate) elicited in early infancy and blocked in Oedipus. (Weeks, 1985: 129) Freud's theory of the unconscious, then, marked a decisive break with biologicistic formulations of human development.

Secondly, Weeks identifies the importance of language. (1985: 129) The centrality of this in Freud's work has been more recently emphasised by Jacques Lacan, who explored and developed Freud's dictum that "the unconscious is structured like a language". Even in his earliest works, Freud discerned that symptoms were not arbitrary, but were clearly related through a system of representation to repressed (primarily sexual) material.

The significance of this stress is that it precisely opens the way to a theory of the unconscious which removes it finally from physiology, and to an explanation of the structural significance of unconsciousness as constituted in and through language. (Weeks, 1985: 130)

The linguist Ferdinand de Saussure showed that meaning was not a product inhering in things themselves, but was constructed through the "arbitrary relationship of signs". Using this insight, Lacan and feminist theorists following him, argued that the process of infantile identity formation parallels the developing recognition of presence and absence, and therefore *difference*. Hence, we become human subjects and are inducted into culture via language acquisition. (Weeks, 1985: 130)

This leads to Weeks' third point, implied in Freud's works and also developed by Lacanian psychoanalysis. The thinking, or recognition, of ourselves as unified subjects is in fact a '*misrecognition*'. Thus an understanding of how the unconscious works to produce individual identity leads to a 'decentring' of the subject. Freud showed that the ego - that with which we think and experience ourselves as unified, completed identities - is subject to unconscious impulses and wishes over which we have initially little, and never full, control. In that to be fully human is to be social, the neonate can no longer be conceived as a human subject;

⁵⁰ Freud used the German 'triebe', usually translated as 'drive', whereas 'instinkt' is German for 'instinct'. Unfortunately, the *Standard Edition* of Freud's works translated both as instinct. (Weeks, 1985: 134)

it is made human through its inauguration into culture. (Weeks, 1985: 131) Repression of anti-social impulses, then, is constitutive of becoming human: it “is not an imposition on our humanity, but an essential stage in its emergence”. (Weeks, 1985: 130). This implies that identity is not the whole unity that we ‘imagine’ it to be; instead it is a fractured, ever vulnerable ensemble of contradictory potentialities. Following Lacan, Weeks argues that the whole self that the infant experiences itself to be, when it recognises its own body as separate from the ‘other’, is built on an absence or ‘lack’. Thus, as Lacan puts it, humanness is fundamentally constituted in ‘alienation’. (Weeks, 1985: 131) It is through Oedipus that sexed subjectivity is constituted, conditional upon the repression of desires inadmissible in culture, or consciousness. But this imagined unity of identity is ever subject to the “return of the repressed” (Freud), which is ever-present, threatening to erupt and sunder the sense of self.

The significance of this is wide ranging, for it involves a rejection of any theory reliant on the notion of a pre-given human wholeness or completeness.... For Freud, to be human is to be divided. (Weeks, 1985: 131)

Fourthly, is the emphasis Freud placed on the critical role of the wish or desire in unconscious processes and their disguised expression in consciousness. Satisfaction of an infantile need emanating from internal tension implants a memory trace. This links to a mental image of the experience of satisfaction. When the same need is experienced subsequently, psychical impulses will attempt to summon up and re-invest in the image, to evoke again a similar satisfaction. These wishes or desires which have become anchored to past satisfactions are re-satisfied by conjuring up hallucinatory reproductions of the images which come to function as signs of fulfilment. (Weeks, 1985: 131)

The search for the object of desire is not governed therefore by physiological need, but by the relationship to signs or representation. It is the organisation of these representations that constitutes fantasy, the correlate of desire and a principle of its organisation. Desire cannot therefore be a relationship to a real object, but is a relationship to fantasy. (Weeks, 1985: 131,2)

This suggests that it is not so much what is real or true that matters, so much as what we believe to be the case. In terms of effects, the imagined can be as powerful as the real, maintains Weeks. It is the construction which we accord to things, and to relations between them, that gives them meaning and moulds our “dreams and dilemmas.”

Weeks last point is the critical role which Freud attributed to sexuality in mental processes and the development of the individual. The material which repression thwarts is primarily sexual desire, originally evoked in the pre-Oedipal and Oedipal phases. Weeks says Freud became convinced of the importance of sexuality in his earliest work. Initially he thought physical frustration resulted in anxiety neuroses. But from his work with hysterical patients he came to believe that all neurosis were symptomatic manifestations of repressed infantile sexual traumas. He soon became sceptical, however, of his own hypothesis of childhood seduction as the root of neuroses, and then developed his theory of the universality of infantile sexuality. The psychic significance of sexuality thence became a cornerstone of psychoanalysis. (Weeks, 1985: 133)

Although the insistence on sexuality qualifies psychoanalysis as part of the discourse of sexology, Weeks contends that in its most fundamental premises it is simultaneously distanced from it. Freud unequivocally emphasised that the sexual drive had no pre-destined object; heterosexual genitality is merely one possible outcome among many, although the one which culture demands. The ‘naturalness’ of heterosexuality, then, is a matter of social definition, not of nature. The neonate is ‘polymorphously perverse’ - a bundle of impulses totally without object or aim. For this reason Freud termed infantile sexuality ‘bisexual’. But Weeks observes that even this formulation suggests that the child is inherently sexual, rather than potentially so. Certainly, Freud is unclear on this point, but Weeks suggests that we can derive a satisfactory answer from within Freud’s own work. He pointed out that the child is itself treated like a sexual object by its carer (usually the mother) - it is stroked, fondled and kissed. Thus, Weeks says, it “is the pre-existence of adult sexual desires that ensure the sexuality of the child”. (1985: 137) What Weeks seems to be suggesting here is that sexual desire is *elicited* from the child as a function of the torrent of unconscious sexual desires at work in its

environment: “this hothouse of unspoken (and unspeakable) desires” (Weeks, 1985: 137).⁵¹ Thus there is no automatic route to adult sexuality; it is attained only by “a series of developments, combinations, divisions and suppressions”. (Freud, quoted in Weeks, 1985: 137) Furthermore, claims Weeks, the cultural ideal of heterosexual genitality is rarely, if ever thoroughly attained: the route is strewn with hazards, each a potential reef for fixation of the drive.

‘Normal’ sexuality [is] a brittle carapace constantly cracking from the strain of disciplining its discordant desires. (Weeks, 1985: 138)

The Oedipus complex is the moment when the individual becomes a social subject by internalising the law of society. It is also the crucial moment for the fixing of sexed object choice and gendered identity. Weeks says that for a long time, Freud assumed that the complex was parallel in both boys and girls, but later realised that the girl’s passage - and the attainment of femininity - was much more problematic. (1985: 139) She had to surrender her pre-Oedipal libidinal investment in the mother and take instead her father as object choice. Also, whereas the imagined threat of castration (from the father) propels the boy out of Oedipus, the girl’s knowledge of her ‘castrated’ and ‘inferior’ state inaugurates her entry into it. It is her realisation that it is not only she who is castrated, but so also is her mother - who consequently she blames for her own “inferior organ” - that causes her to turn from the mother and cathect to the father. (Weeks, 1985: 140)

So, the symbolic importance assigned to the penis, and the centrality of castration, or its threat, are both critical factors in the formation of object choice and gender. But by what device, asks Weeks, does Freud explain the premium put upon the penis? Freud wavered, but finally, rather than seeing it as symbolic of male domination, concluded that its significance derived from its critical biological role in species reproduction. (Weeks, 1985: 145) Weeks expresses amazement that Freud could resort to such a “banal” explanation after theorising the intricate complexity of the unconscious and psychic processes. Thus, whereas Freud provided valuable analytic tools for an escape from both biological and cultural determinism, ambiguities and lapses in his work left the way open for endless debate within psychoanalytic theory itself, and amongst social theorists who recognised the potential in psychoanalysis for an understanding of the relations between the individual and society. Conversely, it was the same element - exemplified by Freud’s infamous “anatomy is destiny” statement - which provoked the wrath of early women’s liberationists like Kate Millet.

⁵¹ This suggests that the neonate is not sexual as we would normally define it, but that it is capable of cathecting to whoever or even *whatever* elicits desire and/or affords satisfaction. I would argue, then, that technically, it is incorrect to say that the infant is ‘bisexual’ as this implies an already given *human* object choice, and this is not predetermined or inevitable, even though it is highly likely. Indeed, before the child marks out the boundaries between its own body, and the external world and ‘the other’, in its narcissism it is cathected to itself.

CHAPTER FOUR

A GENEALOGY OF DISCOURSES AROUND ABORTION

Genealogy is a history of the present in the sense that it finds its point of departure in problems relevant to current issues and finds its point of arrival and its usefulness in what it can bring to the analysis of the present. (Henriques et al, 1984: 104)

Since abortion emerged as a subject of public debate in the mid-1960s it has been conceptualised as a *moral* issue. Even now, in the late 1980s, it is still seen as one of the major ethical dilemmas confronting society; one which pits the right of women to control their fertility against the right of the foetus to life. Despite some two decades of liberalised access to abortion, the right of women to ‘choose’ is still vociferously contested.

Whilst a minority of people favour abortion in all circumstances, an opposing minority reject it outright regardless of the situation.⁵² In between these polarised extremes, the majority of the populace believe it to be ‘right’ in some circumstances, but ‘wrong’ in others. Even many vocal supporters of abortion rights are quick to point out that it is an ‘unfortunate’ necessity not to be taken lightly. Whilst the balance favours abortion, the division of opinion highlights a pervasive notion that the issue is of a *fundamentally* moral nature, rather than being one primarily about the politics of sex and the operation of power.⁵³ In this view, abortion is construed as an inherently insoluble ethical dilemma, largely because it pivots on value judgements about the beginning of life, or the relative value of a women’s quality of life as against the actual life of the unborn.

The Abortion Dilemma as an Historical Production

Yet this assumption that the question of morality is integral to abortion entails other assumptions: that the meaning of abortion is somehow historically ‘fixed’, that the ethical crux of the matter revolves around life and the status of the foetus as a person. A vehement pro-choice advocate can resolve the problem by insisting that the foetus is not a person until birth, thereby maintaining that there is no moral dilemma, only a political struggle; indeed, in political terms, such a position is tactically necessary. Nevertheless, this argument is still articulated on the same ethical terrain, or within the same discourse: that which spins on the categorical primacy allegedly intrinsic to individual human life.

What Foucault terms a genealogical approach would allow us to sidestep the terms in which the issue is presently conceptualised and see the discourses in which opposing groups articulate their claims as deriving from bodies of knowledge, or sets of understandings, which are historical productions. This involves tracing the history of those knowledges rather than taking them as already established sets of truths from which tactical discursive manoeuvres are drawn and constructed.

Genealogy is a “history of the present” (Henriques et al, 1984: 104) in the sense that the things we ‘know’ - the discourses in which we make sense of what goes on around us and of our own experiences - are outcomes of previous practices, struggles, debates, considerations and conclusions which have solidified and congealed as truths and assumptions about ‘the way things are’. Genealogy, then, entails a ‘deconstruction’ of an issue

⁵² For example, a survey on Australian’s attitudes to abortion carried out in 1987 by researchers at the Australian National University showed that eighty-six percent supported abortion when there was a possibility that the pregnancy would result in a baby being born with a serious defect. Sixty-three percent approved of it in cases where the family was on a low income and could not afford any more children. (*Aust*, 5.9.87: 30) In a Saulwick poll of the same year eighty-five percent of respondents nationwide approved of abortion either outright or in some circumstances, whilst only fourteen percent disapproved entirely. (*SMH*, 7.12.87: 7)

⁵³ Pro-choice activists, and particularly feminists, would argue that the issue is not a moral, but rather a political, one. Whilst a strong claim, the point here is that for most people abortion is seen in terms of ‘right’ or ‘wrong’ (often depending on the circumstances). Arguably too, the ‘woman’s right to choose’ position itself has a moral dimension to it, in that it is implicitly claiming that it is unjust or wrong to deny women their rights, or subordinate them to the life of the foetus.

as it is presently conceptualised, a dismantling of the parameters and terms of debate which are taken for granted as the relevant considerations.

What this kind of deconstruction asserts is that any given body of statements, whether in everyday conversation or a scientific paper, depends on a number of other bodies of statements, some of which carry deeply entrenched convictions and explanatory schemas fundamental to the dominant form of making sense of the world at any particular period in a culture. Deconstruction retraces the system of 'dependencies' of a discourse. At the same time, it also has a positive foundation, in that it reconstructs a history which accounts for how a discourse or practice emerged, for the conditions of its emergence and constitution (discursive, material and historical) and for how it comes to be what it is at the present. (Henriques et al, 1984: 104)

Within their own parameters, questions integral to the debate over abortion assume their coherence and centrality as a function of key assumptions and propositions already established as part of background knowledge. Hence, there is an 'obviousness' about the questions which 'need' to be asked: When does life begin? Is a foetus a human being? Can a foetus have rights? By what criteria can the life of the foetus be weighed against the quality of life of the woman? Is the foetus part of a woman's body to do with as she wishes? What obligations does a woman have to the foetus in her body? Can her responsibilities to other individuals outweigh any she might have to the foetus? Does it make sense to speak of a pre-conscious being as having rights? Is a foetus merely a potential human being? Are decisions regarding a foetus properly a woman's alone, or does the male genitor, or the medical profession, or society (through the state) have a legitimate stake?

Conversely, a deconstructionalist approach shifts the terrain of enquiry so that instead of remaining locked within the immanent terms of the debate, the discourses within which struggle is articulated become themselves the objects of study and analysis. The issue is reconceptualised as revolving not on the adequacy of an opponent's argument, not on what proof can be brought to bear, nor on what insights into foetal development can be provided by medical science, nor on what psychiatry has to say about maternal bonding during pregnancy or on unconscious maternal guilt and depression after abortion. Rather, the questions posed approach the issue from another dimension: How have we come to the position that the foetus can be thought of as an individual human person? Why has the abortion debate taken the form that it has? How is it that the question of antagonistic rights has become the pivotal issue? What disciplinary and regulatory practices have conditioned the ways women and their bodies are conceptualised? Why is it that an outcome of women's sexual activity can be construed as properly the object of state surveillance and regulation? What construction of women's subjectivity is at stake in the abortion struggle?

Questions such as these shift analysis away from the internal premises and dilemmas of the issue to focus instead on the discourses in which it is bound, on their emergence and development elsewhere in external practices, processes and events. They fix attention on the political strategies and regulatory and disciplinary requirements giving rise to the production of these discourses and how, consequently, they have allowed abortion to be conceptualised in the ways that it is. Rather than arguing within the given terms of the discourse on abortion and attempting to 'solve' the 'major ethical dilemma' it poses, implicit in this chapter is the question of how and why has abortion come to be perceived as a significant ethical issue.

Specific historical processes, practices, events, and bodies of statements which have demonstrable effectivity in constructing the parameters of the abortion debate include: administrative and legal responses to changes in economic or social conditions in which the nature and behaviour and reproductive capacities of women were perceived as implicated; official investigations and reports bearing on the 'functions' of women and questions of population; social transformations altering the status of children, views on infant development, maternal practices and perceptions of them (such as the exclusion of children from paid work, compulsory education, and the consequent increased dependency of children); developments in disciplines of knowledge such as theology, biology, physiology and medicine.

It will become apparent that the discursive parameters in which abortion is presently conceptualised in the West are historical constructs. Whilst some themes appear as far back as two millennia or so, the major lines of attack linking abortion with power and sex are of fairly recent production. The purpose here is not to give a thorough account of that history, but rather, to identify and trace certain pivotal points, processes and shifts

within theological doctrine, statute law, state policy, and cultural and material practice with a view to highlighting certain continuities and discontinuities relevant to present discursive practice.

In Foucault's terms, abortion would constitute a nexus between two of the "great lines of attack along which the politics of sex advanced": the hysterisation of women and the socialisation of procreative behaviour, each being "a way of combining disciplinary techniques with regulatory methods". (Foucault, 1980a: 146) Through means of regulation, hysterisation is aimed at the disciplining of women, at the production of woman as nothing less and as nothing more than 'Mother'. For Foucault the processes of regulation involve the defining of women as simultaneously wholly sexual and yet wholly asexual; the medicalisation of their bodies and sex justified by attributing to them an innate female pathology; and the 'functionalising' of them as responsible for the social body by virtue of their reproductive capacities, for the family by their essential and exclusive role in it, and for their children by a duty both biological and social. The other "line of attack", the socialisation of procreative behaviour, aims to regulate the population via individual discipline and constraint conditioned by three mechanisms: economic and administrative encouragements and discouragements to fertility (as the context demands) by use of various social policy, welfare and taxation measures; a political socialisation of couples into the duties and obligations they owe to society in respect to their reproduction; and a medical socialisation whereby birth control practices are attributed with pathological effects for both the individual and the species. (Foucault, 1980a: 104,146)

This chapter will illustrate that all of these elements outlined by Foucault are central to the network of discourses providing the considerations, concepts, meanings and truths out of which abortion, as a political and a moral construct, has been built. Equally, it will also be apparent that women and their bodies are, in a sense, doubly traversed by the deployment of sexuality and relations of power and knowledge. Responsible for reproduction, the regulation of fertility, the health and welfare of children, the stability of the family, the continuation and vigour of the species, and the safeguarding of society, the subjectivity of woman as Mother has been 'overdetermined' by virtue of the centrality of her 'functions'. She is target for two of the "great strategic unities" described by Foucault. Alerted by Millett and particularly by Weeks, we can see also that the fundamental, although often implicit, rationale for these processes of subjectification is women's primordial connection with nature; in fulfilling her biological destiny she performs her social function.

The institutions of church and state and the medical profession have been of cardinal importance in defining the discursive legacy in which the contemporary abortion debate is embedded. Whereas clerical pronouncements on birth control date back almost to the beginning of Christianity, the state took no interest in it until the 1800s and even then, it was not until the last few decades of the century that birth control in general, and abortion in particular, was perceived as of particular importance. This development was paralleled by another, related, shift: a recognition of the vital role of women both in childbearing and rearing. Previously, the accent had been on women's role as wife, but by the turn of the century this was being increasingly subordinated to an emphasis on her function as Mother. "Women's traditional domestic responsibilities were being ideologically reshaped to accord with new perceived problems." (Weeks, 1981: 126) This latter development was only made possible by an earlier discursive transformation - spurred by the production of new medical knowledge about sex and procreation - which redefined women's sexuality and its relation to reproduction.

In NSW, the decline in the birth-rate since 1880 prompted a new sort of concern with population and the need to manage it, and climaxed with a Royal Commission begun in 1903. Its Report stands as the major historical document dealing at length with "frauds against procreation", including abortion, in this State. An examination of the inquiry's findings will demonstrate the way the Commissioners conceptualised contraception and abortion as social issues, and the relation between that and their view of the nature and purpose of women. The assumptions they held about women - integral to the way they dealt with the problem of the falling birth-rate and the implications they saw as arising from that - will be elaborated on briefly by reference to dominant definitions of 'good' and 'bad' women (and how these categories derived from notions about their bodies and sex) and the emergent recognition of motherhood as a 'vocation'.

By 1942 the Federal Government was sufficiently concerned about a further fall in the birth-rate during the post-depression years to commission the National Health and Medical Research Council to undertake another

inquiry. Its findings - while in important respects differing dramatically from those of the Royal Commission's - still echoed the 1904 inquiry in terms of its tacit assumptions about the proper and natural role of women. Based on these, and its assessment of the factors inhibiting a higher birth-rate, it recommended a series of regulatory welfare measures designed to reinforce the institution of the family and 'assist' women to have the larger numbers of children it assumed they 'naturally' desired.⁵⁴

The Royal Commission took place at a time when questions of population and birth control had been the focus of energetic discussion and argument for several decades in Western countries. The publication of numerous books and pamphlets prompted on the one hand, by the demographic shift itself, and on the other by a change in attitudes to family size which, to some degree, were responsible for the declining birth-rate, proliferated between the 1870s and 1910s. The theories of Malthus and of neo-Malthusianism and an emerging interest in eugenics and social Darwinism received a wide public airing, along with works specifically devoted to contraception by birth-control campaigners such as George Drysdale, Charles Bradlaugh and Annie Besant. The unsuccessful prosecution of the latter two in England in 1876 and of the bookseller and free-thinking activist Collins in Sydney in 1888 cleared the way for wide-spread dissemination of written information on birth control. Collins was initially convicted for selling a book on birth control, *The Law of Population*, but appealed successfully to the Supreme Court. In his judgement Mr Justice Windeyer not only upheld the morality of birth control, but stated that in many instances not to practice it or prevent access to knowledge of it was in itself immoral. He cited cases where the parents were too poor to adequately support large families, women whose lives were at risk if they fell pregnant, and pointed to the plight of women married to irresponsible men who treated them like slaves and who already had more children than they could cope with. His remarks were so liberal that pamphlets quoting them were distributed internationally by birth control campaigners.⁵⁵

The Royal Commissioners were not, then, speaking of these matters in a public discursive vacuum. Nevertheless, they saw it as their duty to denounce the abominable practices of contraception and abortion; immoral, for them, because they were criminal acts against the race and therefore, a threat to the progress of

⁵⁴ Of course, this whole account draws on values, norms and judgements articulated by members of dominant social groups: clerics, parliamentarians, medical and professional men, as in large part, does the thesis as a whole. This is not to say that the discourses being articulated here were necessarily different from, or the same as, those which circulated amongst other social groups and levels of society. The reality would have been much more complex than that. For example, evidence suggests that many, if not most, women (with or without the cooperation of their partners) practised forms of birth control, and McLaren argues forcefully that abortion was perhaps the major form employed. (1984: 89) This indicates that even if women were aware of religious or (later) legal sanctions, many certainly were not daunted by them. In fact, in the past, as we shall see, working class women (and presumably peasant women before that) could see no moral harm in abortion before quickening (about three to four months). Indeed, Weeks (1981: 71) notes that a 1937 inquiry in England found that many working-class women were unaware that abortion was illegal prior to quickening, a belief which testifies to the tenacity of traditional knowledge. It also indicates that the notion that a dominant social group can impose its own morals, values and behavioural norms on a subordinate one, *when they run contrary to the interests of the latter*, or members of it, is highly problematic. Nevertheless, it is those discourses promulgated by men in economic, political or occupational positions of power which have come to define the terrain on which abortion is debated today.

⁵⁵ The history of censorship of material dealing with birth control is indicative of an early concern with the declining birth-rate. Books and pamphlets on the subject had circulated freely for up to fifty years prior to the 1880s, including those which then became subject to prosecution on the grounds that they were indecent or obscene. In 1884 police raided a bookshop and charged the proprietor for selling two very prominent books dealing with birth control, *The Fruits of Philosophy* and *The Elements of Social Science*. He was fined, but a conference of free-thinkers resolved to fight any further prosecutions. In 1885, an advocate of birth control was fined for giving public lectures, but the conviction was quashed in the Supreme Court. The two successful appeals provided precedents forestalling future police prosecutions, thus allowing the sale of books on the topic and stimulating open discussion about it. The dissemination of written materials was largely brought to an end in the period following Federation, however, when censorship of imported material was passed to control of the Customs Department. A prosecution over a consignment of French novels in 1901 created a public furor. The prosecution witnesses were made to appear ignorant and ridiculous in court and there was widespread criticism in the press. The Federal Government and Customs Department came out of the affair looking very foolish. Thereafter, Customs tended to act via regulations which allowed its officers to declare and seize, without the need for prosecution or any form of public disclosure, whatever they deemed blasphemous, indecent or obscene. In 1914 - during the period Summers (1975) alleges a 'rampant puritanism' gripped Australia (see below) - the meaning of this was widened to include anything which could be considered objectionable in the household of the ordinary self-respecting citizen. Up until late in the 1960s many books on birth control (including those nineteenth century works) and even medical textbooks were prohibited and seized by Customs. (For the history of early censorship in Australia see Coleman, 1974.)

the nation, and a repudiation by women of their 'natural' duty to society.⁵⁶ The National Health and Medical Research Council, whilst preoccupied with the reasons for family limitation rather than - as the Commissioners were - with the means, also condemned abortion. Neither, then, considered abortion as an issue to be *debated*: rather, it was an unpleasant reality with which these experts were forced to deal in the process of 'scientifically' investigating the population problem. But it is significant, and especially so given the repression hypothesis' insistence on the puritanical moralism of the Victorian era, that whereas the Royal Commission was temporally located in the midst of a noisy debate about controlling the procreational effects of sex, the Council's deliberations took place at a time when sex and abortion were shrouded in a public silence. "Subjects such as contraceptives ... [and we could certainly add, abortion] were so taboo that they were not even attacked." (Horne, 1978: 48)

At some time in the interim between the two inquiries, then, any conceptual space for public discussion of birth control - and certainly dissension from the taken-for-granted immorality of the practices, particularly abortion - disappeared. That this silence descended in the earlier twentieth century is in line with Summers' contention (see below) that it was in this period, rather than that of Victorianism, that 'rampant moralism' achieved a grip on the Australian populace. The appearance of the contraceptive pill in 1961, coupled with the hitherto largely unvoiced need for effective birth control, opened a controversy about its morality. But when, in the later 1960s, abortion emerged for the first time as an issue of public debate, the discursive lines of defence articulated by its opponents were imbued with themes which had lain virtually dormant (in terms of their conjunction with abortion) for most of the century. That these ideas and rhetoric were so clearly at hand to be reactivated and marshalled indicates that the secrecy and, what Henry Mayer (*DM*, 17.4.66: 10) referred to as, "the last great silence" cloaking abortion practices represented, in Foucaultian terms, not an 'absence' of power, but rather a "shelter for power", facilitating an "anchoring [of] its prohibitions" (Foucault, 1980a: 101).

This is not to say that what was enunciated in the later 1960s was identical to its turn-of-the-century discursive predecessors. There were clearly shifts in nuance and detail specific to the historical context of the debate. And, paradoxically, the anti-abortionist theme which we shall see as emerging to rapidly dominate and eventually eclipse all others is strikingly absent in the rhetoric of the Royal Commissioners (and the Council's findings): that of the 'right to life' of the unborn 'child'. For the historical forbears of that discursive formation we shall need to look elsewhere. It is within the Catholic Church that the general assumption of abortion as an *innately* moral issue, and the particular concept of the foetus as a human being with rights, developed.

The Catholic Church and Abortion

The concept of abortion as homicide is not, in itself, a recent social construction. What is of recent origin is firstly, the notion that the foetus has a 'right' to life. Formerly, within Christianity, life belonged to God and its unjust destruction was therefore a sin against the Almighty. Similarly, Foucault indicates how in secular life it was the sovereign who had power over life and death. In neither case was there any concept of individuals as having a 'right' of their own to life. Secondly, it is only in the twentieth century that the idea of abortion as murder percolated into the minds and vocabulary of the general and non-Catholic populace, and even more recently, the idea of a foetal right to life. Abortion as murder is specifically a principle deriving from canon law, with a theological history dating back as far as the first century AD (Callahan, 1970: 410). This was not, however, a church *dogma*, and there were differences between theologians as to how abortion should be conceptualised, as there were also on the gravity of the offence. In the first thorough attempts, in the twelfth and thirteenth centuries, to systematise ecclesiastical law, abortion was forbidden as a form of homicide, but there are two important points to note about that. First, the church writings of the period link contraception, abortion and infanticide together in the same prohibition, according them similar status as murder; and second, there is a clear distinction made between abortion of the 'formed' foetus (forty days for

⁵⁶ Hicks notes that despite the ferment of debate about birth control and the theorising about population and eugenics, the Commissioners appear to have been remarkably ill informed about the literature and, for example, theories of neo-Malthusianism. He attributes this in part, to the 1890 depression which turned the attention of most of the Commissioner's ilk to economic matters and then the need for immediate population growth (as labour) by migration. (1978: 95)

the male and eighty for the female) and the 'unformed' foetus, the former being deemed murder, but the latter not. There was certain theological argument in the centuries after that about the point at which the soul enters the body, that is, when the foetus was 'formed', and hence at what point its deliberate destruction entailed murder. For example, Callahan cites a Jesuit of the sixteenth century who argued that whereas the sanction against contraception was absolute, that against abortion allowed exceptions prior to ensoulment. In 1588, Sixtus V issued a papal bull condemning abortion:

Who does not abhor the lustful cruelty or cruel lust of impious [sic] men, a lust which goes so far they procure poisons to extinguish and destroy the conceived foetus within the womb, even attempting by a wicked crime to destroy their own offspring before he lives, or if it lives to kill it before it is born? Who, then, would not condemn with the most severe punishments the crimes of those who by poisons, potions, and *maleficia* induce sterility in women, or impede by cursed medicines their conceiving or bearing. (quoted in McLaren, 1984: 117)

But this still retained the loophole of 'ensoulment', which meant in practice that abortion was permitted until the time of quickening - about four months. Thus, it allowed for a good degree of latitude, as a woman could claim that 'vitality' had not entered the body of the foetus.

Importantly too, McLaren claims in his very well researched study on birth control in England, (1984: 117), that despite the apparent severity of the injunctions, the concern expressed by the Church was not in fact about the act of abortion itself, but more pragmatically, about the illicit relationship preceding it or the use of 'magical' herbs or *maleficia* (magical acts), reliance on which was anathema to the Church as they smacked of paganism and witchcraft. Any charge for abortion, like others to do with moral or sexual matters, was a matter for the ecclesiastical courts, such offences not being subject to common law, and court records show very few references to trials for abortion whilst those for prostitution, bastardy, incest, incontinence and venereal disease are common.⁵⁷ When abortion related offences do appear in the records, McLaren points out that it was almost invariably not abortion as such which caused prosecution:

It was not the woman who aborted, but rather the promiscuous woman, or the seducer, or the provider of abortifacients who was tracked down. In short it was public scandal associated with abortion that forced the courts into action; the woman privately seeking to induce her own miscarriage would not be the source of such a commotion and would correspondingly be rarely cited. (McLaren, 1984: 120)

In this context it is worth pointing out also that the prescribed penances for abortion, although apparently severe, were much more lenient than those for other sexual sins, so that whilst abortion carried a penance of three years, fornication, for example, was punishable by seven. Importantly too, as indicating that it was primarily illicit sex which was the issue, is the fact that the penalty for unmarried women was three times longer than that for the married woman, from whom only one year's penance was required. And in practice, the penalty basically boiled down to a fine and a public confession.

The ecclesiastical courts were closed for twenty years by the Roundheads, but after their revival in 1660 never achieved their former power and became increasingly marginalised to the common law courts. This allowed for the separation of sin and crime, and McLaren notes that during the 1640s there was no such thing as a specifically sexual crime in England. Before long, however, the authorities, fearing moral disorder, took statutory action to make incest and adultery crimes, but it is notable that abortion escaped this sanction for another 150 years. In the interim it could be dealt with in the courts under common law, but rarely was, and reflecting the gradual shift in Protestant attitudes in morality away from Catholicism, was slowly redefined from being murder or a felony, to the lesser category of misprison, and finally, in the eighteenth century, as a

⁵⁷ This should not be taken to suggest that abortion was not a common practice as is often assumed by many commentators who attribute its emergence to technological advances. Anthropologists have established that most known societies have practised abortion by one means or another. (Gordon, 1977: 35,9); McLaren, 1984: 5,6) In the West, including England, the use of abortifacients and mechanical procedures can be dated virtually as far back as there are church and medical writings. Of course, some of these were more successful than others, but McLaren makes the point that if particular herbs or potions, or even magical charms, incantations or procedures were believed to be effective, for all intents and purposes, historically, they must be treated on a par as those which were most efficacious. Also, whereas most modern authorities (for example, Potts et al, 1977) dismiss the numerous abortifacients used in the past as useless for the purpose of abortion, this conclusion is not based on empirical enquiry. Geoffrey Davis, of Population Services International, one of the main Sydney abortionists before and after liberalisation of the law, is adamant that savin, which was used for countless centuries, is a safe and very effective abortifacient (personal communication).

misdeemeanour. (McLaren, 1984: 120-2) Further, a search by McLaren of Old Bailey trials held in that latter century yielded none for abortion, but numerous cases of others related to sex, such as rape and sodomy.

Given then, the virtual indifference with which the law regarded abortion, why was it that in 1803 a statute was enacted making it a capital offence if performed after quickening, and punishable by the pillory or transportation if carried out in the earlier stages of pregnancy? Potts *et al* point out that there was no apparent reason, there being no debate at the time and a lapse of eight years before the first prosecution. They argue there is no evidence to suggest any theological or puritanical motivation and conclude it was merely a bit of “legal tidying up”. (1977: 278) Francombe attributes the law to the growing power of the middle class, seeing it as an attempt by it to impose its own puritanical morality on both the working class and the aristocracy. (1984, 25-28) Others, such as Wainer (1972: 34), working on the premise that abortion was invariably dangerous for women prior to modern technology, have suggested that the purpose of the statute was to protect women. It has also been explained as part of a movement by authorities to ensure control of the populace by tightening the law in general and increasing penalties, because of fears of social disorder and revolt similar to that of the French Revolution and its aftermath.

Stigmatising Illegitimacy

In fact, it is arguable that we can trace the genesis of the law against abortion back to the Poor Law Act of 1576 and a gradual shift in attitudes towards illegitimacy both feeding into and, consequent to that, and to actions which constituted a response to this change. Pinchbeck maintains that there was little social stigma attached to either the having of an illegitimate child or the state of bastardy itself prior to the Elizabethan era. (1954: 314) For the aristocracy, illegitimate children did not constitute a problem, and apart from being barred from inheritance (a condition they held in common with all daughters and younger sons anyway, because of the law of primogeniture) were usually raised alongside lawful progeny. Further, marriage was well nigh universal amongst English clergy in mediaeval times and it took the Church three centuries after the Norman Conquest to eventually succeed in suppressing it and even then, it was replaced by concubinary. For centuries afterwards, that it was normal practice for the bastard sons of clergy to inherit their fathers' churches - the practice being so common and accepted that a canonical law was established to prevent illegitimates from receiving Holy Orders - is highly indicative of the absence of any odium attaching to illegitimacy or the having of an illegitimate child.⁵⁸ Hence, says Pinchbeck, there was no need to even explain illegitimacy or seek a solution; quite simply, it was not problematic. For peasants, a potential economic difficulty for the mother was simply resolved by marriage to the father. In the sixteenth century, however, a number of economic and moral factors combined together to produce a new antagonism towards bastards and the women who bore them, but even then, for the next two hundred years or so, this was confined to the poorer classes.

During the sixteenth century, for a number of reasons, poverty deepened and became increasingly widespread. This put considerable pressure on the traditional system of Parish assistance to those in need, which in practice meant an increased financial burden for the community. At the same time, young men, unable to gain subsistence or employment in their home villages, and even some young women, began to move around the countryside or migrate to the emerging urban centres in search of work. This resulted in a rise in a category of illegitimacy previously small enough not to have been of particular concern: cases where the father had left his village or, if already itinerant, had passed on prior to the birth, or young women, themselves having migrated, finding themselves with child but no husband on whom they could depend. These unmarried women were seen to put an additional burden on an already overloaded system of Parish relief. Gill (1977: 206) recounts that those responsible for regulating the poor often took to dispatching illegitimately pregnant women over the border into an adjoining Parish, even to the extent of transferring them when they were in labour.

⁵⁸ Even then, notes Pinchbeck, a dispensation could be obtained as a matter of course for the sum of seven shillings and sixpence, which made it the cheapest of all dispensations. This implies that whilst Rome may have been anxious to stamp out the practice, amongst the English clergy it was so entrenched that the canonical impediment was merely a matter of form.

To deal with what was seen as a growing problem, the Poor Law Act of 1576 required an unmarried pregnant woman to name the man responsible, and if he had no money or friends to give surety for him, a Justice would issue a warrant for his imprisonment until the birth. He would then have a maintenance order made against him, the amount depending on local custom and his financial standing. (Gill, 1977: 204, 211; Pinchbeck, 1954: 315)

Apart from the economic motive, there was another factor influencing Parliament's decision to legislate. McLaren says that the upper orders were increasingly concerned with the potential threat to social order posed by worsening poverty amongst the poor, and this led to a new preoccupation with their moral lives. (1984: 131) The growing influence of Puritanism promoted the establishment of mechanisms to increase control over the institution of marriage and illicit sexual activity. (Gill, 1977: 204) The preamble to the Act demonstrates the combination of economic and moral considerations:

Concerning bastards begotten and born out of lawful matrimony (an offence against God's and Man's laws) the said bastards being now left to be kept at the charge of the Parish where they be born, to the great burden of the same Parish and in defrauding of the relief of the impotent and aged true poor of the same Parish, and to the evil example and the encouragement of lewd life.... (quoted in Pinchbeck, 1954: 315)

This move often, however, had results quite the obverse of those intended, and is also seen as contributing to the development of a new set of problems which subsequently resulted in further measures to control illicit sexuality and its consequences. On the one hand, the new law actually promoted illegitimacy, as less scrupulous unmarried women discerned that by falling pregnant to a man of superior financial means they could gain a more comfortable level of support than their status would normally afford them. Also, the way the Act worked encouraged a woman pregnant to a poor man to name a wealthy one as the putative father, her word being taken as sufficient evidence to implicate a man, with him having no right to cross examination or denial. (Gill, 1977: 211) The Act was also seen as unworkable and expensive to administer, with itinerant or poorer men simply leaving the Parish. Certainly, it failed in discouraging pre-marital sex and bastardy, as there was "an explosion of illegitimacy" in some parts of England from the turn of the century. (Haslett et al, 1980: 171)

On the other hand, the already developing stigma associated with illegitimate motherhood due to their dependency on the community, was exacerbated by these consequences of the Act. Much of any blame hitherto associated with the having of a bastard (that is, when the couple did not subsequently marry) was accorded the man as a seducer and deserter. But increasingly, moral opprobrium was heaped on the woman instead, the severity of the Act towards the father being seen as unjust and iniquitous. To avoid the public humiliation and ostracism an unmarried mother was likely to suffer, many women concealed the birth of illegitimate offspring, secretly abandoned them, or went so far as to rid themselves of the source of their problem by committing infanticide.

The combined result of early bastardy legislation and its obsession with guilt was to stigmatize and ostracize both mother and child and inflict an often unbearable cruelty which compelled concealment, abortion, desertion and infanticide and the later horrors of baby-farming. (Pinchbeck, 1954: 316)

In all the contemporary objections to the 1576 Act it was the unfair treatment of the putative father and the crime of infanticide which critics targeted as requiring action. In this, we can see that the accelerating condemnation associated with the bearing of an illegitimate child (and the illicit sexuality giving rise to it) was increasingly directed at the woman concerned. Successive statutes inflicted increasingly harsh penalties on the woman, including imprisonment and whipping (Pinchbeck, 1954: 316). Coinciding with the Act and no doubt contributing to the developing censoriousness was the rise of Puritanism, which "hyphenated sex with sin". Under its influence, procedures to excoriate and shame the woman were introduced. The Presbyterians, for example, compelled her to appear wearing a white sheet at successive Divine Services and to publicly confess her sin. (Pinchbeck, 1954: 315)

The Bastardy Act of 1624

Whether or not the incidence of infanticide did increase to the degree that critics of the Poor Law alleged, certainly concern about it was being loudly voiced, and in 1624 an Act to Prevent the Destroying and

Murdering of Bastard Children was passed, its preamble referring to the “great increase” in infanticide since the enactment of the Poor Law. (Pinchbeck, 1954: 316) This iniquitous piece of legislation, aimed at “lewd women that have been delivered of bastard children, [and who] do secretly bury or conceal the death of their children”, decreed that if an illegitimate child was discovered dead “it was murdered by the said women, their lewd mothers, or by their assent or procurement”, unless the women could produce a witness to testify that the child was stillborn. (quoted in McLaren, 1984: 130) Thus the onus of proof was put on the woman to prove that she had not killed the infant; that is, the court did not have to establish her guilt. Notwithstanding that, the penalty to be imposed on a woman deemed guilty was fixed at death.

Apart from the unique legal aspect of reversing the onus of proof, there was another notable rider to the law. It pertained only to unmarried or ‘lewd’ women, exempting married women on the assumption they would not have recourse to such extreme action. This suggests that the lawmakers saw the fear of moral condemnation as the only possible reason for a woman wanting to rid herself of an unwanted child (excluding the possibility that the debilitating physical or financial costs to married poor women or couples could be an inducement) and further, that they were concerned with a fear of promiscuity rather than a threat to infant life (McLaren, 1984: 131). Pinchbeck makes a similar point about the bastardy provisions in the 1576 Poor Act, seeing it as not at all concerned with the welfare of the child, but “with the relief of public expenditure and the exposure and punishment of those responsible for bringing these children into the world; with the idea of discouraging vice and indemnifying the parish against the cost of maintenance”. (1954: 315)

The law was vociferously condemned both as a corruption of legal principles and as unworkable. Juries were extremely reluctant to convict for a capital offence on mere circumstantial evidence, and even when it appeared very likely that the child had indeed died by the mother’s hand, there was still a high probability of acquittal, the courts perceiving it as an injustice that the woman should hang whilst her seducer went free. In effect, says McLaren, juries usually tended to ignore the statute, seeing infanticide as the result of exceptional circumstances exacerbated by some mental derangement of the mother at the time. (1984: 131) The hanging of a woman in 1658 caused a riot amongst the local populace, and reformers argued for rescission or amendment of the law on humanitarian grounds and because, with new knowledge of the physiology of the body in 1784, there was no way of deciding whether or not the child had been born alive.⁵⁹ (McLaren, 1984: 135)

Criminalising Abortion

The law continued to be the subject of attack until the beginning of the nineteenth century, when it was reformed in the Maiming and Wounding Act of 1803. This legislation put the burden of proof that the infant was born alive, and that the women had indeed murdered it, on the prosecution. In practice, however, women suspected of infanticide tended to be charged with the much lesser offence of concealment, the penalty for which was two years in a house of correction. But in the same Act, abortion, for the first time, was made the subject of statute law. There are a number of points about this worth noting. First, Lord Ellenborough, who introduced the Bill, was no humanitarian but rather a staunch conservative determined to reform the bastardy law only because its unworkability brought the law into disrepute. A firm believer in the “use of the law as terror” (McLaren, 1984: 129), his Bill created ten new capital offences, and this is the second point; abortion was grouped with an assortment of new capital crimes totally unrelated to questions of sexual morality:

... or thereby to cause or procure the miscarriage of any women then being quick with child: or shall wilfully, maliciously, and unlawfully set fire to any house, barn, granary, hop oast, malthouse, stable, coach house, outhouse, mill.... (quoted in Potts et al, 1977: 278)

Others included discharging a firearm in a public place or administering poison with intent to kill (McLaren: 136). Third, whereas common law had decreed abortion to be an offence only after quickening, the Act, whilst retaining quickening as a turning point in the process of gestation, made abortion prior to it a crime as well, although a lesser one not incurring the death penalty. Lastly, the woman attempting to or procuring her

⁵⁹ Up until then the lungs of the dead child were immersed in water and, if they floated, it was deemed that the infant had breathed after birth. The eminent surgeon and anatomist, William Hunter, submitted this test to empirical proof and found that the lungs of stillborns also floated. This gave the argument for reform even greater momentum.

own miscarriage (by herself or at the hands of others) was not guilty of any crime; rather it was any person or persons administering abortifacients or performing the operation, along with anyone aiding or abetting in these offences, who was deemed to be committing the crime (Potts, 1977: 279).

Finally, then, it is within this context that we can understand the enactment of statute law against abortion. The stigma attached to illegitimacy and its necessary precursor, illicit sexuality, which developed over the prior two centuries - initially and primarily provoked by economic considerations and spurred on by the entrenchment of Puritanism - coupled with the terror of the bastardy laws, had very likely made recourse to abortion a preferable alternative to illegitimate birth. There was no outcry against the immorality of abortion preceding the 1803 law, and McLaren points to commentators subsequently applauding the legislation because of the large number of women who had been dying from abortions or the use of abortifacients (1984: 136). It would appear, then, that Parliament acknowledged that the bastardy laws were driving women to these practices, and some consequently, to death or maiming. Thus, whilst repealing the bastardy provisions, it instituted strong sanctions against abortion. These were intended, however, not to punish the woman involved - who was not liable in any way - but the purveyor of abortifacients, abortionists, and also the seducer who, under the still extant Poor Law, would have an interest in preventing a birth. McLaren and others note numerous examples in the records of the man involved obtaining abortifacients or arranging abortions, sometimes against the will of the woman. The inclusion of abortion in a Bill directed against maiming and wounding was in this context appropriate, it being conceived primarily as a practice likely to kill or injure women. Thus, it was not the murder of the *foetus* at issue, but a desire to make the perpetrators of these acts subject to the most stringent processes of the law.

Also, looked at again in the context of the other offences dealt with in the Act - violent acts against people or property, many of which were likely to accompany civil unrest, riots and disorder - and in that of the massive social dislocation and upheaval caused by industrialisation and urbanisation, the statute can be seen as part of a concerted and wider effort by the authorities to exert maximum control over the populace. And in fact, it was a period when, spurred too by fears of revolt engendered by the French Revolution, Parliament enacted numerous pieces of legislation with this aim in mind. In the burgeoning urban centres, and amongst the countless thousands uprooted in the countryside by Enclosures and trekking around in search of work, traditional forms of social discipline exerted by community and kin in the more stable rural way of life could no longer be relied on to the extent that they hitherto could.

The Act was amended in 1828 to include references to the use of instruments as well as poisons (McLaren, 1984: 143) and to make it an offence to counsel, aid or abet in the procurement of an abortion (Potts et al, 1977: 279). In part, this did involve some legal 'tidying up'; the references to stables and malthouses were removed elsewhere and those to murder, manslaughter and maim appeared in a more rational order. (Potts et al, 1977: 279) In 1837 the abortion provisions were changed and brought into an Act to Amend the Laws relating to Offences against the Person. The offence no longer carried the death penalty but, significantly, the concept of quickening disappeared.

Finally, in 1861, the Offences against the Persons Act was legislated, dealing with a wide range of matters and designed to "consolidate and amend the statute Law of England and Ireland" (quoted in Potts et al, 1977: 281) Here, for the first time, the woman herself was deemed to be committing a felony, and she, along with any other person found guilty of procuring an abortion, or counselling, aiding or abetting, was liable to life imprisonment or not less than three years penal servitude. The other significant detail about this final piece of legislation was the use of the term 'unlawfully' preceding the description of the offence. There was no reference at the time as to what this was meant to convey, but in the future this one word was to become of vital importance in Australia, the statutes of each state being styled, with only minor modifications, on this English law. In Victoria and NSW it was to allow the courts to interpret it as meaning there were circumstances when abortion could be performed within the law.

The deletion of the distinction between the formed and unformed foetus was significant for two reasons. First, it legally did away with a principle that was deeply embedded in tradition both secular and theological, the moment of quickening having been seen from time immemorial as marking a transition point in gestation.

Second, its removal was the result of a campaign by the nascent modern medical profession, staking its claim to scientific expertise in matters touching on the body and the processes of life.

Medicalisation of Abortion

McLaren demonstrates that from the first, medical men were dissatisfied with the 1803 legislation for a number of reasons. They took as a rebuff to their profession the fact that they were not consulted in the drafting of the law, and that lawyers were presumed competent to pronounce on medical issues. The criticisms they voiced over the next several decades show that they were particularly concerned that the law make it clear that non-medical persons would be prosecuted for performing abortions. Conversely, they wanted it recognised that decisions about therapeutic abortions were the sole province of medical practitioners, and in such medical matters they could act without hindrance from the law. (McLaren, 1984: 137)

Their other major concern was that the law legitimised the unscientific notion of quickening. In so doing, the pregnant woman herself (or in criminal prosecutions, a 'jury of matrons') had the power to determine whether or not foetal life was present. McLaren argues that the medical profession found this wholly unacceptable, as it signified that "in some medical matters the word of the patient had as much weight as that of the doctor" (1984: 139):

The concept of quickening was perhaps the best example of the patient having some power - that is to say, the power of determining if vitality were present - and it necessarily had to be sacrificed to practitioners who asserted that they alone could make such decisions. (McLaren, 1984: 142)

Also, the medical profession objected to the concept of quickening as scientifically meaningless, maintaining that the law should rely only on relevant knowledge gained from the study of physiology. But, as McLaren points out, whilst the new law eliminated the traditional idea of quickening, it did not incorporate any new physiological findings. In fact, as it was drafted, a felony was deemed to have been committed if an abortion was attempted on any woman, whether or not she was actually pregnant.⁶⁰ (McLaren, 1984: 143) Although there was not any specific allowance made for therapeutic abortions, in practice the law was interpreted as applying only to unlicensed practitioners.

Catholicism and the Centrality of Quickening

Whereas it is often assumed, and explicitly stated by Noonan (1971: 223,40), that the 1803 law reflected a continuity with the (Catholic) ecclesiastical injunction against the taking of foetal life - apparent, as Noonan claims, in the adoption in the statute of the traditional distinction between the unformed and formed foetus - it would appear that the way in which abortion was viewed by the authorities in the early eighteenth century in England had little in common with the Catholic position. This is not to suggest that illicit sexuality, abortion and illegitimacy, nor foetal destruction, carried no moral opprobrium, but rather, that these issues were seen by lawmakers as outside the province of the law. The legislative criminalisation of abortion came about from a confluence of interests between humanitarians anxious to abolish the laws on infanticide, and authorities concerned with the issue of social control. For those opposed to the bastardy laws, the statute on abortion was an unintended consequence of their campaign (McLaren, 1984: 143). Inclusion of the concept of quickening as marking a distinctive turning point in the process of gestation was by no means particularly Catholic; it was so deeply entrenched in folklore and culture that it was a part of the everyday knowledge of 'the way things are' subscribed to by all social classes, thus there was an 'obviousness' to its inclusion in the law. The subsequent refinement of the abortion provisions was, in turn, largely a response to opposition from the medical profession to the initial statute. What is also being claimed here is that the Protestant tradition, whilst not insensitive to abortion as involving foetal death, was not preoccupied with it as an issue to the same degree as was the Catholic Church (and even its significance there pales in comparison with the Church's obsession with it from the 1960s onwards). This assertion receives support from the way the 1904 Royal Commission dealt with the issue, as we shall see below.

⁶⁰ McLaren says that this suggests that although the medical profession was consulted, the lawyers, in drawing up the legislation, followed their own legal logic in order to simplify the exercise. Nevertheless, evidence in the medical writings of the time indicates that the profession accepted the new draft. (1984: 143)

Meanwhile, the Catholic Church maintained the concept of quickening until well into the nineteenth century. Hence, although it condemned abortion as murder after the foetus was formed, its actual treatment of the practice was quite lenient. McLaren says that as far as Catholics were concerned, no outright condemnation of abortion entered into the canons until then. But the ground was being laid for the absolutist position exhibited by the Catholic Church in the twentieth century. In theological terms (as distinct from its preoccupation with illicit sex and the use of evil medicines) the Church's aversion to abortion derives from the doctrine of original sin. A 'murdered' foetus or baby was excluded from entry into the kingdom of heaven by being denied baptism. From this stems the significance of quickening or 'ensoulment'. During the sixteenth century a cult developed and grew around the doctrine of the immaculate conception of Mary, and received theological and papal support. In 1701, when the Feast of the Immaculate Conception was made a universal obligation for Catholics, a belief in ensoulment of all human beings from conception received indirect support.⁶¹ (Noonan, 1971: 36) If Mary was immaculate (that is, free from original sin) from conception, then presumably her soul was present from that moment. This was in fact declared as Church dogma by Pius IX in 1854. "The new dogma dealt the old formula [of the absence of soul prior to quickening] a glancing if not fatal blow." (Noonan, 1971: 38)

The decisive change in the official Catholic position came in 1869 when the papacy eliminated the distinction between 'unformed' and 'ensouled' foetuses and decreed that abortion at any time after conception was punishable by excommunication. Subsequent clarifications from the Holy Office ruled out possible exceptions to the rule, making it increasingly stringent.⁶² The original bull of excommunication had not specifically included the pregnant woman in its terminology, but only those performing the operation, and in 1917 a new Code of Canon Law pronounced that she too would be excommunicated. (Noonan, 1971: 39-43) Thus, over the latter nineteenth and early twentieth centuries the Catholic position hardened into the universal prohibition which it maintains today. By 1930, according to Noonan, the Holy Office considered it necessary for the Pope to clarify and reassert the Catholic position "to dissipate the doubts of Catholic doctors, to answer the champions of abortion, to speak to the legislators, to reach the widest possible audience". Thus, in the encyclical *Casti Connubii*, Pope Pius XI (employing a battery of phrases later to recur with litany-like regularity in anti-abortion discourse) proclaimed abortion:

... [a] very serious crime ... which attacks the life of the offspring while it is yet *hidden in the womb of its mother*....⁶³ But can any reason ever avail to excuse the direct *killing of the innocent*.... Nor is there any question here of the right to *self-defence* [by the mother], even to the shedding of blood, against an *unjust assailant*, for none could describe as an unjust assailant an *innocent child*. Nor, finally, does there exist any so-called right of extreme necessity which could extend to the direct *killing of an innocent human being*. (quoted in Callahan, 1970: 414, my emphases)

The encyclical referred to married women or couples who resorted to abortion to prevent births as "wicked" and condemned them for their "lustful cruelty". And in answer to those who argued that there were good social or eugenic grounds for abortion (such as poverty or the youthfulness of the mother; or serious mental or foetal abnormality) the Pope replied that "killing of the innocent" for these reasons was contrary to the divine commandment, that "[e]vils are not to be done in order that good comes from them". (quoted in Noonan, 1971: 43,4) Hence, says Noonan, "the independent destiny of the foetus, not to be destroyed for its own good or for the good of others, was thus asserted".

⁶¹ Subsequent advances in medical knowledge pose a dilemma for Catholic theologians on very early abortion. It is now known that in the case of identical twins the fertilised egg does not divide until sixteen days after conception. Yet it is Catholic doctrine that the soul is indivisible, hence it could not be present from conception, lest the egg divide to form twins. Theologians have therefore been forced to concede that the earliest time the soul could enter the body is sixteen days, and thus, that abortion could not be murder prior to that point. This esoteric piece of doctrine is, of course, not publicised by the Church, and has not stopped clerics from opposing any suggestion of a 'morning-after' pill, in vitro fertilisation, or experimental work with several day-old embryos.

⁶² The only exceptions now allowed are in cases of ectopic pregnancies and cancer of the uterus, where it was deemed that destruction of the foetus was not directly intended, and came about as an indirect result of an operation performed with the intention of saving the mother's life. An abortion performed in any other case to save the mother from death is not permitted.

⁶³ This phrase has also been translated as 'hidden in the maternal breast'. (See Noonan, 1971: 43) The alternate translation is significant because, as with all of the phrases I have emphasised, we shall encounter it in the anti-abortion discourse of the mid-1960s to 1980s.

Producing the Foetus' 'Right to Life'

Twenty years later, in an allocution addressing Catholic midwives and approving the use of the rhythm method, Pius XII reiterated the Church's teaching, emphasising that no circumstances justified an exception. But a concept not hitherto part of the discourse made its first appearance in Church statements:

...even the child, *even the unborn child, is a human being* in the same degree and by the same title as its mother. Moreover, every human being, even the child in its mother's womb, receives its *right to life* directly from God, not from its parents, nor from any human society or authority. (quoted in Callahan, 1970: 414, my emphasis)

Hence there is no man, no human authority, no science, no medical, eugenic, social, economic or moral 'indication' which can establish or grant a valid juridical ground for a direct deliberate disposition of an *innocent human life*. (quoted in Noonan, 1971: 45, my emphasis)

Of this, Noonan declares that "a more succinct and complete assertion of *the rights of the embryo* had not been made" (1971: 45, my emphasis). Indeed, this is the first time a papal or canonical pronouncement referred to the foetus as a being with a *right to life*.

Thus, we can discern in these papal statements crucial concepts, particular phrases and terminology which, as we shall see in subsequent chapters, have come to permeate the doctrine and rhetoric of anti-abortionists. This is significant because it indicates the peculiarly Catholic origin of the moral arguments put forward by opponents of abortion choice, and perhaps even more importantly, the recent historical emergence of certain key assumptions and concepts fundamental to the allegedly transcendent 'ethical dilemma' of abortion. Along with the especially significant 'right to life' of the foetus, all of the arguments, concepts and terminology contained in the statements are enunciated repeatedly in the anti-abortionist discourse of the late 1960s to the 1980s: that the foetus is a *child*, a full *human being* with *rights* equivalent to any other *person*; that it is an *innocent* child (as opposed to a 'sinner'), and hence can not be regarded as an *unjust aggressor* whose *killing* might be justified in *self defence*; and that it is a *defenceless* child *hidden in its mother's womb*, or in the *maternal breast*.

The 1904 Royal Commission

Testifying to their specifically Catholic origin, and to their recent emergence historically, or into secular discourse,⁶⁴ is the total *absence* of these discursive themes in the report of the 1904 Birth-Rate Royal Commission (and even in the testimony of Cardinal Moran, the one Catholic clergyman invited to give evidence). Instead, what is encountered there are a number of other discursive formations which reappear in the modern abortion debate and which focus particularly on the nexus between what we can term, following Foucault, the 'socialisation of procreative behaviour' and the 'hysterical woman'. In turn, this suggests, as we shall see in following chapters, that the concept of a foetal right to life is a discursive strategy 'invented' out of the same 'paradigmatic' discourse which allowed for the construction and articulation of women's rights - that is, 'individualism' and the philosophy of liberalism, the articulation of the latter made possible by the 'discovery' of the former - a strategy in the political/sexual struggle fought out on the terrain of women's bodies, their natures and functions. For the Commissioners, locked still within an already archaic conservatism, the liberal doctrine of human or individual rights was simply outside of their conceptual terms of reference, cluttered as they were with notions of responsibilities, duties and obligations.

The western world generally experienced a quite spectacular 'demographic transition' during the decades following the 1870s, the most significant feature of which was a falling birth-rate.⁶⁵ This trend was

⁶⁴ As has been indicated above, arguments in Catholic theology around some of these themes date back as far as the second century AD; others emerged at various times since, and others still - most significantly, that of 'the right to life of the foetus' - are of twentieth century construction. Whilst it would be interesting to show when the various concepts entered into theological thinking, and to trace the history of the debates around them, space does not permit this, and their emergence can be extracted from Noonan's (1971) history of the Church's thinking on abortion. The orientation of his work, however, is very different; his concern, as a Jesuit theologian, being to demonstrate that the Church has always proscribed abortion. For my purposes it has been sufficient to demonstrate that some of the key concepts and prohibitions are of recent origin, and that the meaning of abortion within Catholic thought has changed over time.

⁶⁵ Interestingly, given Foucault's emphasis on the relation between power and regulation of the population, this decline was most exaggerated in France, and perceived there as an alarming social problem. The Commissioners frequently referred to France to

particularly marked in Australia where the rate fell even more than in most other countries. By 1903, many prominent persons in Australia, alarmed by the decline, were pointing to the “national decay” of France in the 1870s, and warning that Australia was going down the same path. (Hicks, 1978: xv) In America loud voices were sounding dire warnings concerning the collapsing birth-rate there, and the phrase ‘race suicide’ was coined to refer to the threatening calamity. (Gordon, 1977: 136) This was reported widely in the press here. (Hicks, 1978: xiv) A publication by the NSW Government statistician, *The Decline in the Birth-Rate*, gave scientific credence to the fears already circulating, prompting numerous reviews, comments and editorials in the newspapers, and a flood of letters to editors. (Hicks, 1978: 1,2).

The concern about the birth-rate was paralleled by a vocal apprehension on the part of the medical profession about the widespread incidence of abortion; no doubt a manifestation of the professionalisation of medicine and its desire to distance itself from quacks and any threats to its growing prestige and status. In 1898, in the presidential address to the NSW Branch of the British Medical Association, the Government was criticised for tolerating newspaper advertisements for abortion, and the police for not prosecuting the numerous well-known abortionists in Sydney. In the same year the Australasian Medical Gazette ran a series of editorials campaigning against abortion, which it claimed was a common practice. Several years earlier the Select Committee on Law Respecting Practice of Medicine and Surgery voiced concern about the fact that abortions were being widely performed by people on the fringe of the medical profession.⁶⁶

These and various other factors, including electoral and political considerations, culminated in the setting-up of the Royal Commission in late 1903.⁶⁷ Its letters of patent directed it to “make a full and diligent inquiry into the causes which have contributed to the decline in the birth-rate of New South Wales, and the effects of the restriction of child-bearing upon the well-being of the community”. (RCBR, V1: iii)

Interests and Perspectives

The findings of the Royal Commission stand as the official centrepiece of dominant opinion at the beginning of the twentieth century on the causes of fertility decline and the remedies to be applied. Its membership implicitly gives some indication the factors and ‘ways of seeing’ which were likely to predominate (and of those which were not). The Chair was Dr. C. K. Mackellar, a medical practitioner with a successful physician’s practice, he had served for many years as President of the NSW Board of Health before resigning to take up a position in the Legislative Council. At the same time he was a prominent figure in the business and finance world, being a director or president of some of the largest and most influential companies in the country.⁶⁸

Ten of the other twelve Commissioners were colleagues or associates of Mackellar, being drawn from business, medicine or the Public Health Board, and most, like Mackellar himself, were “eminent” in more than one of those fields, “sharing a network of relationships and a conservative philosophy which would have been congenial to him [Mackellar]”. (Hicks, 1978: 7) They included four medical practitioners, one knight,

exemplify how bad the population problem could become if measures were not introduced to check it. The fact of France’s population decline was so well known that it was thought that knowledge of birth control devices was most advanced there, so advertisements often referred to ‘French methods and goods’. It is from this that the condom gained its name as the French letter.

⁶⁶ Certainly the Commissioners were to conclude that abortion played no small part in the birth-rate decline. Yet, as Allen (1982: 112) indicates, there has been a tendency amongst historians to attribute the demographic transistion to the use of artificial contraception. Her scholarly study supports her contention that in fact, abortion, infanticide and babyfarming were the decisive means employed by women to exert control over their fertility, and hence cause the dramatic change in family size. In the following chapter an analysis of other factors lends weight to Allen’s claim whilst at the same time arguing that abortion, and often repeated abortions, was a major element in working-class women’s reproductive control.

⁶⁷ Royal Commission on the Decline of the Birth-Rate and on the Mortality of Infants in New South Wales, hereinafter referred to as the Royal Commission, or the Birth-Rate Commission, and for the purpose of referencing, as RCBR.

⁶⁸ Including the Colonial Sugar refining Company, the Mutual Life and Citizens’ Assurance Company and the Bank of New South Wales. In 1902 he was personally appointed by the Premier as Chairman of the State Children’s Relief Board and from then campaigned vigorously in the Legislative Council and other venues on the duty of parents to protect and financially maintain their children properly, warning of the threat from “Asia’s fertility” if they put “the blind Australian pursuit of a more comfortable life” before their responsibilities. Those that failed to do so should see that it was proper for the state to remove children into its guardianship. (Hicks, 1978: 6,7)

one barrister, the Inspector-General of Police, the Lord Mayor of Sydney, the General Manager of C.S.R., President of the NSW Chamber of Manufactures, and President of the Sydney Chamber of Commerce. One was also a member of the Legislative Council and another of the Legislative Assembly. Of the other two, the government Statistician Coghlan was an obvious, and to Mackellar presumably a happy choice, having already displayed expertise and knowledge appropriate to the inquiry, and assisting him previously by supplying actuarial data employed by Mackellar in his speech on an Infant Life Protection Bill in the Parliament.⁶⁹

In summing up the perspective that these men brought to the inquiry, Hicks points out that it occurred in the context of major economic depression, the progress of the newly-federated nation stalled by the virtual cessation of foreign capital inflows and migration. Under those conditions, the falling birth-rate served to further sap confidence in an already faltering sense of national vitality and identity. Hence, he concludes:

With the future uncertain the loudest voices were those of men with a grip on the past.... [The Commissioners'] political conservatism was reinforced by the professional conservatism of most doctors and clergymen, while the views of all three groups converged with those of leaders of commerce and industry who saw a growing population as the precondition of progress. (Hicks, 1978: 157)

Filtering through the iron web of inflexible explanatory truths which made sense to the Commissioners of what they elicited and heard, we can glimpse a very different perspective of fertility and birth control held by the women (and couples) who were the subjects of their probing and wrath. Time and again, and much to their outrage, the Commissioners were told that women considered contraception and abortion legitimate means of limiting births, that financial considerations were a prime motivation, and that women simply could not see anything morally reprehensible in either preventive practices or abortion. Whilst certainly not articulated by women specifically as a 'right' to control their fertility or as a 'right' to exert a measure of control over their lives, their obstinate determination to prevent pregnancy or birth was repeatedly remarked on in testimony. For the Commissioners, it was a truth beyond disputation that abortion was an evil against race and nation; that women were made to be subject to their biology which, in turn and for the sake of social and economic development, was necessarily servant to the interests (as they decreed them) of the community and the species. Hence, these attitudes on the part of women constituted compelling evidence of a grave decline in morality in general and of an indolent selfishness amongst women in particular.

Morality, however, is socially constructed and is not merely imposed on passive subjects regardless of their perception of their own interests. Hence, as is apparent from the long history of attempts by Church, and then state, to prevent the practice, many women, in the acting out of their own lives, have not been prepared to succumb to, nor to internalise, a moral meaning of abortion (or birth control more generally) so vehemently at odds with their own needs and desires. These turn-of-the-century women who so provoked the fulmination of the Commissioners were the descendents of a long line of women experientially resisting sanctions and 'moral truths' designed to control their sexuality (for economic or religious motives), or to publicly expose them for their illicit lust, or to force them to bear the physical or financial consequences of their desires. We can, then, justifiably speak of a discursive 'resistance' to prohibitions on abortion operating alongside the written record of authoritative discourses on and against the practice, but its history is oral and it has left little evidence of its existence other than its reverse echo in the recorded condemnations and sanctions directed against it. Hence, whilst the focus here, indeed in much of this chapter, is necessarily directed to texts of authoritative or establishment figures opposing abortion - the publicly 'dominant' discourse, not necessarily that of the majority of the populace - it should always be borne in mind that they were articulated in response to, and as an attack against, the everyday practice of 'reprehensible' measures of fertility control and

⁶⁹ The last appointee, W.A. Holman, appears to have been an afterthought, included by Premier See in deference to the Labor Party on whose support See was increasingly dependent. Holman was an MLA and a political radical who regarded it as his social duty to change, not merely improve, the order of the poor. "This attitude would not have endeared him to Mackellar". He attended only five of the Commission's meetings and he alone of all the Commissioners, did not put his signature to the final Report. (Hicks, 1978: 9) It's possible that Holman, seeing early on the severely restricted direction the inquiry was to take, realised that any input from him would be negated, as was the evidence of any witnesses with concerns similar to his own. This could indicate that although the Commissioner's Report reflected the dominant view of the establishment, there was dissent from the way they conceptualised the population 'problem'.

discourses circulating amongst women which made sense of and justified those practices according to their needs.

Producing the Truth

From the outset, then, the discursive parameters of the inquiry were already firmly established according to the assumptions and convictions held by its members. The transcripts of evidence make it patently clear that the Commissioners, and particularly Mackellar, dominated the proceedings in such a way that no witness could give a credible explanation for the decline in the birth-rate, or of its implications, in a framework of understanding other than that imposed on the inquiry by its members from the outset. "They heard nothing to shake their rooted belief that the decline of fertility was the fault of the lower orders, the result of moral degeneracy and the harbinger of national decay." (Hicks, 1978: 157) The answers required of witnesses about both the reasons of women to limit family size and the immorality of doing so - these being in fact, virtually synonymous for the Commissioners, as we shall see - were immanent in the way questions were phrased. The 'expert knowledge' the Commissioners brought to the inquiry - actually a way of deciphering the 'facts' according to a preformed grid of interpretation - was largely a product of their class position and professional backgrounds, their economic and political concerns being "clothed in ... the rhetoric of Christian moralism" (Hicks, 1978: 158).

That those 'distinguished personages' were all men is hardly worth remarking, the bias of such a selection being 'only natural', given See's assurance that all appointees would be "eminent in their professions" (quoted in Hicks, 1978: 7), but given also the "loathsome picture" that these good men would be obliged, in the public interest, to investigate.⁷⁰ This loathsome picture was, of course, sex, but any seemingly hesitation in speaking of it necessarily had to be overcome, because

at the heart of [the] economic and political problem of population was sex: it was necessary to analyse the birth rate, the age of marriage, the legitimate and illegitimate births, the precocity and frequency of social relations, the ways of making them fertile or sterile, the effects of unmarried life or of the prohibitions, the impact of contraceptive devices - of those notorious "deadly secrets ... familiar to the inhabitants.... (Foucault, 1980a: 26)

Although, for the Commission, sex was first and foremost a moral issue, the population problem required that they investigate it from the vantage point of "rationality" as well:

[they] had to speak of sex; ... as a thing to be not simply condemned or tolerated but managed, inserted into systems of utility, regulated for the greater good of all, made to function according to an optimum. Sex was not something one simply judged; it was a thing one administered. It was in the nature of a public potential; it called for management procedures; it had to be taken charge of by analytical procedures ... [it required] an ordered maximisation of collective and individual forces. (Foucault, 1980a: 24,5).

In the proceedings of the Commission and its Report, the Commissioners, under Mackellar's dominant chairmanship, steadfastly refused to concede that demographic or economic factors could be crucial in explaining the declining birth-rate. During the 1890s, when the colonies experienced deep depression and very high unemployment, the age of marriage increased considerably. Women of childbearing age constituted an increasing proportion of the population, but a smaller proportion of them were married. This factor, presumably linked to economic considerations, contributed in some part to the decline, but even more marked was the decrease in fertility within marriage. (Hicks, 1978: xvi) Between 1891 and 1911 family size decreased from over seven for completed families to an average of four children. This constituted a drop of almost fifty percent (Burns & Goodnow, 1979: 35) The depression was particularly severe in the Australian colonies; worse, in fact, than in either Britain or the USA, with a male unemployment rate up to twenty-eight percent. At the same time, however, there was an increase in the proportion of women employed, due no doubt to the much lower wages they commanded. (Burns & Goodnow, 1979: 35)

⁷⁰ The phrase, "loathsome picture", was used by a medical practitioner, A. Tardieu, in the mid nineteenth century to explain apologetically why he was eventually 'forced' to investigate sex despite "the darkness that envelops these facts, the shame and disgust they inspire". (quoted in Foucault, 1980a: 24)

That delaying marriage and limiting family size could be a rational and necessary response to poverty in general, and to unemployment and job insecurity in particular, was simply anathema to the Commissioners, despite frequent reiteration of those themes by numerous witnesses in their evidence. Assuming, as they did, that they were “investigating a threat to the State”, (Pringle, 1973: 19, my emphasis), they could not countenance a form of explanation which could have implicated the state by directing attention to the parlous condition of the financial welfare of its citizens; nor, given their own business interests, to economic structure and organisation, and the level of wages. On the few occasions when they did acknowledge the importance of certain economic factors it was within the context of blaming trades unions or the new Protection laws (which they saw as working against the interests of business).

It was not, however, only their class interests at stake here: locked, as they already were, into a particular discursive formation, they saw sex and sexual behaviour as the *cause* of other (social) phenomena, not as an outcome. Within the discursive parameters conditioning their possibilities for thought and meaning, sex was by definition primordial. It was ontologically prior to culture; in its natural state it had the potential for the betterment of species and civilisation, but interfered with, or ‘used’ for purposes other than reproduction, was not only immoral, it was dangerous and socially disruptive.

An ‘Obvious’ Conclusion

The evidence, declared the Commissioners, “makes the conclusion irresistible that there has been a decline in the birth-rate which is not due to forces over which individuals have no direct control”. (RCBR, V.1.: 13) They found that in their testimonies, “medical men”, who were “better able to judge than other persons in the community”, were unanimous that “deliberate interference with the function of procreation has during recent years become extremely common”. (RCBR, V1: 14) Further,

the desire to keep fertility within such limits as each one for himself deems reasonable has generally been characteristic of a decadent state of society ... [and] the free play given to this desire has been the main factor in the decline of birth-rate in New South Wales. (RCBR, V1: 16)

Absolutely discounting any legitimate motives for family limitation, the Commissioners concluded that there were four “true reasons” for interference in women’s natural reproductive function:

- i. An unwillingness to submit to the strain and worry of children;
- ii. A dislike of the interference with pleasure and comfort involved in child-bearing and child-rearing;
- iii. A desire to avoid the actual physical discomfort of gestation, parturition, and lactation; and
- iv. A love of luxury and of social pleasures, which is increasing. (RCBR, V1: 17)

In sum, declared the Commissioners, it could be seen that these reasons had “one element in common, namely, *selfishness*”. (RCBR, V1: 17, my emphasis) Having established, in a single word, the reason for limitation and thus the cause of the dramatic change in population patterns, the Commission became largely an investigation into the *means* employed to serve this selfishness, and the Report largely a polemic on the disastrous results of such interference.

This rise in selfishness over the preceding twenty years they saw as caused by the weakening or removal of two forms of restraint which had hitherto operated to ensure a natural rate of population increase. Firstly, there had been a lessening of “religious feeling”. They offered no proof for this alleged decline in religiosity; presumably it simply ‘must’ have been the case if the practice of deliberate interference in reproduction had increased. (Yet, elsewhere in the Report they blamed limitation for a loss of religious feeling.) Secondly, they blamed the removal of the ignorance necessary to ensure that people could not avoid their natural procreative functions. The propaganda of Neo-Malthusianism, they claimed, was responsible for “a wave of popular feeling [which had] spread over a great part of the civilised world, favourable to the individual control of family size”. (RCBR, V1: 17) But this evil doctrine itself had advocated artificial prevention only to alleviate the poverty of the very poor (although even on this count the Commissioners declared it damnably false and misleading), yet followers of writers such as Charles Bradlaugh and Annie Besant had applied these instructions in “times and places of prosperity and plenty”. The diffusion of knowledge about the possibility and the means of family limitation and a consequent traffic in the materials used, had encouraged selfish desires, eliminated ignorance and brought the means of prevention within the reach of most of the

community. In particular, the Commissioners singled out the widely publicised 1988 NSW judgement of Mr. Justice Windeyer in the Collins case as largely to blame for the loss of ignorance. They attacked the advocates of birth control and “a certain class of booksellers who cater for vicious tastes or engage in the traffic in preventatives” who distributed a leaflet containing extracts of the decision, for promoting the mistaken and malicious view that birth control was not immoral. The timing of these events enabled the Commissioners to simplistically but ‘exactly’ pinpoint the direct trigger for the slide in the birth-rate, which began the year after the judgement!

The remarkable coincidence between the promulgation, in 1988, of the views expressed in this judgement, and the sudden fall of the birth-rate in 1989 ..., cannot, we think, be fortuitous. Those views have, we consider been a powerful factor in reconciling the consciences of many people to the degrading practices of prevention, and have thus materially helped to cause the acceleration of the decline of the birth-rate which so soon followed upon their enunciation. (RCBR, V1: 18)

Having identified the fundamental reason for the decline, and even the precipitating factors, the Commissioners stubbornly refused to contemplate alternative explanations. Numerous witnesses told the inquiry that “almost invariably” women gave as their reason for limiting family size an inability to afford more children (a circumstance approved of by Windeyer). The Commissioners grudgingly conceded that in some cases women might honestly believe this was their true reason, but that nevertheless they were ‘mistaken’ if they believed “want of adequate means to be a sufficient justification for interference with the course of nature”. In the way this was expressed it implied that women told themselves and others that this was their reason for limiting family size, because they thought it a more reasonable excuse than what the Commissioners stated was, in fact, the “true reason”, namely ‘selfishness’. The transcript makes it clear that if witnesses didn’t voluntarily agree with the Commissioners in this, they were subtly - or if necessary, firmly - bullied into doing so under pain of being made to appear as condoning immoral and unnatural behaviour; and into agreeing with them further, that the “true reason” for prevention was a desire for pleasure and luxury, and a refusal to undergo physical discomfort.⁷¹ The Commissioners showed no interest in investigating family finances, rather they directed their attentions to soliciting opinions to confirm their views.

A Compulsion to Know

Their failure to inquire about financial details is in sharp contrast with the voluminous amount of information they solicited on the means of artificial prevention. They examined many prominent gynaecologists, obstetricians, physicians, pharmacists, pharmacy saleswomen, managers and other representatives of pharmaceutical firms, wholesale chemists, nurses, matrons of lying-in homes, patent medicine vendors, policemen, police agents, clergymen, and *one* “married lady - a member of the general public”, in the process of tracking down the methods employed to control fertility. (RCBR, V2: 11-21) They found that it was immediately due to contraception, abortion and infanticide, and to the ‘pathological causes’ brought about by these practices. Having discovered this, most of the proceedings concerned with collecting evidence were devoted to detailed examination of the specific practices, apparatuses, potents and pills employed, and to the physical, mental and moral pathologies consequent to their use. An encyclopaedic volume of knowledge was compiled on the prevalence of withdrawal, the availability and use of French letters, sheaths, Grecian caps, pessaries, sponges, spermaticides, douches, loops, on various abortifacients, on syringes, catheters, vaginal sprays, cervical sponges, and on the prevalence of abortion, the methods of professional abortionists, the concealment of births, and the bodily disposal of babies killed after birth. They discovered and catalogued means of prevention, or (menstrual) ‘regulation’ and ‘remedies’, ranging from home-made or folk methods to those commercially manufactured and sold; from the harmless and ineffective to the potentially lethal and maiming; and from self-administered abortions, using crochet pins or pieces of glass, to those performed by midwives or medical practitioners.

⁷¹ The occasional witness refused to be coerced into giving the replies required by the Commissioners, most notably a Methodist clergyman, the Rev. W.W. Rutledge. His evidence was completely ignored in the Report, which is particularly noticeable, given that every other member of the clergy was actually quoted there. Nowhere in the Report did the Commissioners acknowledge that any witnesses differed, in any respect, from their perspective. Hicks says that the letters sent to the clergy inviting their views, as well as stating the sorts of questions they would be asked, ‘explained’ the sorts of responses expected. The Report was similarly selective in its use of medical evidence on the pathological effects of prevention, ignoring testimonies which cast doubt on the alleged evil results of interference. (1978: 22,3)

The transcripts covering this evidence solicited from witnesses presents us with a Foucaultian portrait of the Commissioners attentively listening, surveying and examining; sifting through and pinning down the minute details of the numerous means of effecting limitation; and probing and prompting witnesses for more information.⁷² Ostensibly an objective and rational investigation,

... [it] was in fact a science made up of evasions, since given its inability or refusal to speak of sex itself, it concerned itself primarily with aberrations, perversions, exceptional oddities, pathological abatements, and morbid aggravations. It was by the same token a science subordinated in the main to the imperatives of a morality whose divisions it reiterated under the guise of the medical norm. (Foucault, 1980a: 53)

The Commissioners studiously and consistently avoided having to deal with the very obvious fact that people desired the pleasure of sex (or, in the case of some women, submitted to their husband's pleasure) without wanting the consequence of pregnancy, or at least of childbirth. The only means of fertility limitation they were prepared to condone (and that rather grudgingly as they were concerned about the birth-rate) was total abstinence. The Commission

was imbued with age-old delusions, but also with systematic blindness: a refusal to see and to understand; but further - and this is the crucial point - a refusal concerning the very thing that was brought to light and whose formulation was urgently solicited. For there can be no misunderstanding that is not based on a fundamental relation to truth. Evading this truth, barring access to it, masking it: these were so many local tactics which, as if by superimposition and through a last-minute detour, gave a paradoxical form to a fundamental petition to know. (Foucault, 1980a: 55).

Given that sex and sexuality were at the very centre of the issues the Commission was addressing,

[a] disparity of this sort would indicate that the aim of such a discourse was not to state the truth but to prevent its very emergence (Foucault, 1980a: 55)

The Pathological Effects of Interference

The Commissioners were particularly concerned also to detail the pernicious consequences suffered by those practising contraception, and the horrendous results of abortion. In this, their purpose was twofold: to demonstrate that the deleterious effects on women's bodies (and even their minds) caused by practices of prevention further contributed to the decline in the birth-rate; and to deter women from controlling their fertility by bringing to their notice the harm they would do themselves if they interfered with the natural function of procreation. In this line of attack the Commission constitutes a classic example of that major strategy for the production of sexuality, the socialisation of procreative behaviour. In "attributing a pathogenic value - for the individual and the species - to birth-control practices" (Foucault, 1980a: 105) the medical experts, spurred on by the eager desire of the Commissioners to have the very worst confirmed, imbued sex divorced from its reproductive function as dangerous, as provocative of disease, mental disorder and character deterioration. Unproductive sex could not be conceived of as a mere harmless pleasure; rather, it signified the taking of a morbid risk against the self, a threat to vitality and health. Furthermore, as the Commissioners made plain in their Report, it could wreak its havoc without the individual even being aware, giving rise to future sterility or mental or moral degeneration. Fundamental to their thinking here was a taken-for-granted assumption that procreation was the natural purpose of women and their bodies, therefore any interference with it would 'obviously' cause pathology. Most medical men were unanimous in their opinion of the effects, but those who had the temerity to differ were either ignored, or their evidence was twisted in the Report to conform with what 'must' necessarily be the case. (Hicks, 1978: 21). On the "physical evils" resulting from contraception the Commissioners concluded:

This mass of evidence amply proves that the practice of preventing conception, no matter what method is adopted, is the cause of many dire evils, far worse than any bad consequences that could naturally result from the bearing and rearing of a family. The nervous system is deranged; frequently distress of mind and body are caused; the general health is often impaired, and sometimes ruined; and inflammatory diseases are set up which disable the reproductive organs. Following in the train of these diseases may be temporary, or even permanent, sterility. (RCBR, V1: 20)

⁷² This evidence taken from witnesses amounted to an exhaustive catalogue and detailed examination of birth control methods and how they could be obtained, and was obviously considered so potentially dangerous that it formed a separate volume (2) that was kept secret and not included in the Parliamentary Papers. It remained suppressed until the early 1970s. (Pringle, 1973: 20)

The mental effects of pregnancy prevention coupled with its widespread use led the Commissioners to the belief that some part of the “rising insanity rate” in NSW was related to the use of contraception. They deduced that prevention invariably led to mental disorders in females because of the denial of their maternal instinct. As we shall discuss below in more detail, during the nineteenth century the female analogue of the male sex drive had been reconceptualised as the biological urge for maternity. (Gordon, 1977: 22) The belief that women required satisfaction of their sexual urges lest they lose their femininity - which had prevailed from the sixteenth to the eighteenth centuries - (McLaren, 1984: 19) was transferred and attached to the newly ‘discovered’ maternal instinct. In that context it was reconstructed, by the new specialists in women’s medicine, as the belief that thwarting of that desire would lead to nervous illness (Foucault’s “hysterical woman”). According to this established knowledge, then, the Commissioners saw the instinct for motherhood in women as equivalent to sexual desire in men. (Pringle, 1973:22) Hence it only stood to reason that interference in procreation would lead to a rise in insanity amongst women.

But not only physical and mental pathology resulted from the use of devices to avoid pregnancy:

... they are also productive of physical effects not less serious. Men and women who adopt, or submit to the adoption of, such practices, must lose in self-respect and in respect for one another - they must, indeed, feel that their higher instincts are debased: and long continuance of these practices ... must result in a distinct degradation of character. (RCBR, V1: 21)

The effects of contraception paled, however, beside those of abortion: “without exception the medical witnesses ... have stated that its effects are disastrous”:

... a little sepsis has been introduced; and ... the infection may settle in the fallopian tube, creating prolonged and painful ill-health,... many parts of the pelvic viscera may become affected by the inflammatory or septic disease.... Sometimes the disease may be confined to the lining membrane and the muscular substance of the uterus; sometimes it may involve the less active tissues that surround this organ, causing its displacement or fixation, with or without abscess in these tissues; sometimes it may focus itself in the fallopian tubes; sometimes it may spread to the peritoneum; and sometimes it may be so virulent in its poisonous and infectious character as to lead to septicaemia that may prove fatal. These last cases are those ... “tragedies that come out in the newspapers”. (RCBR, V1:21,2)

The Commissioners went on at length - “in extensive and colourful detail” (Hicks, 1978: 24) - describing every conceivable pathology that could result from abortion. But the cases which apparently concerned them most were those resulting in sterility, so that subsequent attempts to conceive or carry a pregnancy full term were unsuccessful. In describing these they took the further opportunity to impress on women the catastrophic effects of abortion on their bodies and their future hopes for children:

... from the mere fact of one or more [induced] miscarriages having occurred, there ensues an inability for the natural processes of gestation to run its course, so that miscarriage spontaneously arises whenever conception takes place.... Sterility ... results so commonly from inflammatory or septic disease of the pelvic viscera. Miscarriage they [the medical witnesses] recognise as a potent cause of sterility. The illness of women, who complain that they are not able to bear children, is often found to have commenced with [an induced] miscarriage.... there may be an incomplete [induced] miscarriage with subsequent putrefactive or septic disintegration of the embryonic structures remaining unexpelled.... an infection and a consequent inflammation or suppuration of the tissues essential in the process of ovulation or fertilisation; or the obliteration or distortion of both the fallopian tubes, or other structural disorganisation ... which makes child-bearing impossible, and leads to months or years of physical suffering. (RCBR V.1.: 22)

Whilst these claims as to the results of abortion would have been somewhat closer to the truth than those made for the consequences of prevention, the Commissioners managed to suggest that they were a very likely, if not almost inevitable result of abortion. Hicks says “the Commissioners were unable to resist the temptation to overstate their case”, and attributed a fifty percent increase in maternal deaths for the period 1890 to 1902 to abortion, whereas, he maintains, “a significant proportion of the increased mortality was due to puerperal fever”.⁷³ (1978: 25). The Commissioners were suggesting that women who had apparently

⁷³ Puerperal, or ‘childbed’, fever is a lethal disease caused by virulent bacterial infection of a woman’s reproductive organs and spread through unsanitary conditions or practices. It was frighteningly common in nineteenth century maternity wards of hospitals. It had been discovered by Semmelweis in the 1840s when he noticed that women contracted the fever after being examined by medical

successful abortions had unknowingly done themselves such damage that they died in childbirth from a subsequent pregnancy. (RCBR, V.1.: 24) Here, the notion of non-procreative sex is construed as giving rise to potentially lethal dangers lurking insidiously in the body and waiting to cause havoc, all unbeknown to the individual. Because to the Commissioners both contraception and abortion were vile and evil practices, and profound transgressions of natural and God-ordained law, perhaps it appeared to them as 'obvious' that they would necessarily carry with them their own punishment. Nor could they contemplate the possibility, nor allow women the comfort of 'deluding' themselves, that deliberately sterile sex was not accompanied by some form of pathological consequence, even if it was not apparent. Within the framework of Foucault's analytics, we can see the Commissioner's investment of intentionally barren sex and abortion with inevitable dangers operating as an 'incitement' to sex, as a mechanism for imbuing it with a special significance and meaning.

The Hysterical Woman

The direct and - through sterility - indirect effects on the birth-rate caused by the practises of prevention and abortion were necessarily the primary focus of the inquiry. There was, however, another dimension to the issue discovered by the Commissioners in the course of their investigations that profoundly shocked their sensibilities, to the degree that they devoted five pages of the fifty-three page Report to it. This was the appalling lack of moral sense shown by women, both married and unmarried, about the 'pernicious evil' of deliberately and unnaturally "obtain[ing] release from what they regard[ed] as an unwelcome encumbrance". Women, they were horrified to discover, "converse with each other upon these subjects apparently without shame"! This circumstance - that "women do not realise the wrong involved" - was one to cause "grave misgivings as to the future". (RCBR, V1: 23) It would seem that the Commissioners found women's attitudes so incredible, and considered that readers of the Report would do so also, that they felt it necessary to provide evidence to quell any disbelief. Accordingly, they included in the main body of the Report dozens of excerpts from the transcripts. In these, witness after witness confirmed that the numerous women they had encountered who practised prevention, or had circumvented conception by aborting, apparently felt not the least twinge of immorality or guilt for their actions. Medical practitioners were unanimous in their opinion on this:

"To a medical man they do not scruple to talk about it; they do not see the moral wickedness of it." (quoted in RCBR, V1: 23);

"I know women, who are absolutely good women, in the best sense of the word, and yet there seems to be a twist in them in that way." (quoted in RCBR, V1: 24);

I do not think they appreciate what the immorality of it is ... only as far as the law would have effect, I think." (quoted in RCBR, V1: 24);

They recognise that they are not doing exactly the right thing; but still, so long as they themselves get clear, they do not mind. I suppose that means to say there is a lack of moral sense in the matter." (quoted in RCBR, V1: 25)

So, struck by this "perversion of morals" were the Commissioners that they invited the heads of each religious denomination to attend or send representatives to give their views on the morality or otherwise of artificial limitation, and the effects that it was likely to have on the character of people practising it. The clergymen were all in agreement that limitation by any means violated the sanctity of marriage and undermined the dignity of womanhood, as well as being an affront to God and contrary to the best interests of the community and nation. It was a sin against Divine law, against nature, against society, and against the state. Under exceptional circumstances, such as a threat to health, they grudgingly conceded that it was

practitioners who had not washed their hands between dissecting dead corpses and attending women for examinations or deliveries. By instituting a regime of handwashing with chloride of lime he achieved a massive reduction in maternal mortality, but when he left the hospital the washing stopped and the incidence of fever returned to the 'norm'. He encountered everywhere stringent opposition from medical practitioners to the idea that they, in fact, were responsible for the fever and the countless deaths from it. They could justifiably point to deaths from it which occurred either without being preceded by any examination or after home deliveries by midwives. But of course, the infection was a function of the generally putrid conditions in hospitals and unsanitary homes, and could be carried on the pregnant woman's hands or by a midwife. (See Llewellyn-Jones, 1975: 301-5; Shorter, 1982: 127) The rise in deaths referred to by the Commissioners could well have been caused by more women going to hospitals for births - where infection would be more rife than in their own homes and where they had built up a natural immunity - and thus dying from puerperal fever, as Hicks states. Conversely, the rise may have reflected an increased incidence of instrumentally induced abortions and septic infection. The latter possibility will be explored in more depth in the next chapter.

permissible to practice total abstinence as a means of avoiding pregnancy and childbirth, but apart from that, people had a Divinely decreed duty, and an obligation to the race, to “be fruitful, and multiply, and replenish the earth”. To do otherwise was to degrade marriage into a mere sexual compact. As far as they were concerned there was no question that deliberate fertility restriction had a debilitating and brutalising effect on the moral, ethical and spiritual character of people, an effect which flowed over to cause a general deterioration in the moral tone of the community as a whole. It resulted in “a loss of philanthropic feeling, a decline in sympathy; even neighbourliness and good citizenship” were likely to disappear. History proved - as in the cases of ancient Greece and Rome - that the use of such practices led to the downfall of nations. (RCBR, V1: 26,7)

Of particular interest for our purposes were the views expressed about abortion. Only two clergymen, an Anglican and a Methodist, referred to abortion as murder. Apart from that, it was not singled out from methods of family limitation in general, the clergy stressing instead the points referred to above. Certainly, from the vantage point of the late twentieth century, the lack of any special concern about abortion on the part of the Catholic Archbishop of Sydney, Cardinal Moran (“an intimate friend and appointee of [Pope] Leo XIII” [Hicks, 1978: 73]) would appear as rather striking, if we had not already seen that the Church’s present hard line on abortion is of recent historical construction. Moran, and other prominent Catholic clergy of the time, seemed to object to fertility restriction, *per se*, rather than specifically abortion, because it resulted in smaller families, as much as for any other reason. (Hicks, 1978: 76) For the Commissioner’s part, there is no doubt that contraception and abortion were morally on a par; there is not even an implicit suggestion in the Report or the transcript that they considered deliberate destruction of the foetus, in the sense of it being a living being, as an issue (apart from the fact that an aborted foetus had been a ‘future citizen’) or the act as any more morally deserving of censure than prevention. Both were equally an abrogation of civic and racial duty and an interference in the natural functioning of women.

Racial Purity

In their pronouncement on the wider social effects of fertility limitation the Commissioners had nothing profoundly new to say; rather, they reinforced knowledge which was already being established in official and public discourse. Which is not to say that the threats posed by the declining birth-rate and by the practices producing the decline were not, for the Commissioners, truly alarming. The fundamental wellbeing of the race, the nation, the institutions of the family and marriage, and the morality of the community were all at stake. Of particularly grave concern were the consequences for the race and the nation. In this, the Commissioners gave expression to fears long espoused by the colonies on the need to populate Australia lest its open spaces prove an invitation to the teeming “hordes of Asiatics”. Amongst the very first pieces of legislation passing through Parliament after Federation was the Immigration Act to set in place the xenophobic White Australia Policy. With Australian thinking on population dominated by a marked social Darwinism, national and racial progress were conflated. Support for the policy came generally from all social classes, and according to the *Bulletin* (1902) was based on:

the instinct against race-mixture which Nature has implanted to promote her work of evolution.... Once a type has got a step up it must be jealous and ‘selfish’ in its scorn of lower types, or climb down again. This may not be good ethics. But it is Nature ... the Caucasian, as a race, has taken up the white man’s burden of struggling on towards the ‘upward path’, of striving at a higher stage of evolution.... If he were to stop to dally with races which would enervate him, or inject him with servile submissiveness, the scheme of human evolution would be frustrated. (quoted in White, 1981: 81,2)

Particularly strong was the aversion to Asians, stemming from the period of the gold rush. Thus, apart from the threat they posed to the race, the *Bulletin* was also against their immigration on the grounds that they depressed wages and were inassimilable:

“the Asiatic can’t be absorbed, and ... he would remain the same old racial curse to the bitter end.” (quoted in Hicks, 1978: 105);

“The menial nature [of the Chinese] was bred in the bone of him for thousands of grimy years.” (quoted in Hicks, 1978: 105);

No nigger, no Chinaman, no lascar, no kanaka, no purveyor of cheap cultured labour is an Australian. (quoted in White, 1982: 81)

The *Bulletin* consistently gave expression to working class opposition to migration because it posed a threat to Australian wages and employment. In an era when class politics and antagonism were consciously articulated and overt racist sentiment was unhindered by the pejorative connotations it acquired in the latter half of the twentieth century, any disagreement over the migration issue was couched in the simple terms of an opposition of interests between capital and labour and an aversion to what were deemed inferior races. The severity of the depression had also provoked working-class resistance to all immigration because it could be used to further squeeze wages and conditions.

Conversely business and employer classes advocated immigration as necessary for the “progress and prosperity” of the nation. Nevertheless, there was general agreement that racial purity could not be compromised by economic interests, and those concerns were reflected by the Commissioners, drawn as they were from the fields of business, medicine and health. A declining birth-rate threatened demand for manufactured goods and would result in underutilization of natural resources (RCBR, V1: 30), thus hindering Australian national development as an economic power and a force to be reckoned with in the region. If it failed to assume supremacy in the Pacific either Russia or Japan would take the initiative, both countries “already seeking outlets beyond their own borders for the energies of their ever-growing people”. (RCBR, V1: 53) The implications for the race of the declining birth-rate was “a matter of transcendent import”, agreed the Commissioners; “a tendency has been established which would end, unless counteracted, in the subjugation and extinction of our race within measurable time”. (RCBR, V1: 30) A continuation of a low level of natural population increase meant, warned the Commissioners, that “we must expect the loss of all those qualities which have made the British race predominant”. (RCBR, V1: 53)

The Commissioners noted with some trepidation the massive difference in the ratio between people and land in Australia in comparison to various Asian countries, and saw the declining birth-rate as making the nation ever more vulnerable as the populations of those countries multiplied.

The future of the Commonwealth, and especially the possibility of maintaining a “white Australia”, depend on the question whether we shall be able to people the vast areas of the continent which are capable of supporting a large population. (RCBR, V1: 53)

Whereas migration would more rapidly contribute to the peopling of Australia and the labour supply than natural increase, it was less desirable in the longer term, there being explicit agreement that native-born Australians were finer specimens of the race than their forbears, and thus superior stock for breeding. But even more to the point for the Commissioners was the damage done to the race by the practices of limitation - and here they frequently appeared to conflate eugenics with morality - regarding contraception as “opposed to that morality upon which the welfare of the race depends”.

The Family as a Disciplinary Institution

Large families - which in the Commissioner’s view could mean seven to ten children - were a positive good in themselves, even apart from their admirable contribution to population:

The benefits of large families to the members of those families and to the nation composed of them cannot be overestimated ... ‘only children’ and members of small families are less well-equipped for the struggle of life; they do not grow up to be morally, intellectually, or physically superior to large families, while their social efficiency is impaired by selfishness.... (RCBR, V1: 28)

Furthermore - having already brushed aside as an excuse for selfish indulgence in pleasure and physical comfort the claims of people that poverty was their reason for family limitation - the Commissioners were wholly convinced that large families were also in the best interests of the parents:

We recognise generally that large families thrive best, and that those who have none dependent on them are themselves liable to become dependent on others. We also recognise that the obligations of parentage are an inducement to the right use of health and strength, and an incentive to the preservation and development of all those qualities which strengthen individual character. And we see that the effort demanded for the support of a large family stimulates regard for duty, and promotes good citizenship. (RCBR, V1: 28)

Large families were the proper outcome of the marital union if nature was allowed to prevail. They were a natural disciplinary measure operating on both children and parents to produce those character traits most desirable for an energetic, strong and ordered society. The burden they imposed promoted a vigorous work ethic, a commitment to duty, a necessity for continual self-sacrifice on the part of parents. The perpetual struggle for existence ensured that parents' energies were directed to responsible and socially useful ends and not frittered away in wasteful and self-indulgent pursuits. With numerous siblings and scarce resources children become - in the words of one of the clergymen, quoted approvingly in the Report - "better fitted for their work in ... life, and more capable, more alert, and more prompt, more pugnacious, and more fitted for the battle of life broadly" (RCBR, V1: 29). Small families allowed parents to devote more attention to children and give them superior material comforts, which encouraged offspring to be "very spoilt and self-willed", to be excessively dependent on parents for stimulus and attention, and to not develop strong and independent characters. Further, they allowed parents to enjoy "each other's society" more than that of their children's! (RCBR, V1: 29) To the Commissioners this was apparently a hedonistic waste of energy which should better be directed to the proper upbringing of the next generation of citizens.

Within the terms of the Commissioners thinking, then, we can see the large family as having a certain 'disciplinary elegance'. Unlike Foucault's 'ideal type' of the prison - or the barracks, school, asylum or hospital - it 'spontaneously' comes into being as the 'natural' product of the marital union if fertility is not artificially checked. Present in, or acting on, the large family, as conceptualised by the Commissioners, are the three mechanisms via which disciplinary power achieves its grip: hierarchical observation, normalising judgement, and the examination. (Foucault, 1979: 170) But the family, in a sense, is more 'ideal' as a disciplinary institution than even that exemplar, the Panoptic an, in that discipline is exerted not only on the 'incarcerated' (children) but, importantly, also on the 'incarcerators' (parents). The 'architecture' of familial organisation - in terms of its structure, processes, reciprocal duties and responsibilities, and its normative functioning - and the conditions imposed on it by its external social and economic environment, make the disciplining of body and mind imperative to relative well-being and survival, individually and collectively.

Certainly, the Commissioners were in no doubt as to the disciplinary efficacy of the large family. They were fully aware that the exigencies of life to which it was subject required absolute and exclusive compliance to the characteristics on which they put such a premium: responsibility, duty, sacrifice, thrift, hard work, and the forsaking of all desire for material comfort and, for parents, for enjoyment in the each other's company, and pleasures others than those to be found in the fulfilment of their obligations.

A primary parental obligation was the 'training' and 'normalisation' (Foucault, 1979: 170) of offspring. The pressures of a large family required that independence, initiative, obedience, respect for authority, mutual assistance, selflessness, punctuality, a vigorous application to work and a capacity for self-sacrifice be inculcated into children, and that sloth, egoism, dependence, hedonism and selfishness be promptly and severely discouraged. (RCBR, V1: 28) This system, based on "gratification - punishment" (Foucault, 1979: 181) would reward behaviours conducive to optimal family management (which were also those the Commissioners saw as vital to 'good citizenship') but would not hesitate to resort to punishment if and when necessary. The large family would necessitate the development and constant application of techniques to maximize possibilities for survival by regimenting the bodies and minds of members. Of necessity it would be

... subject to a whole micro-penalty of time (lateness, absences, interruptions of tasks), of activity (inattention, negligence, lack of zeal), of behaviour (impoliteness, disobedience), of speech (idle chatter, insolence), of the body ('incorrect' attitudes, irregular gestures, lack of cleanliness), of sexuality (impurity, indecency). (Foucault, 1979: 178)

Family, Race and Nation

For the Commissioners, the large family was naturally functional for the needs of the community and the nation. It produced bodies to enlarge the population and individuals properly normalised in behaviour and sensibility. Its management ensured that parents be constantly alert to their children's development lest deviations threaten the family's precarious grip on financial stability. Their energy and attention needed to be ceaselessly devoted to the care of the family, both in economically productive work, and in the surveillance of

their children. In turn, this developed in them qualities of character most desirable for community life. The Commissioners approvingly endorsed the views of the Anglican Archbishop of Sydney:

The responsibility of having a large family must make any thoughtful person less selfish, and it must make them consider more, first their own family, and then the general community. True family life is an immense benefit to any community.... The responsibilities of a large family would develop the altruistic instinct.... Given ordinary conditions of training, morality, and education, the larger family is better for the State, (RCBR, V1: 28)

and of Cardinal Moran:

I would go in entirely for large families on every count - on the count of nationality, on the count of patriotism, on account of the happiness of the families themselves, and of the real *spirit de corps* growing up in such families. I look on the family as the great unit in the State; and such as the families are, so shall the State be.... Where a number of fine families grow up you will be sure to have a flourishing State, and the people will be quickened with a vigour and earnestness which will pervade a large family. (RCBR, V1: 28)

Large families served yet another social purpose which the Commissioners agreed was indispensable to the progress of the nation: as numerous witnesses testified, in ensuring fitter offspring, according to the natural dictates of evolution, they also promoted the improvement of the race. As one witness put it, summarizing the argument of an authority in this field (Benjamin Kidd in his *Social Evolution*):

Amongst the higher forms of life it is an inevitable law, not only that competition and selection must always accompany progress but that they must prevail amongst every form of life which is not actually retrograding. Every successful form must, of necessity, multiply beyond the limits which the average conditions of life comfortably provide for. Other things being equal, indeed, the wider the limits of selection the keener the rivalry; and the more rigid the selection the greater will be the progress; but rivalry and selection there must inevitably be. (quoted in RCBR V2: Q.6550)

Little wonder then that the Commissioners gave short shrift to arguments that poverty might justify family limitation; women's selfish desire for comfort and the avoidance of pain would lead inexorably to an evolutionary backsliding of the species! Racial improvement required maximum propagation *specifically* under conditions of necessity and want, presumably by each individual, family, and the (working class) population at large. Personal selfishness was militating against the interests of the race, it was in fact:

...indicative of the desire of the individual to avoid his obligations to the community; and [served] to exemplify the observation that 'the effort of the race towards its increase in numbers is in inverse ratio to the effort of the individual towards his personal development.' (RCBR, V1: 17)

Certainly, there was no conceptual space here for recognising poverty as a legitimate excuse for controlling family size. On the contrary, the competitive conditions it imposed were ideal for the generation of a robust species. In fact, in accepting this latter argument, the Commissioners implicitly agreed that poverty was a factor, contrary to their explicit rejection of this explanation. What they actually meant was that poverty was by no means a good enough reason to control fertility and, moreover, it was a positive benefit in promoting survival of the fittest. What the Commissioners were forced to recognise was the contradiction between the needs of the nation and the (illegitimate) desires of the individual. This posed them a dilemma in terms of recommendations for policy. The requirements of natural selection ruled out amelioration of financial privation as a solution, even if the Commissioners had been prepared to countenance the explanation of financial hardship as a reasonable excuse for limitation. Here, fortuitously, nature and the Commissioners' class interests coincided; the process of bettering the race in NSW was better served by the maintenance of financial hardship amongst the working class.

Surveillance and Regulation of Women's Bodies

In identifying an appropriate remedy for the crux of the problem - selfishness - the Commissioners were less confident than they were in isolating the cause but, as Hicks comments, they were also more 'sensible' than they were elsewhere in their deliberations (1979: 26). In the main, their recommendations were concerned with the regulation of institutions and practices in the areas of obstetrics and midwifery. The "licensing, registration, supervision, inspection, and control of all private hospitals, lying-in homes, and maternity

homes” was suggested, as the Commissioners saw one of the main purposes of such institutions being the procurement of induced miscarriages. (RCBR, V1: 31,2)

They pointed to a need for the provision of more public maternity accommodation so that women were delivered of their babies by medical practitioners in preference to midwives. Hicks makes the point that this would have reduced the number of uncontrolled private hospitals and untrained midwives, and hence, the Commissioners hoped, presumably the number of abortions. Midwives they considered uneducated and untrained, and suspected that amongst their ranks were included a good number of abortionists. (Hicks, 1978: 26) One prominent witness - a gynaecologist and a knight - argued vehemently that midwives should be properly trained and licensed, but a medical member of the Commission told his colleagues that this would be “an unmitigated danger” because it would give midwives equal status with medical practitioners, and the suggestion was not pursued. Having declared themselves “much struck” with evidence on the deleterious effects on women’s reproductive organs of much factory work, the Commissioners indicated that measures needed to be taken to protect the procreative abilities of young working women. (RCBR, V1: 35)

Reluctantly conceding that it was likely that fewer babies were to be born in the future than had been before the birth-rate declined, the Commissioners considered that it was necessary to care better for those that were, so as to decrease the excessively high infant mortality rate in NSW. Accordingly, they recommended a range of measures including improvements in certain public health and hygiene matters, education for girls in infant rearing, regulation of baby foods and the milk supply, the provision of milk for infants, the regulation, supervision and control of all infant and foundling homes. The latter was directed at the practices of baby-farming and infanticide, as were other recommendations regarding the registration of births and still-births, the regulation and control of cemeteries, a prohibition on burials in places other than authorized cemeteries, and amendments to the Poisons Act (intended also to prohibit the sale of abortifacients). (RCBR, V1: 43-45)

They also advocated a ban on the advertisement of birth control devices and practices, and a strengthening and more concerted enforcement of the law on abortion. Nevertheless, the Commissioners were undoubtedly pessimistic that the measures they recommended would amend the ‘defective’ birth-rate. Rather, their recommendations were directed to the regulation and management of pregnancy, childbirth and infant rearing by bringing them under the surveillance, and as much as possible, the control, of the state.

In accord with their finding that weakened religious constraint was a major factor accounting for people’s use of artificial limitation, the Commissioners invited all the churches to

devise some means of instituting a general crusade of such an impressive character as would arouse the conscience of married people (i) to a recognition of the immorality and selfishness of the practice of deliberately restricting the number of children to be born of them; (ii) to a recognition of the degradation of the marriage state involved in that practice; (iii) to a realisation of its demoralizing effect on their own individual character, on the character of their children, and the character of the community; (iv) to understand that history and science combine in teaching that national degeneration and decay must inevitably result from a continuance of the practice. (RCBR, V1: 34)

The Purpose and Duty of Woman

But whilst the Commissioners themselves also devoted the final two pages of the Report to a diatribe against the ‘pernicious’ and ‘vicious’ practices of limitation and the national decay and degeneration which would surely befall NSW and Australia, and exhorted people to do their duty by their race, they appear to have been pessimistic about the efficacy of a moral remedy. After all, witness after witness had made it patently clear that women felt absolutely no sense of immorality about their actions, and indeed, did not even have the grace to be ashamed of them. “Led astray by false and pernicious doctrine into the belief that personal interests and ambitions, a high standard of ease, comfort, and luxury, are the essential aims of life”, (RCBR, V1: 52), in this matter at least, it was as if women had no ‘higher’ moral nature to which appeals could be made. Women were not only flying in the face of proper morality, they were repudiating their basic biological and social function, as one witness testified (basing his evidence on Mrs. Margaret Badland’s *The Curse of Eve*):

The denial to women of an equal share in man’s intellectual and physical career is not a useless relic of barbarism and savagery....

... Only through her domesticity and motherhood does women safeguard the whole nation, its ideals and social organisation. Outside this she has nothing of importance to contribute to the work of human elevation. After a certain point non-domestic and childless woman is a menace to social purity and national stability. (quoted in RCBR V2: Q.5691)

Although the Commissioners refrained from specifically pointing to women in many of their attacks on those who were responsible for the falling birth-rate, referring instead to 'people', their analysis of what constituted 'selfishness' - avoidance of the discomfort involved in gestation, parturition and lactation, and the inconvenience of childbearing and rearing - and their expose of women's lack of moral sense, made it only too clear that they saw women as the perpetrators.

One member, Octavio's Beale, who took a central role in the Commission, became so obsessed with the subject of birth control and particularly abortifacients that he went on to chair a second Royal Commission - on secret cures and drugs - in 1907, and to publish a book, *Racial Decay. A Compilation of Evidence from World Sources*, in 1910. (Pringle, 1973: 20) The latter was generously sprinkled with various pronouncements by 'experts' on the proper role of women, including the following:

While women's sphere is not alone to bear children, yet if she refuses her God-given part toward propagating the race she is worthy of nothing but scorn - she is not womanly.

As Augustine said, 'the soul is made for God', and is not happy till it finds rest in Him; so woman's body and soul are made for maternity, and she can never find true repose for either without it. (quoted in Pringle, 1973: 25)

By 1907, eschewing the euphemistic 'people' of the 1904 Report, Beale categorically blamed the "degenerate women who practice interference upon themselves" as being wholly responsible for racial suicide. (quoted in Pringle, 1973: 25)

To the Commissioners it was inconceivable that, given their circumstances, women were making perfectly rational choices in exercising birth control, choices which were in the interests of their children and their marriages as much as themselves. At issue was the very definition of 'women', her place and her function. And certainly, the Commissioners had no doubt what this was:

Duty we recognise as being conduct favourable to the safety of the race; virtue as an attitude of life and character consistent with the preservation and continuance of man on earth; and since vice is the reverse of virtue, it must include all conduct which is an attack upon the race. (RCBR, V1: 52)

In essence, then, woman was defined by her role in reproduction; she was, essentially, her womb. It was this which constituted the foundation of her being, and determined all else of or about her. Her body produced the family, the nation, the species. She was valorised for her unique biological contribution to society at the same time as she was excluded, by virtue of it, from any other. Her constitution in discourse, then, was fraught with a sense of paradox; she was defined as "saturated with sexuality" (Foucault, 1980a: 104) in terms of her pivotal function of procreation but, simultaneously, as asexual in terms of pleasure, the sexual drive in her being conceptualised (by the Commissioners) as her maternal instinct (Pringle, 1973: 22). Stripped of desire, the sexuality of 'Mother' was fundamentally pure and chaste, harnessed as it was, to the service of biology and society.⁷⁴ On the one hand her sexuality linked her inextricably to nature, while on the other it made her the object of an intrinsic pathology to be colonised by medical knowledge and practice: thus the Royal Commission's reliance on medical experts' testimony on the biology of women and the inevitable damage to their reproductive organs caused by the unnatural 'frauds against procreation' they committed.

One such prominent expert was Walter Balls-Headley who, since the 1890s, had been at the "head of his profession", author of the influential *Evolution of the Diseases of Women* (1894), lecturer in obstetrics and women's diseases at Melbourne University and President of the midwifery section at the Anticolonial

⁷⁴ This way of conceiving of women and their sexuality resonates in the speech of contemporary right-wing moral purist woman in their explanations of their own sexuality. As we shall see in Chapter Eight, they speak of rejecting the personal use of contraception because they experience it as robbing the sex act of its divinely given potential for creation. It is all too easy to dismiss this, but I would argue that we need to take it seriously as it affords an insight into the subjectivities of these women, their identities as Mothers and their sense of their bodies as somehow 'magic' in their capacity for reproduction and lactation.

Medical Congress (Hicks: 33). The sorts of ideas propagated by Balls-Headley were “all echoed, albeit muted or with mutations”, by other members of his profession, and indeed, his class. (Hicks, 1978: 43) He regarded the progress of civilisation as in many respects counterproductive to women’s gynaecological evolution and as contradictory to the requirements of the race. Economic conditions and people’s irresponsible desire for an easy life and leisure he saw as leading to delayed marriage, which resulted in endometritis and “reduced sexual capacity” in women. (Hicks, 1978: 34) Similarly, poor working conditions in factories had negative effects on women’s childbearing functions, as did education which put a heavy physiological burden on women:

...should she have capacity for higher mental attainments, her nervous system is apt to develop at the expense of her body, [thus] high mental culture is antagonistic to healthy sexual development and childbearing. (quoted in Summers, 1975: 332)

The Historical Production of Female Sexuality

The hysterisation of women’s bodies, as one of the four great strategic unities described by Foucault as comprising specific mechanisms of knowledge and power centred on sex, involves the actual production of women’s subjectivity. The discussion of the Birth-Rate Commission has already outlined major discursive elements defining women in terms of their functional relation to the family, procreation and the community. There, the emphasis was on the socialisation of procreative behaviour, but it was clear that the mechanisms involved in that were integrally related to those which constitute women as subjects. The latter sections of this chapter will highlight certain practices dominating the ways in which ‘woman’ and her sexuality have been constituted - discursively, materially, and historically - using Anne Summers’ *Damned Whores and God’s Police* (1975) and Bettina Cass’s analysis of the 1944 inquiry into the declining birth-rate. The purpose there is to ‘fill out’, in the context of twentieth century Australia, Foucault’s rough sketch of the hysterical woman by making explicit the ensemble of assumptions foundational to ‘common-sense’ thought and public policy formation related to women, it being a major contention of this thesis that ‘truths’ about the nature of woman are fundamental to the terms of the modern abortion debate.

Before proceeding to that material, however, I shall briefly examine the way in which woman’s sexuality was conceived prior to the medical colonisation of her body and her sex in the eighteenth and nineteenth centuries. Research by Angus McLaren (1984) presents us with a portrait of the ‘pre-hysterised’ female which is remarkably at odds with the alleged norm of modern womanhood. This is not to suggest that there formerly existed a ‘natural’ woman who has since been ‘corrupted’ by the invasion of knowledge and power. Nor were the mechanisms involved in hysterisation aimed at the regulation or control of a pre-existing sexuality: rather, the relations of power and knowledge operant in medical discourse amounted to a deployment of sexuality out of which the modern sexual (in fact, maternal) subjectivity of women has been forged.

It was clear that the views of the Commissioners were coloured by two basic and closely linked assumptions about the function and nature of women. Childbearing and rearing were not “seen as just an individual moral duty: it was a national duty, and this was reflected in the new spirit of interventionism on the part of the state”. (Weeks, 1981: 127) As already indicated, influencing their thought also, if less explicitly, but perhaps no less forcefully, was the view that women lacked any sexual drive, in the sense of a desire for pleasure. According to this definition of women, they underwent sexual intercourse solely for their husbands’ pleasure and to produce children. They were expected to be morally as chaste and devoid of passion in marriage as outside it. (Gordon, 1977: 22) But as Gordon argues, (speaking of the USA, but in terms equally applicable to Australia):

There was a nervousness about this view, however, expressed in the ambivalence both that women lacked sexual drive and that they must be protected from exposure to sexuality lest they “fall” and become depraved, lustful monsters. This ambivalence perhaps came from a subconscious lack of certainty about the reality of the sexless woman, which was a construct laid only thinly on top of an earlier conception of woman as highly sexed, even insatiably so, that prevailed until the late eighteenth century. (1977: 99)

Gordon suggests that this ambivalence was allayed to some extent by the Victorian *invention* of the maternal instinct, proclaimed in the nineteenth century as constituting the central core of woman’s nature and taken for granted since. Whilst economic and social changes paved the way for the creation of this artefact of feminine

'nature', Gordon argues that it was largely the medical profession who 'discovered' and promulgated the new knowledge. Major progress in the understanding of reproduction, the physiology of woman's body, and in gynaecology, advanced by the forward march of scientific empiricism, had, since the eighteenth century, been progressively undermining the traditional 'myths' about women's sexuality. That this modern and enlightened truth was heavily laced with normative morality went necessarily unnoticed, articulated as it was from the standpoint of medical prestige and rational enquiry. McLaren remarks that medical scientists of the later eighteenth century tailored their newly discovered understandings of the processes of physiology and procreation to ways which bolstered "a new, middle-class image of the respectable, asexual female". He sees this as analogous to Newtonian scientists who conceptualised their philosophy of nature in a manner which served the social and political purposes of liberal, Protestant interests.⁷⁵ (1984: 28).

Sixteenth century knowledge about female sexuality and how it was linked to reproduction derived from the writings of Galen in the second century, who, in turn, had based his ideas on those of Hippocrates. In the Galenic view, which dominated western thought on the subject for fifteen hundred years, men and women were complementary and anatomically similar, the difference between them being merely that the male's genitalia were external and the female's internal. Women's ovaries were seen as the female equivalent of the testes, the belief being that both organs produced the 'seed' necessary for conception, and the clitoris was identified as the location of sexual pleasure. Using the very popular seventeenth century Galenic work on sexuality, *Aristotle's Masterpiece*,⁷⁶ and other 'pre-scientific' texts, McLaren is able to demonstrate that, prior to the displacement of Galenic views by modern scientific knowledge, the prevailing assumptions about women's sexuality were diametrically opposed to those which came to dominate in the nineteenth century and which we ourselves have inherited (despite our recent 'liberated' resistance to them).

McLaren makes three points which are apparent from his study of the texts. First, it was taken-for-granted that women experienced pleasure in sexual activity, at least to a level comparable to that enjoyed by men, if not more so. Both sexes were seen as ejaculating, and the *Masterpiece* suggests that because women "both gave and received seed while men only gave", they were likely to be "more recreated and delighted in the Venereal Act" than men (quoted in McLaren, 1984: 20). The second point was that women's bodies were seen as actively seeking pleasure and participating in the sex act, rather than being mere passive receptacles for the male genital and seed. Accounts abound of women's lusty sex organs forcefully enclosing the male's, 'sucking it', 'snatching at it', and 'ravenously drawing it in'. (McLaren, 1984: 20) Finally, and importantly, it was stressed that conception was impossible without the women experiencing pleasure in intercourse; only when she was aroused to climax would her cervix open to admit the male seed and release her own for union with it. Thus, a frequently cited cause of barrenness was a lack of love between husband and wife. (McLaren, 1984: 21)

The emergence of preformation theories in the late seventeenth century and their general acceptance in scientific circles during the first half of the eighteenth operated to gradually spell the demise of age-old beliefs in the highly-sexed and pleasure-seeking woman. Preformationists held that a miniature being already existed prior to conception either in the mother's egg or in the spermatozoa, and that it was activated by intercourse. The idea of conception as involving creation was replaced by one in which conception merely triggered a process of enlargement. Thus, women came to be represented more in the terms of a pre-Galenic Aristotelian role of "breeding machines", as passive recipient of the active male spermatozoa which either contained within it the miniature embryo or vitalised that within the woman. (McLaren, 1984: 23,4) The significant element in this new knowledge was a recognition that the sexes were anatomically different and had different functions in the process of procreation. McLaren observes that there was no inherent reason why the new scientific knowledge of preformation and the later more precise epigenetic theories should lead to a revision, indeed an outright repudiation, of beliefs in the necessity, or even just the possibility, of women's

⁷⁵ McLaren points out that this latter conclusion was reached by Margaret Jacob in *The Newtonians and the English Revolution, 1689-1720* (Cornell Uni. Press, Ithaca, 1976) after noting that so many scientists of the time were religious and turned their ideas to support a natural theology.

⁷⁶ Between 1684 and 1930 this collection of folklore on the body, its functions, sex and reproduction, went through at least twenty-five editions. Weeks remarks that it was probably the single most popular work on sex and procreation and one of the most important sources of information on these topics. (1981: 70)

pleasure in sex, but in fact, they did. (1984: 26) Different roles in reproduction were translated into different desires, different needs, and different experiences. Whereas the old medical texts had stressed the critical role of women's sexual arousal in conception, their eighteenth-century counterparts were declaring that "complaisance, tranquility, silence, and secrecy are necessary for a prolific coition". (quoted in McLaren, 1984: 20) Excessive movement or activity on the part of the female were likely to lead to an unfruitful union, it was warned. And in the mid-nineteenth century Dr Acton decreed that "a modest women ... submits to her husband, but only to please him and, but for the desire for maternity, would far rather be relieved from his attentions". (quoted in McLaren, 1984: 27)

McLaren's study of the medical literature shows, then, a dramatic shift from an assumption of a necessary equality in sexual desire and pleasure between men and women prior to the eighteenth century, to the Victorian norm of the 'passionless' but maternity-driven women. He canvasses various explanations as to why this came about, but for the purposes of the present study the crucial point is his demonstration of the historicity of knowledge of (especially women's) sexuality and the assumptions which underlie thinking about or in relation to it, and of (women's) sexuality and sexual experience itself.

Until the seventeenth century there existed in England a common culture of procreational knowledge in which women's sexual pleasure was seen both by layman and doctors as necessary for fecundity. In the seventeenth century this common culture was undermined. What one finds is that a new 'high' culture of scientific embryology emerged that severed the traditional linking of pleasure and procreation: what had been the common culture became the 'low' culture.... The older interpretations did not disappear, but they were increasingly viewed by the educated and respectable as aspects of the mind of the lewd and the vulgar. (McLaren: 21,2)

McLaren's demonstration of the traditional belief of an equal capacity for pleasure in both sexes is not meant to suggest that there was a corresponding social or political equality between men and women at that time, nor that there formerly existed a 'merry olde England' of sexual freedom and joyful hedonism truncated by the puritanism of the Victorian era. Rather, it suggests that how women are defined in any period involves the elaboration of discursive truths derived variously from biological, medical, theological, and/or moral bodies of knowledge. Further, it implies that the category of 'woman' - what is alleged in any historical context to be her nature, purpose, function, capacities, intellect, moral sense, character, emotions, and sexuality - is an historical construct liable to redefinition according to the prevailing exigencies.

Nevertheless, it needs to be noted that the normalisation of whatever is decreed to be the 'proper woman', and of particular interest here, her sexuality, is never completely accomplished. As Gordon insists, "women's minds and bodies [are] not mere clay in the hands of moral censors", nor, we could add, medicos, theologians or 'experts' in any discipline. Hence, despite the strenuous efforts of those espousing the new norms of Victorian 'high' culture, there is plenty of evidence to show that many middle-class women enjoyed sex in their private lives, contrary to the public facade. (Gordon, 1975: 23) And in spite of the fact that the 1904 Royal Commissioners directed their attentions to working-class women as responsible for the declining birth-rate, in fact the use of birth control measures was more prevalent amongst the middle-class, if for no other reason, than that knowledge of the various means and access to appropriate devices was more easily available to them (Weeks, 1981: 45).

What was also at stake in the production of the passionless and chaste Victorian woman was the marking out of a middle-class or bourgeois 'class body'. But this was not a simple repression of its own sex, rather it was the creation of a self-consciously sexual body with its own "health, hygiene, descent, and race: the autosexualization of its body, the incarnation of sex in its body" (Foucault, 1980a: 124) In this process of affirmation of its self the bourgeoisie invented its own sexuality and cultivated its own body, investing them with a vigour and strength appropriate to its economic and social expansion. In so doing it differentiated itself from both the aristocracy and the working class, assuring itself of its own distinctiveness and value. The hysterisation of the middle-class women's body was an essential component in the self-manufacture of the bourgeois body and sexuality, underscoring a preoccupation with its own protection and preservation, its health and welfare, its precious self-affirmation. Hence, in the colonisation of women's bodies and the defining of their (a)sexual but maternal natures, the medical profession

... contributed to the effort made on a variety of fronts by the middle classes to elaborate new social and sexual roles to differentiate their enlightened lives from the unthinking, hedonistic existences of both the upper and lower orders. (McLaren, 1984: 29)

Also, contrary to the notion that the Victorian 'repression' of sexuality was primarily directed at the labouring classes and designed to discipline their bodies to a new industrial work ethic, the bourgeoisie refused to recognise the body of the working class until forced to do so in its own interests, when for example, the need to manage and harness its sexuality to the requirements of population became apparent. (Foucault, 1980a: 126) Thus, the idea of an assertive pleasure-seeking female sexuality did not disappear with the creation of the new middle-class woman, but was seen henceforth by medical men as existing only amongst those from the working-class. (McLaren, 1984: 29) This was the 'low' culture which affronted the gaze of the Commissioners: women who failed to appreciate their national duty and exhibited a naive amorality towards the evils of prevention and abortion. Motivated perhaps by a sense of gentlemanly discretion and public decency, they refrained from suggesting that such women might also be desirous of the pleasures of sex divorced from its procreative function. Whilst never articulated so blatantly, this apprehension lurks between the lines of much of the Commissioner's rhetoric about the contradiction between the individual's preoccupation with pleasure and their reproductive obligation to the community.

Normalising Women's Maternalism

This polarisation between 'high' and 'low' cultural configurations of woman - the one pure and chaste, her will subordinated to duty towards husband, children and society; the other aggressively seeking her own pleasure regardless of morality and responsibilities - is encapsulated in the title of Summers' *Damned Whores and God's Police*. Summers argues that the fact that Australia was settled by whites as a penal colony, and that this was its primary function for a quarter of its history, has had an enduring effect on the ways women have been defined. Up until the 1840s,

almost all women were categorised as whores. ... This categorisation was initially based on the fact that virtually all of the white women to come here for the first two decades of colonisation were transported convicts, but it was continually reinforced by the social structure which evolved in the penal colony. (Summers, 1975: 267)

Against this deeply ingrained version of early Australian womanhood Summers juxtaposes a quotation from Caroline Chisholm, a mid-nineteenth century campaigner dedicated to securing a balance in numbers between the sexes in the colony, and to making Australia a 'civilised' society, through the emigration of upright women:

For all the clergy you can despatch, all the schoolmasters you can appoint, all the churches you can build, all the books you can export, will never do much good without ... 'God's Police' - wives and little children - good and virtuous women. (quoted in Summers, 1975: 267)

Summers argues that these two strains defining women have been endemic in Australian culture since then, enduring in one form or another up to the present. We have already seen how two categories of womanhood had coexisted in England since the eighteenth century. Imported to Australia along with white settlement, this differentiation was translated into a distinction between 'good' and 'bad' women, and was likely to have been intensified given the specific history of women in the colonial context.

Linked to the emergence of the middle-class ideal (and the superficial, at least, reality) of the asexual woman a new concept of childhood and child development evolved, which in turn furthered reassessment of the role of motherhood and added impetus to the developing emphasis on women's maternal function. The intensely reluctant but pragmatic relinquishment by the Royal Commissioners of pro-natalism as a single remedy to the problem of the birth-rate is evident in their recommendations for measures designed to reduce the abnormally high rate of infant mortality; thus the numerous recommendations geared to enhancing the childrearing knowledge and skills of mothers and older girls, and the range of surveillance and regulatory measures to oversee the rearing of children. It was not merely a matter of the number of babies born, but also of the quality of their upbringing which was increasingly deemed important. This meant that women's nurturing as well as their procreative capacities were of concern to the nation.

It was recognised that children needed education and training in skills and civic virtues if they were to become useful citizens on maturity, and that their individual health contributed to the health of the race (Foucault, 1980a: 146). This necessitated formal schooling, introduced in most States in the 1870s, and limitations on children's involvement in paid work as well as the introduction of a range of regulatory measures to control children's behaviour and stress parental obligations. (Cox, 1988: 193,4) But it also involved a particular emphasis on the mother's place in the inculcation of socially appropriate values and behaviours, or in Foucaultian terms, in the disciplining of children's bodies and minds. It became 'apparent' that mothers had a special responsibility to the physical, intellectual, psychological and moral development of children, to the stability of the family as an individual unit and as an institution, and hence to the well-being of society as a whole. (Foucault, 1980a: 146,7) As an instance of this shift Summers cites as the first legal acknowledgement of the social importance of motherhood the Guardianship of Infants Act, legislated in England in 1866 and subsequently adopted by all Australian States. (1975: 335) Whereas common law gave fathers all rights of custody and control over children, the Act allowed Courts to over-rule these in favour of the mother when it was deemed to be in the best interests of the children concerned, which increasingly it was considered to be. This constituted a recognition that even more important than economic factors in the upbringing of children were psychological and moral qualities, characteristics which women were seen as constitutionally created to nurture.

Although viewed as essentially biological, motherhood, then, was also being socially defined as a vocation, allegedly with a special prestige and status attached to it. Concomitant with this was a new perspective on the family as an institution: increasingly, it was recognised as performing functions of social value and importance. (Summers, 1975: 337) Within this emergent discourse of the modern family the responsibilities of each parent were sharply drawn, given the primacy placed on the mother's maternal function, and the differences between them gradually given legal status in legislation, judicial decisions, and regulations governing wages, working conditions, welfare, contracts, taxation, and numerous other areas. For example, Justice Higgins' crucial judgement in the *Harvester* case of 1907 tied men's wages to their assumed role of breadwinner but explicitly, in setting women's wage at fifty-four percent of the male rate, denied recognition of the possibility of a similar role to women. (Summers (1975: 337)

Women's 'unnatural' participation in paid work was also highlighted in 1911 by the NSW Royal Commission into the Hours and General Conditions of Employment of Female and Juvenile Labour. Its Report stated numerous objections to married women working, including the encouragement it gave to the practice of prevention, the risk of miscarriage, an increase in infant mortality caused by the cessation of breast-feeding, and women's neglect of their homes resulting from work consuming all their energies. It also found that idleness and extravagance in men was encouraged by their wives working, and that married women were liable to exert a "bad influence on single girls". (Summers, 1975: 338) A number of legislative initiatives implicitly or explicitly recognised women's 'special' biological contribution to society and marked them out - or more precisely, their bodies - for particular consideration, limiting the sorts of work they could do or imposing conditions designed to protect them from the most arduous tasks or occupations. Whilst in some cases these involved genuine advances for women, they more precisely represented the state's developing interest in managing population and regulating the family which, as we have seen, entailed the disciplining of women's bodies. For example, we have previously noted that the Royal Commissioners drew attention to the testimonies they had heard about the deleterious effects on the female reproductive organs of factory working conditions. All of these measures, whilst in one sense 'progressive', served to marginalise women from paid work and associate them, even more than hitherto, to the domestic sphere and to dependent status:

Motherhood was seen to be an all-consuming vocation, one that could not properly be combined with any other career.... The 'new' mother of the early 20th century family was supposed to be a capable, responsible woman who wanted nothing more than to keep her family satisfied: she was cook and cleaner and educator of children as well as wife. Her vocation was clearly defined and socially valued. (Summers, 1975: 339)

This supposed value ascribed to women's function and the private realm of family life, whilst heavy on rhetoric, for all practical purposes subordinated women's social status to the prestige accorded men's public roles and activities. By circumscribing and minimising the possibilities of women's contribution to public social life it is arguable that women became even more powerless and dependent than they were formerly.

The ideology of motherhood which began to develop at the level of formal policy in the later nineteenth century, and was spurred on by official inquiries and pronouncements, Summers sees as intensifying throughout the twentieth to its zenith in the post-World War II period. Its coupling with an obsessive concern for population and a phobic aversion to racial pollution - exemplified by the Royal Commission into the Birthrate and the legislation of the White Australia Policy of the same period - fed into the formation of a new discourse governing (particularly women's) sexuality.

Twentieth Century Puritanism

Contrary to the conventional view (so ably critiqued by Foucault) which locates the high-water mark of sexual prudery and moralism in the era of nineteenth-century Victorianism, Summers argues that it was in the early twentieth century that a "rampant Puritanism" swept Australia. She suggests that there are indications in Australian history that from then and up to the middle of the century injunctions to sexual morality gripped the whole populace, if not always in actual practice, at least in the facade of everyday life. (1975: 339) In part, she sees this as reflecting the ascendancy of the middle class over the old squattocracy. In McLaren's terms, this would be the era in Australia when the Victorian model of femininity - or the 'hysterical women' - percolated down to imperialise working-class culture. (1984: f.n. 161)

Concomitant with the 'repression hypothesis' is the assumption that the shackles of morality and repression which had bound sexuality from the period beginning with the rise of capitalism in the late seventeenth century, reaching their apogee in the Victorian era, only began to be broken with the sexual liberation movement of the late 1960s and 1970s. Yet it is ironic to note that in Australia the decade between 1891 and 1900 - the alleged high point of puritanical morality - was characterised by an ex-nuptial birth-rate of twenty-five percent of all births, with another equal number occurring within nine months of marriage: fifty percent of recorded pregnancies which went full-term, then, were conceived outside of wedlock! (Summers, 1975: 321) This far exceeded the proportions reached at the height of the period of 'liberation' or 'permissiveness', so-called depending on one's perspective. Yet, as Summers comments, "there was little overt condemnation of this". It was in the early part of this century that the illegitimacy rate began to decline markedly, during the same period when Summers claims middle-class norms of sexual morality were being successfully imposed on or being adopted by the populace in general. (1975: 321,340) The open advertising of abortion, abortifacients, and other birth control devices which had so shocked the Royal Commissioners was suppressed, brothels were outlawed, laws designed to stop infanticide were legislated, and Bills introduced to raise the age of consent for girls. Linked to these were measures taken to control the availability of alcohol because of the adverse effects it was thought to have on families. The stigma attached to ex-nuptial pregnancy or birth intensified so that by the 1950s at least, it was viewed as the greatest shame that could befall a girl and even her parents. As we have seen, the odium attached to illegitimacy had been historically as much, if not more, a function of dependency as it had been of morality, and thus had been limited to the poorer classes. It was not until the nineteenth century that "illegitimacy went out of fashion in the upper and middle classes", a shift which increased prejudice and reinforced it by class attitudes. (Pinchbeck, 1954: 315,6) Even by the turn of the century it would seem that there was some space for a modicum of toleration, given the high incidence of ex-nuptial births and the fact that some commentators at the time of the 1904 Royal Commission suggested that illegitimate births compensated in large part for the decrease in family size. In this view, what was necessary was a diminution of the disgrace surrounding pregnancy and birth outside of marriage, a reform which would dissuade young women and girls from resorting to abortion and thereby prevent the consequent loss to the nation of innumerable babies. (Summers, 1975: 321) Even the moralistic Commissioners voiced no sense of outrage at illegitimacy. Their concern was rather with the higher infant mortality rate of ex-nuptial born infants and with means of lowering it. This was not an indication of any humanistic orientation; rather, they recognised that bastards too could equally swell the population statistics. Hence a good number of the surveillance and regulatory reforms they suggested were directed at founding homes, child welfare institutions and foster arrangements.

Such a view of illegitimacy was to become virtually unthinkable, let alone capable of public articulation, as the parameters of discourse governing sexuality increasingly foreclosed any possibility for open expressions of tolerance. It was not that sex could not be spoken of, but that serious discussion of it became the province of professional experts concerned with social problems or medical and psychiatric pathologies arising from it.

More widely, it manifested in everyday discourse in the form of jokes, innuendos, and euphemisms; its expression veiled in mirth, the knowing wink, or the sideways leer. In popular culture the fantasies attaching to it were harnessed by a burgeoning Hollywood movie industry - with desire masked as love and its satisfaction as marriage - a multimillion-dollar genre built on, but barring any naked allusion to, sex.

Summers also argues that this insistence in the earlier 1900s on moral imperatives and the centrality of the familial institution was heartily promulgated by most Australian feminists. Given Millett's insistence on the role of first-wave feminists and the sexual revolution, this is of some interest, although, admittedly, Millett was dealing with the USA. The stress which Summers says they put on the importance of the family grew from their belief that women's superior qualities emerged from their primary involvement in family life. Certainly, feminists appreciated the burden placed on women by large numbers of children, and this led them to advocate smaller families. With a very few exceptions they were, however, opposed to all forms of birth control apart from sexual abstinence, arguing that sex should be limited to procreation purposes. For most feminists of the time women represented the fundamental virtues of chastity and purity, even in marriage. This would indicate that their own sexual subjectivity and views about sex were shaped within that middle-class 'high' culture of truths about female sexuality described by McLaren.

Some contemporary feminist scholars have suggested that the asexual and 'passionless' model of Victorian femininity was a tactic employed by women to limit births, but more significantly, that it was a means of resisting male sexual demands and exerting at least a degree of negative control over sex. Nevertheless, as Summers observes, although feminists were vehement supporters of women's independence and self-determination, they failed to recognise that their ideal of womanhood as pure and noble did not constitute an alternative vision to the dominant male view of women. (Summers, 1975: 373) Indeed, in this respect, feminists were feeding into and helping to entrench a discourse of feminine sexuality which by valorising women's noble and nurturant endowments, excluded the possibility of social acknowledgement of any female capacity for desire and pleasure in sex - at least for 'good' women - and relegated them to the task of biological reproduction and its assumed social corollaries.

The Disciplined Woman and Population Regulation

Thus, we can elaborate and fill out the contours of Foucault's 'hysterical woman' by taking the concept as a point of departure for a series of discourses about the nature of woman and her ordained social positioning. What is clearly apparent, but understated by Foucault, is that she is also one half of that 'Malthusian couple' constructed out of the requirement to regulate population by controlling the birth-rate.⁷⁷ Yet, as was evident from the Birth-Rate Commission, it is not actually couples, so much as women, who are held responsible for personal (anti-social) desires regarding family size, and for the practices of birth control, and conversely, for regulating family fertility in accord with the requirements of the society and species. Women, then, are both the medium for, and are subject to assault on two fronts in, the exercise of power through sex: which is also why abortion is doubly implicated in a web of power. These two overarching technologies - the hysterisation of women's bodies and the socialisation of procreative behaviour - are by no means separate and discrete in their operation; rather they frequently fuse together in interaction and in their effects, as indispensable alloys for each other's operation. Thus, the sexuality of the 'good woman' has traditionally been seen as inseparable from reproduction, and as 'designed' for no other purpose than species survival, and similarly, her maternal instinct has been conceptualised as a biological mechanism geared not only to childbearing, but to childrearing and caring too, and this to the exclusion of other worldly activities. Being nonsexual, and hence not driven by compulsive erotic need or desire, she has been assigned primary responsibility for managing family size, by ensuring abstinence or otherwise as the need may be; and consequently, for regulating the

⁷⁷ In fact, as the parent engaged in and responsible for the everyday rearing of children, she is also implicated in a power relation in Foucault's 'sexualisation of children', ever vigilantly guarding against, and searching out, any manifestation of the ever possible corrupting influence of an insidious sexuality. We are sometimes apt to forget that it is primarily mothers entrusted with disciplining (particularly young) children's sex through constant surveillance and regulation, and who, indeed, do most to elicit the very sexuality they are committed to eliminating. In what is perhaps the paradigmatic text on the sexualisation of children, Freud's case history of Little Hans, the mother is remarkable only for her absence. Foucault's representation of the 'masturbating child' which suggests a boy, and the paternal threat of castration in psychoanalysis can lead one to overlook the centrality of the mother in the 'sexualisation of children'. Yet, as we shall see in the following chapter, the mother is the primary parental agent in this process.

societal birth-rate according to whatever population requirement might prevail. Thus, regulation of the population has been discursively inseparable from woman's (non)sexual and maternal nature.

In Australia, as we have seen, the urgency of the population debate centred on *increasing* the birth-rate, both to satisfy the need of capital and as a bastion against invasion by the 'Asian hordes' to the north. In contrast, in England the ideas of Malthus found an audience among the bourgeoisie because they explained the poverty of the working class as a function of its own inability to control population. Hicks claims that in neither the Birthrate Commission transcripts and Report nor in other biographical details of the Commissioners, is there anything to suggest a thorough familiarity with Malthusian doctrine, nor especially with the post-Malthusian debate which was being energetically pursued in both Britain and the USA at the time. (1978: 99) This is significant but understandable, firstly because the issue in NSW was *underpopulation*. Secondly, both Malthus' theory of population and poverty, and the neo-Malthusian advocacy of artificial birth control were in direct contradiction to the position espoused by the Commissioners, and in fact represented the very ways of thinking which were undermining the necessity for increased population.

Instead, the knowledge the Commission drew on from the many overseas writings on population and human progress represented the most conservative spectrum of intellectual contributions to the debate (Hicks, 1978: 98) being heavily laced with a social Darwinism which equated the human races with Darwin's species. This stressed the necessity for the white races to reproduce themselves in sufficient numbers to ensure their survival and their social dominance as the most civilised (fittest) of the human species. It was not only, then, national self-interest at stake here, but the interests of civilised society itself. But the problem confronting the Royal Commission was that it was civilisation and all it had to offer which had checked population growth: women had selfishly come to prefer the comforts afforded by modern society instead of confining themselves totally to childbearing and rearing; comforts more easily attained by limiting family size and by working in paid employment.

Thus, from well back in the nineteenth century the nexus between women's ideally asexual and maternal nature and the requirements of population was firmly established in Australia's history. Nor was this merely a passing phase: population has remained a political issue since, with the continuing need for growth always outstripping natural increase, resulting in a large migrant intake every year, with the issue of migration in turn fuelling debate about racial, and more recently, cultural mixing (and occasionally being used to argue against abortion of 'future Australian citizens').

Also, this conjunction has been perpetuated and reinforced in Australia through a vast assortment of legislative, social policy and administrative measures all prefaced on the knowledge that women's social contribution was confined to the private domestic domain. For example, the Commonwealth introduced a maternity allowance in 1912 and the war widows pensions in 1914. (Cox, 1988: 194,5) Child endowment and a civilian widows pension came into effect in NSW in 1926, and by the mid-1940s a very wide class of dependent women were covered by Commonwealth 'widows' pensions, including those with children from *de facto* relationships. (Roe, 1988: 6-12) But as Roe indicates, social security benefits paid to women have effectively been directed at their children; virtually none have been designed for women independently of their relationships with men and children. For example, there were allowances for men with dependent daughter/housekeepers, and a wives' allowance for aged, invalid or war pensioner males whose wives did not themselves fulfil eligibility criteria. (1988: 12) In the decades prior to the end of the second war mothers without men to support them had become recognised as 'deserving' cases, due to a "consensus on the importance of effective motherhood" for the nation's population. The baby boom and the large increase in immigration in the post-war years, however, undermined this and marital status became decisive: the "unmarried mother [was redefined] as morally defective and thus undeserving". (Roe, 1988: 13) In terms of paid employment for women, even when financial hardship or the requirements of capital pulled vast numbers of married women into the workforce everyone 'knew' they were merely there to supplement their husbands' wages, or, as was the case during the war, making their contribution to the national effort. There was no question, therefore, of them working for 'careers', or of them being 'real' workers in their own right, and the wage structure reflected this: after all, their primary commitment was always to home and family. Not surprisingly, then, Australia's labour market is one of the most heavily segmented by sex - in terms of occupation, industry and hierarchy - of all Western countries.

Hence, women's confinement to the private sphere of family life was a matter of great public importance. The proper performance of their domestic function was inseparable from their duties to the nation and the race and to the public welfare. As wives and mothers 'good women' (God's police) contributed to public order by entrenching and consolidating the institution of the family.⁷⁸ They confined sex within the boundaries of marriage: in childbearing they ensured the continuation of the species; in childrearing, the production of healthy future citizens. Whereas in 1891 about two out of five men and one in five women had not married by the age of thirty-five, by the 1960s marriage was well nigh universal (at least amongst heterosexual men and women). The unmarried man was suspect (his state assumed to be a result of his own choice); an unmarried woman pitied (hers being lack of opportunity) and a childless couple considered sad (on the presumption of her infertility or his sterility). Caroline Chisholm would have been well pleased: it was to have been the function of virtuous women to promote the family institution; by mid-twentieth century 'good women' were defined by it! Marriage and motherhood became the external mark of the proper and normal woman, and the wherewithal of feminine identity and sense of self. That these norms were often fraught with contradictions, both in external manifestations and the experience of subjectivity, could be overlooked or denied.

The 1944 Birth-Rate Inquiry

Although liberal conservative thought maintains that the state takes a non-interventionist position towards the family (Cass & Baldock, 1988: xi, xii) historically it has by no means been unconcerned with what goes on there, due to its recognition that family life is integrally related to national interests. In this respect the influence of family fertility on population growth has been an ongoing concern and a basic consideration in many social policy initiatives, particularly in the first half of this century. When the state has been concerned about its female citizens, as indicated above, it has been primarily in terms of their (natural) role within the family and their function as child bearers and rearers.

It has always been considered legitimate for Australian governments to have a vital interest in the subject of population and to deliberate on policies to promote population growth either through 'natural increase' or migration. Sustained population growth has been seen in official policy discourse and in most academic writing (particularly by demographers, economists, and medical practitioners) until the latter part of the 1960s, as the very basis of national security (to defend the 'empty spaces' against the 'threat from the north'), as the means to promote racial purity (to increase the Anglo-Irish stock ...), as the necessary adjunct to economic growth (to ensure an expanding workforce with appropriate numbers of consumption units to stimulate demand) and as a force for moral good in society (to promote the twin institutions of marriage and parenthood). (Cass, 1988: 169,70)

A decline in fertility in the post-Depression years prompted the Federal Government in 1942 to commission the National Health and Medical Research Council to inquire into, and report on, reasons for the falling birth-rate, and make recommendations to reverse the decline. In its 1944 Report, *Inquiry into the Decline in the Birth-Rate*, the Council referred to the decline over the previous two decades as a serious problem, "such as to cause even now, the gravest anxiety about the future of the Australian people" (quoted in Cass, 1988: 171). It reversed the 1904 Commissioner's explanation of women's selfishness, pointing instead to the 'selfishness of husbands' in shirking their full financial and personal responsibilities to their families. It concluded there were two major factors causing women to practice birth control: an increased sense of economic and psychological insecurity, and concern about social and international instability; and "*the decreasing dependence of women*". (quoted in Cass, 1988: 172, my emphasis)

In sum, its investigation led the Council to conclude:

The major thrust of the report ... might be summarised thus: the instinct for parenthood, or more specifically for motherhood (the existence of which instinct was never doubted), had been thwarted and

⁷⁸ It was in this context that the alliance around 'social purity' between traditional conservatives and temperance and feminist campaigners early in the century makes sense: all had an investment in promoting the family. On the one hand, it bound men to the discipline of familial responsibilities, thus ensuring a stable and more disciplined workforce and minimising the social disruption likely from masses of unruly single men. On the other hand, it offered some degree of protection and security for women, and it was for this reason that alcohol and birth control were anathema. The former seduced men to hotels and away from the family hearth. (Outlets for alcohol were decreased and strictly controlled as part of the 'puritan' legislation of the 1910s, with six o'clock and Sunday closing introduced.) More importantly for our purposes, birth control was seen by feminists as allowing men the opportunity for sexual indulgence without the responsibility of children, and the consequent obligation of marriage and family.

suppressed by conditions engendering economic and psychological insecurity - conditions which must be corrected by a package of economic, social welfare and medical services to families which would constitute a positive incentive to child-bearing and rearing. (Cass, 1988: 172)

Managing the Family

A submission to the Council, which exemplified its own approach to the issue, was made by an interdepartmental committee concerned with post-war reconstruction and endorsed by its heads, H.C. Coombs and Roland Wilson. Its 'Memorandum on some Aspects of Decline in Birth-Rate and Future of Population in Australia' concluded:

... that Australia's population growth, due to natural increase, would only start to incline upward with the adoption of wise and effective measures designed to "encourage a regrowth of family life" and urged the development of a deliberate "population policy". (Cass, 1988: 173)

The Council put the emphasis on ways of alleviating barriers to larger families and on measures to assist in childrearing, rather than on strategies to enforce fertility through, for example, restrictions on contraception. Nevertheless, it did condemn abortion and expressly favoured energetic policing and penalties befitting what it saw as the gravity of the offence. One of the working parties included Dame Enid Lyons and Dr Phyllis Client whose subsidiary report differed markedly from that of the Council's in forcefully denouncing any artificial means of birth control, countenancing only abstinence as legitimate. Whereas the main report stressed the primacy of economic considerations, Lyons and Client lamented that the "honourable and noble image of women as mothers" was being undermined by "a Hollywood inspired version of fashionable femininity with little association with motherhood". (Cass, 1988: 172)

This image of women as mothers was assumed in the main report too, though the majority view was much more circumspect and cognizant of social and economic factors. Whilst the inadequacy of the male family wage was recognised, a family structure organised around a sole (male) income was reinforced: "the vocation of women as *childrears* was never doubted". (Cass, 1988: 174) The viability of this ideal family unit was to be achieved by supplementing family income with a variety of welfare measures to enable couples to have the desired family size (it being taken for granted that a larger family was the prevailing but thwarted aspiration) and by ensuring that children grew up to be as healthy, fit and efficient as possible.

Nevertheless, the Council did recognise that a return to mid-nineteenth century family size was not only improbable but even undesirable given the transformation in social conditions since then. They identified the competitive, individualistic value system of urban society as giving rise to new expectations regarding living standards, aspirations for the future of children, and for social mobility. Sensibly, they cited a wide range of social factors influencing the desire for smaller families including longer compulsory schooling, improved (but more expensive) health, hygiene and nutrition, the break-up of kinship support systems caused by geographical mobility, and women's own awareness of the importance to their health and wellbeing of spacing and limiting births. (Cass, 1988: 173) The report approved family policies already in operation, such as child endowment and taxation deductions for dependent children, and suggested raising the level of the former. It recommended a wide range of services and provisions relating to food and clothing for children, family housing policies, kindergarten and education, medical and hospital services, domestic assistance, family restaurants and holidays, amongst others. Direct assistance in the form of cash was rejected on the grounds that it would "encourage the least desirable type of parent". (Cass, 1988: 173)

In the course of its inquiry the Council solicited letters from women as to their reasons for restricting family size, and selections and excerpts from these were compiled, with commentary by the Director-General of Health. On the basis of these, he argued that the key to fertility decline was to be found in social and economic conditions which he stated "must be profoundly altered if this nation is to survive", and as testimony to this concludes his report with one of the eighteen-hundred letters submitted to the inquiry:

I believe you desire the reasons of mothers for only having a limited family. Well, one of them is this: What do we owe to Australia? It starved us and our families after the last war and it will do the same after this *If We Let It*. Therefore, we have decided that there won't be so many of us to starve this time. It is better to gaze on one or two hungry children than say, eight or nine, and if one can arrange to have none, so much the better. We, the mothers, hold this power in our hands we have a freemasonry among ourselves that is colossal. If we find out any birth control hint, we pass it on. I myself know of an easy,

safe method of abortion. I know of hundreds of ideas that have been passed on to me by desperate and despairing mothers of hungry children. Things will have to be mighty attractive in the New World before we consider the inconvenience of big families. (quoted in Cass, 1983: 176,7, emphasis in original)

Whilst the analysis in the report implicitly accepted that class and sex-based inequalities were at the root of the problem, it, not surprisingly, steered clear of any recommendations for systemic change along these lines, opting for Keynesian-type state welfare intervention. This meant

... a state which provides subsidised goods and services to those who serve the state well by bearing and rearing more children than Australians had been bearing and rearing the previous decade. Housing, health and welfare policies were advocated to inspire a renaissance of intra-marital fertility. Extra-marital fertility was certainly not countenanced (nor even considered) as a source of population increase, and the destiny and status of *married* women as the bearers and rearers of future population of 'high quality' was rarely questioned. Indeed, a sex-based division of labour is one of the basic assumptions of the conception of the 'social service state' which the Report encapsulates. (Cass, 1988: 178, emphasis in original)

From 1904 to 1944

Whereas the 1944 Inquiry departed quite radically from the 1904 Royal Commission, in some fundamental aspects its discursive parameters exhibit a direct continuity. Both were concerned with the implications that a decline in fertility held for the future security, racial purity, quality of population, and economic growth of the nation. Both wanted to increase family size, and to enhance the viability, health and future efficiency of the progeny families did have. Both assumed that women, given optimal or at least adequate conditions for doing so, would significantly increase the number of children they had (because of their maternal instinct);⁷⁹ that a family form organised around a male breadwinner and full-time female childrearer was the ideal; and that it was primarily women who made any decisions about limiting family size, and carried them out.

Conversely, the inquiries differed in their identification of the factors leading women to control fertility. The Council's report presents as a well-reasoned document, giving proper weight to social and economic factors, and to consideration of the limits of state intervention in private life. Also, it recognises individuals as persons with the legitimate right to make their own decisions about how they organise their private lives, a concept apparently unthinkable for the Commissioners. In contrast, the 1904 Report reads as a diatribe, its rhetoric thoroughly immersed in a normative set of value judgements.

Yet, the differences matter less than the commonality. Regulation of the population depended on consolidating the family and women's place within it. Neither inquiry conceived of there being any legitimate place or function for women outside of the family, nor the possibility that women could ever wish for things to be otherwise. The more marriage approached universality in the populace during the first half of the century, the more difficult it became for women to think in terms of or mark out a respectable place and identity outside it. The same state policies which worked to encourage family formation also worked against unmarried and/or working women, for example, the education system, wage principles, the occupational sexual division of labour, 'protective' working conditions, housing policy. Concomitantly, feminine identity was being defined more and more exclusively by marriage and family.⁸⁰ The sheer lack of diversity or pluralism in ways of being a 'good' woman shaped a norm of feminine subjectivity via which proper women could only know or discover themselves via maternity. This does not mean that only one feminine subjectivity emerged. Identity is a construct with multiple dimensions, and hence there are innumerable ways of being a feminine subject. Further, and analogous to Foucault's observation that the prison never succeeds in the aims for which it was designed, the mechanisms of regulation and discipline always fail to completely achieve their purpose of disciplining women and their bodies and regulating the population; "where there is power, there is always resistance" (Foucault, 1980a: 95). But it does mean that the so-called maternal

⁷⁹ Of course, there were differences in the specifics of this assumption. The Commissioners considered women's desire for physical comfort and financial luxury totally outrageous, but nevertheless, they did assume if these were present women would fulfil their natural destiny. Secondly, the Council's idea of an appropriate larger sized family fell far short of the Commissioners' ideal of seven to ten children.

⁸⁰ The few other respectable avenues open (to middle class women) were variations on the theme of 'feminine vocation' - schoolteaching, nursing, caring for aged parents. These personified an image of 'sterile spinster', and whilst subordinate to the hegemonic feminine identity of wife and mother, maintained respectability by virtue of their alleged asexuality.

'instinct' is a central component in feminine identity with individual variations in its character and strength and hence, its manifestations. Also, it means that this allegedly biological drive is definitive of femininity.

* * * * *

In the interim between the early twentieth century and the mid 1960s discourses on abortion were largely excluded from public speech, with occasional eruptions such as that prompted by the Council's Birth-Rate Inquiry. This research has not traced how abortion drifted into the domain of the unspeakable, but presumably its submersion was one element in Summer's 'rampant puritanism', state censorship controls over all forms of publication becoming so tight that anything even vaguely suggestive of indecency or obscenity being either prohibited or prosecuted.⁸¹ This shroud of official silence notified all who may have wanted to hear, and those who didn't, of the unspeakable nature of abortion. It betokened not an official complacency nor a benevolent tolerance, rather it testified to a monumental refusal to speak about, much less negotiate over, the intrinsic evil and immorality of what was not only a transgression of statute law, but a crime against nature itself. Officialdom, in the form of the public face of the state and its more insidious representation in normalised codes and conventions governing social behaviour, disallowed any possibility for overt questioning of this established truth of abortion. The paradox is that this injunction to silence, this concerted surveillance over what was uttered, backed up by certain and swift recourse to prosecution, was completely at odds with the actual reality of enforcement of the law against abortion. As we shall see, prosecutions were extraordinarily minimal. Nevertheless, the practice of abortion became invested with secrecy, stealth and fear; the silence operating to imbue the prospect or experience of it with dread and furtiveness. Hence, in this sense, censorship and prohibition acted not as repression, but as incitement; it did not suppress the practice, but drove it underground where it was invested with powerful signification and meaning, all integrally related to sex and a sense of shame about the sexuality of the female body. In this, it had become an ideal medium for the operation of power in, on and through the body.

It is to the practice of abortion prior to the putting of it into public discourse in the mid 1960s that we shall turn in the next chapter. The purpose there is to show how the longer and more entrenched the veil of silence was, the more it assumed a salience biting deep into feminine subjectivity. When, after a few hesitant beginnings, it burst into public discourse, it was as if the significance attaching to it had become so overloaded, it required expression in speech. In the passage of merely a few years it became something which had to be spoken of, discussed and debated *ad infinitum*, the same arguments articulated again and again. The injunction to silence was transformed into a compulsion to speak.

The twin themes which dominated the Royal Commissioners' thinking about sex and prevention - racial supremacy and purity, and the natural and social functions of women - re-emerged, albeit it in marginally altered forms, as major discursive elements in the public debate (to be joined by 'newer' discursive constructs, most notably, the right to life of the foetus). It was as if, with its immersion in silence, they were detached from their turn-of-the-century conjunction with abortion and redeployed to other discourses or sets of power relations centring on, for example, immigration, war, economic development, working mothers, child development, welfare. Utilised there as discursive practices, they were 'preserved' and 'modernised', and even elaborated and enlarged upon, to be re-attached to abortion when it emerged again into public discourse in the mid 1960s.

⁸¹ Apart from Customs censorship of imported materials, each State enacted draconian laws to censor publications within Australia. The way these operated in practice forced publishers to err on the side of caution, there being no means of discovering in advance if a book or newspaper article would be deemed subject to prosecution. By the 1960s it was generally agreed that Australia's censorship restrictions were more stringent than those of any other Western country apart from Ireland. There can be no doubt that any public communication on the subject of abortion would have brought a swift and punitive response from the authorities, what with the promotion of birth control prohibited, abortion itself being illegal, and the topic highly suggestive of 'something' to do with sex.

CHAPTER FIVE

“THE LAST GREAT SILENCE” PRE-1965

It haunted, I suppose you could say obsessed, me for several years after and I guess, truth to tell, it still surfaces, particularly in nightmares, from time to time: mutilated corpses, torsos with their limbs ripped off, a decapitated chook running around with blood spurting from its neck. And in my reaction to women saying they are pregnant - my feeling is instant dismay for them, but I've had to learn to be on my guard and not express that because the usual case is for them to be delighted and even *proud*! I simply can't comprehend or empathise with that even now. I feel a slight panic in my inability to respond appropriately, and so switch to practical matters about how many months, or work, or suchlike, and get out of the conversation as soon as possible. I'm aware that this is somewhat neurotic, but to me pregnancy is shameful. But I've got enough sense to know that's an abnormal reaction, and to hide it. For the first few years after it though, I suppose, looking at it in retrospect, I was somewhat unbalanced - I came to dislike animals for a few years and yet I had loved them previously and do now; I used to go shooting kangaroos, foxes, birds - it was the killing and the blood and feeling powerful, and the warding off of horror and empathy - now I find that so disgusting and repugnant I can't admit it to people and feel terrible shame about it. I drifted around the [Kings] Cross doing the odd dead-end job for a few years before I pulled myself together. Some of it, I'm sure, was just rebellious adolescence, but a lot of it was the horror and trauma of that hideous abortion.

Kate was 17 years old and five and a half months pregnant at the time of the abortion in 1965. At two o'clock on a February morning she was picked up by an ambulance, lying semi-conscious in a gutter in torrential rain, and taken to hospital with raging septicemia. In casualty she heard someone say 'another twenty minutes and this one would have been dead'. But she recalls that was of no consequence to her; she wanted death or painkillers, whichever would bring the fastest end to the excruciating torture which was all her body had come to mean. She had realised several hours before that she was dying but felt only relief because her pain eased and she had felt herself sliding out of reality into oblivion. The awful present was replaced by hallucinations of the little weatherboard church she used to pass walking to infant's school; the gate was open for her to go in. All the grass around the church was long and overgrown, and her father was inside calling her to come and mow the lawns - his meticulousness about well-groomed lawns had meant she'd always had the burdensome weekend chore of maintaining them that way - she realised much later the psychic association in the vision between the church, God and Father, and the knowledge, as she described it, "of going home to God", as she drifted away from life towards the church gates. Death was warm and inviting, and an easy release both from pain and the dreaded and, even in such extremity, still shameful alternative of seeking help and thus exposure.

Apparently, I was delirious and muttering about this little church and 'going home'. And this really terrified the two girls with me - we were in my room at the nurse's quarters where I worked - one, a close friend at the time, started shaking me and slapping my face, yelling at me to wake up. She wanted me to go to a hospital, but still I refused; I was more terrified of the consequences of that than anything else, it would have meant being found out. So, she said she wasn't staying around because I was dying and she didn't want to be involved. People then were so terrified because it was illegal, everyone thought you would go to gaol if found out, and they knew too that anyone who helped could get into just as much trouble, although I didn't realise that till later. So she left and I started to get frightened then - it had been different having a friend there, but then I felt alone. The other girl wasn't really a friend, she was a nurse I worked with who had arranged and taken me to the abortionist. Then she got really terrified - she realised that as she had arranged it she would be in awful trouble if I died. I think she got a bit frantic, which in retrospect was just as well. She pulled me off the bed and out of the room saying we had to get to a phone and call an ambulance. She must have wanted to get help for me but as well, I realised later, she wanted me out of the nurse's home and away from her, otherwise she could have gone and phoned. There was a public telephone about 200 yards up the street and it was pouring rain non-stop. I couldn't walk, only crawl and drag myself along the road with her pulling me, and every time one of those pains came I'd just lie on the road in agony until it passed. All the time she kept saying that I must tell them that I had done it to myself, and that I mustn't tell them about the abortionist or about her, or she would get into a lot of trouble with the police. It took so long to get to the phone, it must have been well over an hour, I

remember it was just after twelve o'clock when we started, and it was only her pulling and dragging that got me there - I wanted to just lie on the road and stay there, it all hurt so much. She pushed me into the phone-box and dialled the number. She made me speak. I know I couldn't understand why she wouldn't, and I begged her 'please', I could hardly get a word out. I realised afterwards that she didn't want them to know that anyone else was involved in case they came looking for her. It was so hard just saying the location, that took ages, and as soon as it was done, she said she was going. I hadn't realised she was going to leave and I didn't want to be left alone but she was almost beside herself, with fear I guess, and she disappeared. I fell out of the phone-box and rolled into the gutter. I thought they would never come, it seemed so long, but then I heard the siren. Just being in the ambulance with the siren going made me feel better. Even now that sort of ambulance siren can give me a mixed feeling of comfort and fear.

She had conceived in late August of the previous year to a boy she had gone out with only the once. In fact, she hadn't actually had intercourse with him - "he ejaculated on my stomach and it must have got on his hand and happened that way, although no one has ever believed me" - and yet she 'knew' within hours that she was pregnant. Ten days later she contacted the boy to say she was sure she was, and although he was sceptical, he took her to a doctor who gave her "three little yellow pills", saying that if her period didn't come within a week, she was definitely pregnant. It didn't, and she was advised by an older friend in whom she had confided to try some tablets from the chemist, but these merely had the effect of causing severe diarrhoea. At this point Kate was in her final year of school, due to sit her Leaving Certificate exams in a few months. She had no money, no way of getting any, and no idea how one went about getting an abortion, indeed she had only a dim understanding that such a thing was possible. At school, although there was occasional gossip, there was very little real knowledge, and certainly no one admitted to even having had sex under threat of being labelled and set apart as a 'slut'.

To tell her parents was completely and utterly beyond any consideration; although she had been very close to her father when a child, now in adolescence she detested him at the same time as she feared him. Once, while watching a television show portraying an unmarried pregnant girl, he had turned to her and exclaimed savagely, "if that ever happens to you, I'll kill you". With both parents she found any form of intimacy unbearable, even disgusting - "the very thought of telling them made me cringe and sweat with horror". To have them know, and worse, to discuss what she did with her body was a "revolting" prospect. Ironically, after they did later find out (because when hospitalised she was still a minor) in the one grim, judgemental and unsympathetic confrontation with her mother, she was told that her father had broken down and wept, crying over and over "it's my fault". To her mother she was stupid; sex was the one thing women had to trade with men and you didn't throw it away lightly. Her condemnation was directed at Kate's foolishness, not at her morals.

In November she had finished her exams and left home the same afternoon. She had worked out previously that the only way to get away from her parents quickly was to do psychiatric nursing, which meant living-in. This move was not, however, related to her pregnancy, and even though she was now in a position to both find access to an abortion and save money for one, she did neither, the denial by now being so deeply embedded that the possibility rarely crossed her consciousness.

I had no way whatever to deal with it. I didn't know what to do to get rid of it; I certainly had not the faintest intention of having it, that didn't even enter my mind, except to know that I wouldn't. So, I suppose I just wished it away; I literally denied to myself that it was happening. It was too horrendous to contemplate so it just wasn't happening to me. Nothing that awful *could* happen. I guess I'd always been an habitual daydreamer - sometimes fantasy was more real than reality - it was certainly more pleasurable. The truth was too impossible to bear so I simply couldn't believe it. I couldn't be pregnant, so I wasn't. Simple as that! Sometimes it would surface and grip me in the throat and chest like ice - like for instance not having my periods for months - but I'd push it away and cover it up again.

It was several months before reality began to impinge and cut through the barrier of disbelief she had so successfully constructed. Seeing her in underclothes and immediately aware of her condition, an older and more experienced nurse attempted to impress it upon her, to try to force Kate to consider what she was going to do about it. Finally, her acceptance for Teacher's College arrived, which involved a medical examination. "Just to be sure" that she wouldn't be discovered pregnant at that, she relented to the urging of the other nurse and visited a local GP.

He confirmed it of course, and even though on one level I'd always known, I was still shocked, and terrified. I cried when he told me. But at least I knew people who could tell me where to go and someone sent me to a doctor in Kings Cross. The trouble was, though, that I had no money and this man, who was supposed to be very good, charged sixty guineas. (I always thought that was a joke, that he quoted in guineas, the same as regular doctors then.) I had to go first for an examination. The whole thing was awful; there was this tiny waiting room jam-packed with people lining the walls, girls and women, and men waiting, and everyone so nervous and anxious. The inside of the door had big chains and bolts on it and a huge bar across it, and you had to say who sent you. Inside there were women everywhere, queued up and lying around in various states of recovery and dress. There must have been more than a dozen, it was like an assembly line and that really freaked me, and you were treated like that too - it was 'quick, quick, up on the table; come on, quickly, move along'. It was just horrible and then he examined me, and he didn't even use a glove, just a bit of paper, and rammed his hand into me. It hurt like hell, and all he said was 'You're more than three months, it'll cost you eighty guineas'. The only other thing he told me was it would take an hour altogether and then I'd be able to leave and 'feel like eating a steak'. The examination made me bleed a lot and the whole experience was so awful I really didn't want to have it done there. I had to borrow the money from a very good friend who would only lend it to me on condition that I went to a good abortionist, especially as I was so far pregnant. But I didn't want to borrow that much money as I couldn't see how I could ever pay it back. Although she didn't care about that, I did. Because it was so awful at that place I could justify not going there but to someone cheaper, so I wouldn't need to borrow so much.

Kate had been told of a woman in Wollongong who only charged twenty-five pounds, and several of the nurses had been there and it had worked. One of them fixed it and also arranged for her boyfriend to drive them both down one night for her to have it done. It involved injecting melted-down soap into the cervix. What neither she, nor presumably the others, knew was that this method was potentially the most dangerous form of abortion one could have: besides the risk of infection it could cause instant death by embolism. And quite apart from that it was acutely dangerous in the case of a five-and-a-half-month pregnancy. But Kate was admitting only to being three months as she had become aware that no-one would do it much beyond that. Once there, this was what she told the woman and she wasn't queried. It was done with Kate lying on the carpet of the woman's bedroom floor. She didn't remember much about it, only the feeling of relief that it would all be over soon. The woman told her to go home and within twelve to eighteen hours she would feel pain, at which point she was to sit on a bucket and bear down, and 'it' would come out in less than half an hour.

I remember the pain started at twenty-to-four the next afternoon. The only bucket we could find in the nurses' home was one of those metal ones used to squeeze out mops. The pain got bad very quickly, great spasms of it tearing through me every two minutes or so and seeming to last forever each time. At first, I sat on the bucket, but soon I couldn't, only lie down unable to get up. At times they would pull me over and hold me on the bucket. At some stage - I don't remember when - a whole lot of stuff came out and the other nurse, I can't even remember her name, said that was my water breaking, but I didn't know what that meant. All that came after that was a lot of blood, the bucket was more than half full of it, and it was all over the floor and bed too. (No one cleaned out that bucket or the rest of the blood after I went to hospital and it was found and Matron was told. That was another excruciatingly embarrassing thing I had to go through; being grilled and threatened by her when I went back to work. She put me back on the hardest ward where I had to lift bed-ridden patients all day, and I was still so weak and the sister there was a real bitch. So, I wouldn't admit how I felt until I collapsed. That might have been why I started to haemorrhage again one night and had to be put back in hospital.) I don't remember very much about all those hours, just the agonising, unbelievable pain. I would never have imagined that pain could be so bad or intense. Of course, I don't remember now what it felt like, you never can, I just know it was extraordinary, beyond anything I could ever have comprehended. I wish I could tell you how terrible it was, but no words could ever convey it. I've always wanted someone to understand so they would know why it was such a hideous experience, but it's impossible. If I had been tortured, with red-hot pokers or bits cut off me, I know it wouldn't have hurt more than that. Nothing, nothing, could ever hurt as much as that! Perhaps that's why I can't stand pain on the inside of me now, but pain outside me like wounds, even quite bad ones, doesn't worry me much at all, not like it does other people.

Once in hospital, she didn't remember anything else until she was woken up in a ward and wheeled to another room off it, where she was put on an examination table. At one stage during that first attempt they told her they were trying to get it out alive. She recalls being appalled by that; she wanted that thing inside her destroyed, totally eliminated. There was never any sense of a potential baby; more that of a monstrous growth having invaded her body, causing all that fear and horror. Later she was to wonder how it could possibly still have been alive, whether they had been mistaken or even deliberately frightening her. At that stage however,

they couldn't get it out, dead or alive. Her memory of that night and next morning was of a continual round of being put back to bed, woken, and taken to that room where doctor after doctor attempted to wrench and prise it out. They weren't unkind, but she thought later the word must have gone around, and they were coming from all over the hospital to 'have a go'. Eventually, a specialist was brought in who managed to remove it.

He stopped and looked at me, and as he held it up to put it in a dish, said to me, "you deserve to be dead!". They told me it was a boy and then they showed it to me. It was quite big, I suppose about ten inches long, and a dark pinkish-blue. I could see all the features and the face, and it was missing an arm which they said had been torn off getting it out. That's why I have all those nightmares.

* * * * *

1965, coincidentally the year when Kate had this abortion, stands as a watershed in public discourse of abortion in Australia. In December a bill proposing reform and liberalisation of abortion law was put before the British House of Lords. "Britain Tackles the Secret Shame: Abortion" headlined the *Sydney Morning Herald* newspaper (28.11.65: 86). Consideration of the topic in the 'mother of parliaments' was the catalyst which sparked off and legitimated public debate in Australia; debate which in one form or another has continued since. It was the moment when, what Henry Mayer (later Professor in Government at Sydney University) described as "the last great silence" (*SMH*, 6.11.66: 30) was effectively broken, following a few faltering attempts at discussion earlier in the decade.

This chapter will concentrate on that period of the 'great silence' preceding 1965, with some speculation as to how that silence - which did not signify a 'secret' - was maintained. I will focus briefly on those groups which, for one reason or another, were in a position to be most aware of the reality and frequency of abortion, and their part in maintaining the silence. In particular, given that medical practitioners were frequently confronted with proofs about the incidence of abortion, and that in many other countries the profession was an active participant in breaking the silence as well as in the debates over reform which followed, the absence of the profession as a protagonist in the issue in Australia will be examined in some depth. Comparison with the active role of the profession in the USA will suggest explanations for its absence here. Evidence will be presented to suggest that abortion was a primary means of birth control (for working-class women, at least) since well back into the nineteenth century. Coverage of abortion in the *Sydney Morning Herald* from 1950 to 1965 will be analysed as will material drawn from interviews with women focusing on their experience of abortion. In some cases, this interview material stretches back to include abortion experiences and relevant biographical details from the 1930s and 1940s. The legitimate public discourse on abortion represented in the *Herald* will be shown to contrast sharply with the reality of the practice and the experience of it in people's lives. The point here is not to argue for any 'misrepresentation' between press coverage and 'empirical reality' (however the latter may be defined) - the thesis does not purport to be a history of abortion in the traditional sense, indeed such a claim would be contrary to the theoretical and methodological frameworks - but to demonstrate that abortion was cloaked in a powerful 'conspiracy' of silence, and to suggest the intensity and amplitude of that silence; and further, to analyse the meaning of it and the ways in which it was linked to power and knowledge.

In referring to a conspiracy, I am not suggesting any conscious or deliberate attempt to conceal the 'facts'; indeed, most people were perfectly aware of them! Thus, the *Herald* referred to "the Secret Shame" and Mayer to "the last great silence"; similarly, the *Daily Mirror* editorialised about abortion under the headline of "The great silence" (17.4.66: 2). Perhaps even more appropriately, one writer attacked the law and the facade of public morality suppressing articulation under the title, "Abortion - the phoney silence" (Wallace, 1966: 40). Rather than being a manipulative form of repression, then, or even less, an "affirmation of nonexistence" (Foucault, 1980a: 4), we can more properly see the silence as a tactic of power:

... the logic is perfectly clear, the aims decipherable, and yet it is often the case that no one is there to have invented them, and few who can be said to have formulated them: an implicit characteristic of the great anonymous, almost unspoken strategies which coordinate the loquacious tactics whose "inventors" or decisionmakers are often without hypocrisy. (Foucault, 1980a: 95)

It will become apparent that the silence can only be understood in the context of discourses of sex, and particularly that of women and sex, and that the processes involved were integrally related to the constitution of women's feminine subjectivity and their sexual identities. The interpretation of women's experiences also lends support to Foucault's hypothesis that sex has come to be the truth of the self in the modern era, and allows for that somewhat abstract theoretical construct to be demonstratively grounded in the micro-reality of everyday life.

Silence as Repression?

That there was a silence enveloping abortion practice prior to the late 1960s would commonly be explained in everyday 'commonsense' wisdom, and also in academic circles, as a function of the repression of sex extending from the high-water mark of Victorian prudery: the 'Repression Hypothesis' so skilfully parodied by Foucault:

repression operated as a sentence to disappear, but also as an injunction to silence,... and, by implication, an admission that there was nothing to say about such things, nothing to see, and nothing to know. (1980a: 4)

Quite simply, however, and at the most concrete level, if the purpose of repression was to eliminate illegitimate or illicit sex - in terms of that not directed at reproduction - the incidence of abortion (according to estimates detailed below) demonstrates that it failed dismally. Furthermore, at some level of consciousness or another, most people were aware not only of the prevalence of illicit sex - it was the subject of innumerable jokes⁸² and of tactics designed to 'protect' virgin daughters - but also of that of abortion.

Oh, Lord yes! It was rare for people *not* to have an abortion, because you see, contraception was so inadequate. Oh yes, it was *very* common. Looking back on it now I don't know why people went on the way they did about it, considering that an illegitimate pregnancy happened to most families. Most girls were having sex before they were married, but in those days [the 1930s and 1940s] virginity was very much the thing - every man expected his wife to be a virgin but goes around seducing as many other men's sisters as he could - that was the attitude. Most of my friends, well, very few of them would have been virgins when they married - very unlikely. You might have had one or two close friends to whom you told things, but as a general rule you kept it very quiet, particularly from your parents. (Enid, emphasis in speech.)

Whilst abortion specifically may have been wrapped in a public silence, it had persistent and definitive meanings attached to it, attesting to an ongoing discourse about it, one which drew its premises, considerations and codes from a network of multiple sexual discourses permeating the social body: part of the "veritable discursive explosion" of knowledges about sex in the modern era (Foucault, 1980a: 17). Everyone *knew* what abortion 'meant': it was enmeshed in a web of shared understandings and significances, and it was through this knowledge that power worked. Open acknowledgement of abortion reality, certainly in the form of public acceptance, would have robbed it of its particular meanings and rendered those less potent. As long as silence reigned, each unwanted pregnancy was experienced by young women as their own individualised secret disaster, a sign which, if exposed, marked them out and told the 'real truth' about them. Conversely, the silence made possible the existence of an abortion 'industry', thereby the possibility of access to it, and the means for women to belatedly control the consequences of sex and protect themselves from public shame and humiliation.

This, of course, was the object of unmarried women. But for married women abortion was a means of controlling the number and timing of births. It would appear, then, that at some stage between the 1904 Royal Commission and the period of Kate's abortion and, from Enid's account, reaching back into the 1940s and 1930s, the discursive construction put on abortion had been transformed in terms of the category of women having abortions, and therefore the nature of the sexual connotations attaching to it. Whereas the evidence

⁸² Freud perceived that wit and humour had a particular function in relation to the unconscious and sex, and devoted an entire book to the topic, *Jokes and their Relation to the Unconscious*. Referring to this work Stafford-Clark says: "Throughout the communication of the human race, jokes endorse both the existence and the role of the unconscious as Freud had perceived it. The funniest jokes are often subtle allusions to crude themes, codes making possible reference to forbidden subjects, and therefore one might expect that sexual jokes would be the most compulsively popular of all. This, of course, is undoubtedly true." (1967: 87)

gathered by the Commissioners, and their own concerns, had been about abortions by married woman, in the latter period the emphasis had shifted to its conjunction with pre-nuptial sex. In the process, its signification became steeped in the network of meanings deriving from the discourse of 'bad' women or 'sluts', girls who allowed men to 'get at' them, who had 'dirtied', sullied, or spoilt themselves; girls who were not merely guilty of disgusting and shameful behaviour, but were themselves disgusting and shameful. Hence abortion became reconceptualised from being seen at the turn of the century as a form of birth control, to being construed as a means for a certain type of girl to escape the consequences and hide the proof of what she had done and what she was. Thus, we can see the 'rampant puritanism' of the first half of the century as operating not to repress sexual activity, but as actually productive of a particular type of sexual identity.

The irony of all this is that what evidence there is suggests that a large proportion of abortions were procured by married women but this seems to have been virtually unacknowledged in the meaningful whispers or ribald jokes which produced and conveyed knowledge and understandings about abortion. It was if the sanctity of marriage conferred on couples a certain measure of privacy about sex; as if there was a tacit understanding, an informal negotiated order amongst married people themselves about the necessity, and even perhaps their right, to control fertility. Indeed, it was something very akin to this which aroused the Commissioners' frustration at women's lack of morality about abortion and a certain sense of pessimism on their part towards awakening people to the evil they were committing. The point I am making here is that there seems to have been a split between two different sets of meanings and connotations attaching to abortion, a split which was a function of the 'rightness' or 'wrongness' of the sexual act preceding it, or, more correctly, of the subject positions of the women involved. In ordinary understandings married couples were 'permitted' abortion as birth control and their privacy and right to secrecy respected - amongst their peers at least, if not by the state, medical practitioners or the church - whereas the sexuality of unmarried girls was under constant surveillance. Thus relatives, friends, neighbours and some medical practitioners relayed essential information to married couples seeking an abortion. But these practices and knowledges were 'quarantined' from the unmarried and from the dominant, although publicly silent, discourse linking abortion to promiscuity.

Silence as an 'Anchor' for Power

Rejecting a framework based on repression as one appropriate for an understanding of sex and power does not involve denying that sex has been subject to refusal and censorship: power *can* operate in relation to sex by utilising prohibitions on behaviour and censorship of speech. Rather, it involves displacing repression from its privileged position as the central principle of analysis. Put more bluntly, the aim of power in its linkage with sex is not repression *per se*, for whatever purpose. In driving (pre-nuptial) sex, and more particularly abortion, into an individualised and privatised netherworld of secrecy and silence, a firm foundation for the production and operation of power is created. Sex becomes the secret which must be kept at virtually any cost. It becomes the truth of the self which one hides, but knows that others would seek out. Connected to an unwanted pregnancy and abortion, it assumes a special and awful significance for the unmarried girl, thus facilitating the further invasion and infiltration of power through the female body.

The silence and secrecy masking abortion signified not an absence, then, but a fertile ground for the operation of power. It allowed a "shelter for power, anchoring its prohibitions". At the same time, however, it provided a space for a loosening of the hold of power and for "relatively obscure areas of tolerance". With abortion, as in the case of sodomy:

[t]he extreme discretion ... and the nearly universal reticence in talking about it made possible a twofold operation: on the one hand there was an extreme severity ... [reflected in statutory punishment] and on the other hand, a tolerance that must have been widespread (which one can deduce indirectly from the infrequency of judicial sentences ...). (Foucault, 1980a: 101).

There are also other parallels between the history of sodomy and that of abortion. In both cases, the tolerance afforded by the mantle of silence provided for the eventual articulation of resistance into a "reverse" discourse. Homosexuals began to claim rights and acknowledgement of their legitimacy, but "often in the same vocabulary, using the same categories by which it was medically disqualified". (Foucault, 1980a: 101). Similarly, many of the initial demands for liberalisation of abortion law were made in the very terms of the

discourses which gave meaning to abortion, as we shall see in the next chapter. The toleration afforded abortion was split, however, between those ‘deserving’ married women who needed it and the undeserving promiscuous, for whom it operated to ‘encourage’ pre-marital sex.

The Media Discourse

Kate was merely one victim amongst many of that wall of secrecy and shame constructed around unwanted pregnancy and abortion: a discourse of silence which condemned hundreds of thousands, probably millions of women and girls, both married and unmarried, to experience and suffer as their own ‘private trouble’ what was an unacknowledged ‘public issue’ (Mills, 1973: 15). Mayer, in an informed estimate, put the number of abortions performed annually in Australia in the early 1960s at between fifty- and ninety-thousand.⁸³ (*SMH*, 1.10.62: 12) Considerably earlier, in 1951, in broaching “one of the ugliest questions in Australian life”, the Anglican Dean of Sydney, Dr Babbage, claimed there were between forty- and fifty-thousand illegal operations each year in the state of New South Wales alone. Candid Comment, the column which reported this (*SMH*, 8.7.51: 2) referred to the danger of abortion, citing the official death toll of fifty-six women in 1946 and “the much more common tragedy” of permanent sterility. A London gynaecologist who had practised in Sydney was quoted as saying that abortion was “more rife in Australia than in Britain” due to contraception being less accessible.

At this point Candid Comment gives us the one journalistic comment on abortion to appear in the *Herald* during the 1950s. The writer points out two possibilities for “reducing the evil”, first, by increased usage of more efficient birth control “*but that raises a moral question on which opinions sharply differ*”, (my emphasis) and second, by educating women on the sorts of risks involved in undergoing abortion. Apparently in 1951 there was little or no conceptual space for any contemplation of the more radical alternatives which were to be articulated a little more than ten years later.

Apart from the frequency estimates, what is also notable about this journalistic comment is that it was one of *only two* references to abortion contained in the *Sydney Morning Herald* for the entire decade of the 1950s, apart from those contained in the Law Court Reports. The other was also in Candid Comment (*SMH*, 8.5.53: 2) and reported a private member’s bill presently to be debated in the British Commons proposing the legalisation of abortion in cases where the mother’s life or health was at risk. Opposition to it was led by the Catholic Archbishop of Westminster who denounced it as an attack on “the whole tradition of English law, of natural law, and of divine law”, warning that successful passage would establish a principle leading to mass extermination of undesirables, the aged and incurable, and enemies of the State. This was a theme which anti-abortionists were later to argue in the Australian debate.⁸⁴

The Court Reports were short and confined to factual information; this was typically the names of those charged and the nature of the alleged offence: using an instrument with intent to procure a miscarriage, conspiracy to do the same, or murder or manslaughter in cases where abortion had resulted in a women’s death. A report of an inquest would give the name and cause of death, for example septicaemia resulting from an illegal operation, and would relate whether the coroner considered charges should be laid against any particular person. Towards the end of the decade these sparse reports were augmented by some details of depositions and evidence presented at trial and comments by presiding judges. Whilst there are too few items to ascertain whether this constituted the beginnings of a trend, it did continue into the 1960s with some cases then being reported in reasonable detail.

In all there were seventeen abortion related cases mentioned, fourteen of these being in NSW. In the latter, twenty-three people were reported as charged: fifteen men and eight women. Four of the men were chemists and two were medical practitioners (one of whom was charged on three separate occasions, once for murder). Of the women, two were nurses and one was a woman whose pregnancy termination was the subject of the

⁸³ Meyer arrived at his estimate after studying surveys conducted in the United States and New Zealand which indicated that between fifteen and twenty percent of pregnancies in those countries were aborted

⁸⁴ This was the first of several attempts at reform in England, culminating in the successful 1967 Act. Its provisions would have put into statute law what had been established in the Bourne case and Macnaghten judgement of 1938. The bill was allowed precisely *one minute* of debate (Potts et al, 1977: 290).

charge. This was a rare occurrence as the police virtually never charged an aborted woman even though she was liable, as they needed her as a witness. Six of the cases arose from the death of women and three at least from others needing hospitalisation. This confirms what many writers have pointed out: that very often prosecutions for abortion-related offences were only made when something went very wrong, thus bringing the matter to the notice of the law. Of those cases where the outcome was reported, one man who had posed as a medical practitioner was gaoled for eight years for murder; a woman who “boasted” to the police of having performed hundreds of abortions over a fifteen year period received two years for manslaughter; and a nurse, also charged with manslaughter, was sentenced to twelve years gaol despite there being no allegation that she was a professional abortionist. (This was subsequently reduced to five years on appeal.) One man charged with being an accomplice to the murder of his wife was given a bond. All the chemists and medical practitioners were acquitted, with one of the latter dying prior to the last of three prosecutions against him going to trial. In all, four were found guilty and ten were acquitted, with the outcome of charges against the remaining nine not reported.⁸⁵

This then, constitutes the sum total of the *Sydney Morning Herald's* coverage of abortion for the 1950s. It is a mere skeleton, a gossamer thread, spaced out with sometimes years elapsing between one mention and another, tiny jagged tips fleetingly jutting through the thick crust of silence to momentarily suggest the gruesome industry operating in an underground market and thriving on fear and shame.

The first half of the 1960s was in some respects much the same: one inquest and five trials were reported. Four of the latter involved the death of the women: five deaths in the six abortion cases referred to! Only two convictions were reported by the *Herald*: one man was given a bond on being found guilty of procuring an abortion for his girlfriend who had died; and an unqualified female was sentenced to two years gaol for using an instrument on a woman who subsequently required hospitalisation. A medical practitioner, a chemist, and a dentist charged with manslaughter in three different cases were acquitted; and two medical practitioners, Drs George Frederick Smart and Reginald Victor McFadzean, who were subject to questioning at the inquest, were not charged despite the woman being found dead in McFadzean's flat.⁸⁶

From 1962, however, we can discern the first glimmerings of a questioning of the regime of silence governing abortion, of an unenforceable law, and a social code totally at odds with social practice. In October, the *Herald* ran a report on a paper given by Henry Mayer, then Senior Lecturer in Government at the University of Sydney, on “The Case for Legalised Abortion”, and on a reply - “The Case against Legalised Abortion” - by a Lecturer at St Patrick's Theological College, Father Kevin Walsh. The papers were presented to a forum on the theme “The State and Morals” organised by the Workers' Education Association. Referring to the precedent established in the Bourne case, Mayer pointed out that therapeutic abortions were generally considered lawful in Australia, but implied that these comprised a negligible proportion of the actual number of abortions performed annually, his estimate of these being (as cited above) between fifty-and ninety-thousand. He said moralists maintained that abortion was the killing of an innocent human being; thus:

[t]he key issue is at what stage do we consider the foetus a human being. (quoted in *SMH*, 1.10.62: 12)

But, he argued, as a spontaneous miscarriage of a pregnancy was not treated as the death of a human being, the foetus itself could not be seen as a human being.

⁸⁵ For details of these cases see the *Sydney Morning Herald*, 12.9.50: 7; 1.2.51: 5; 7.2.51: 6; 5.3.51: 5; 19.6.51: 5; 21.6.51: 4; 23.2.52: 5; 18.3.52: 7; 17.5.52: 5; 9.2.54: 14; 3.3.54: 7; 7.9.54: 11; 17.12.54: 9; 31.5.55: 7; 5.7.55: 6; 20.1.56: 7; 24.2.56: 7; 17.4.56: 7; 25.8.56: 6; 9.9.56: 3; 11.9.56: 5; 30.11.56: 10; 4.12.56: 8; 1.3.57: 7; 5.3.57: 7; 6.3.57: 9; 17.9.57: 9.

⁸⁶ For details of these cases see the *SMH*, 17.2.61: 13; 24.3.61: 4; 21.6.61: 7; 30.11.61: 15; 10.11.62: 9; 9.4.63: 18; 5.3.65: 5; 28.4.65: 17; 25.6.65: 7. McFadzean and Smart, and the latter in particular, were notorious Sydney abortionists. In fact, Smart was the subject of the last criminal prosecution to take place in NSW for an abortion related offence as we shall see. NSW MLA George Petersen attacked him in Parliament on numerous occasions, referring to him as a butcher, and naming him as responsible for the deaths of at least four women. It is perhaps of interest that the acting City Coroner at the inquest, Murray Farquhar S.M., spent several years in gaol in the 1980s after being convicted for perverting the course of justice by taking a bribe to minimise charges against a man alleged to have connections with major criminal figures. Farquhar was also known to mix with leading figures in Sydney crime; for example, he consistently received racing tips from George Freeman which were said to be 98-99 percent successful (Whitton, 1990: 2).

Walsh maintained that legalised abortion entailed the state acting in a way which meant it disregarded the safety of the lives of its citizens. Although abortion was a private action it threatened society, he said, and hence society was entitled to control it by law:

The principle that life is sacred is held in common by society. The suppression of foetal life on a grand scale will corrode the community's sense of the value of life. (quoted in *SMH*, 1.10.62: 12)

There is no reference elsewhere in the *Herald* around this time to indicate the occurrence of any events in Australia which could have prompted these papers. It would appear that due to his academic interests, Mayer was aware of early attempts at reforming abortion laws in the USA and in the UK.⁸⁷ In pointing out that the Bourne case had established the legality of therapeutic abortions in Australia, and in highlighting the question of foetal life as the central issue, it is clear that Mayer was cognisant of the lines of the debate as it was emerging in the USA at that very time, as we shall see below. This awareness obviously made it apparent to Mayer that if and when abortion became an issue of public debate in Australia, it would be construed pre-eminently as a *moral* issue, with the pivotal element being the foetus and arguments over its 'humanness'. This being so, Walsh, a Catholic theologian, would have been an obvious choice to be invited to give a rejoinder to Mayer's paper.

It is interesting that of all the papers which must have been presented over the three days of the WEA seminar, it was only these which the *Herald* chose to report. Nevertheless, they occasioned no (published, at least) response from the public in the form of letters to the editor. This is in stark contrast to the flood of letters to be published following statements no more contentious only four years later.

A month after the WEA article, however, the *Herald* ran a review of a book entitled *The Abortionist* by a 'Dr X' (as retold to a journalist) which began by referring to Mayer's estimate of the incidence of abortion which he had detailed at the seminar. As the reviewer thought the book stylistically poor, it is clear that it was the subject matter which was considered interesting enough to warrant the review, being an account of the personal history of an American surgeon who became a full-time abortionist and claimed to have performed some twenty-five thousand terminations. The reviewer, Maurice Vintner, treated the book sympathetically on the grounds that it made a unique contribution to a complex and highly controversial topic. Vintner paralleled the situation with regard to abortion to that of contraception earlier in the century, as being one which some people, "gripped by emotion or prejudice", refused to consider at all. The book demonstrated that amongst the barrage of 'interminable statistics' used as weapons by both sides to the American abortion debate - numbers of abortion, ratios of abortions to live births, proportions of married and single women undergoing abortions, etcetera - "the real and agonising problems of the people represented by these statistics are often forgotten". It was here that the book's contribution lay, in transmuting "those figures into human beings, rich and poor, Roman Catholics, Protestants and Jews, the loved, the unloved, the seduced, the violated". Vintner made the point that the story also illustrated the "peculiarly ambiguous attitude of the law enforcement bodies and the hypocrisy of society towards abortion". Dr X's clients included wives, daughters and mistresses of members of the police force, of eminent citizens, and even of judges; a claim corroborated by the Kinsey Report, added Vintner, which found that police and public officials frequently allowed well-known abortionists to operate undisturbed because they privately felt there to be a need for their services. (Vintner, 1962: 19)

In sum, the review commended the book as an important contribution to a major, if largely unacknowledged, social problem and as doing much to "expose the instability of accepted social attitudes towards abortion and to emphasise the desperate and tragic needs of the human beings involved". Notably, the review made no reference to what was to be perceived later as the major dilemma of the abortion issue: the right to life of the foetus (a dilemma foreshadowed by Mayer, presumably as a result of his familiarity with the American debate). This would suggest that the reviewer did not see the crux of the matter as revolving around foetal life, and indeed, he implies that the moralism and hypocrisy surrounding it derived from the double standard between public posture and private practice in regards to sex.

⁸⁷ Mayer had a long-standing interest in the subject of abortion deriving from his academic concern with government and public policy.

It would seem that the Customs Department censors also saw discussion of abortion as a sexual matter and, therefore, as 'obscene'! Three days after the review appeared a letter to the editor revealed that the Department had prohibited import of *The Abortionist* despite Judge Windeyer's 1888 vindication of birth control propaganda, and of the fact that, according to Vintner, the book was "not a sensational one and should not be approached in that light". (*SMH*, L.E., 31.10.62: 2)

Apart from a letter to the editor (*SMH*, 5.10.64: 2) advocating abortion for pregnancies resulting from rape (prompted by a vicious pack rape in Sydney) the only other reference dealing with abortion for this period was an article by a journalist, Margaret Jones, on the plight of unwed pregnant girls. (Jones, 1965: 41) The primary emphasis in this, however, was on the traumas accompanying full-term pregnancies and adoption. It said out that whereas some ninety-thousand girls and women broke the law and risked their lives to rid themselves of unwanted 'children', another eight- to ten-thousand faced "fear, loneliness, social stigma, shame, family estrangement" by bearing their babies. Most of these were subsequently adopted out, but the writer remarked that "even this number cannot go anywhere near to satisfying the demands of child-hungry couples".

There are several points of interest to emerge from Jones' article. First, it was very clearly implied, although not explicitly stated, that the ninety-thousand annual abortions were performed on *single* girls and women. Unless a reader already thought otherwise, they would be left with the very clear understanding that it was the disgrace and stigma associated with an illegitimate pregnancy which drove people to the abortionist. The article's headline - "The tragedy of our unwed mothers" - reinforced the impression unmistakably conveyed by its substance. This is a clear reversal of the assumption pervading the discourse of the 1904 Royal Commission: that abortion was a means of birth control practised by married women to limit family size.⁸⁸ Hence, by the middle of the twentieth century or thereabouts, the pendulum had swung to the opposite belief, as interviews conducted for this research will demonstrate. With the period of the 1950s and 1960s being the high crest of the wave of maternalist ideology, perhaps this is not so surprising: an acknowledgement of the common occurrence of abortion amongst married women would have constituted a blatant contradiction of their maternal instinct.

Secondly, Jones' article makes clear that the overwhelming motivation on the part of unwed girls and women in resorting to abortion was a desperate desire to avoid public shame, social stigma and ostracism; sanctions which derived from public exposure of their socially and moralistically prohibited sexual activity. Arguably, normalisation of abortion over the last two decades has tended to cloud memory of the virulent strength of the threat of disgrace directed at girls for transgressing the taboo against female pre-marital sex. Kate's story is an eloquent testimony to the dread evoked by public exposure. The most powerful and telling signifier of a girl's sexual activity was an illegitimate pregnancy. For those girls who recoiled from abortion or were unable to obtain one, the article demonstrates the elaborate apparatus set up by 'helping' agencies to allow girls to disappear from the public gaze, to hide their disgrace at least from their own community and even from their families, if not from those who took over the management of their lives in what amounted to a form of incarceration. In these special hostels and hospital annexes, they were 'encouraged' to adopt out their babies so as not to ruin their lives further (and to add to the supply of new-borns for needy and desirable couples). Both these points will be illustrated in terms of personal experience in the latter part of this chapter.

An Everyday Crime

Whichever estimate of the incidence of abortion - Henry Mayer's or Dr Babbage's - most closely reflected the actual reality, the fact remains that up to several hundred-thousand people each year in Australia committed an abortion-related offence, either by 'administering a drug' or 'using an instrument with intent to procure a miscarriage', 'causing' the same to be done to oneself, 'supplying a drug or instrument' intended

⁸⁸ In fact, it's curious that the 1904 Commissioners did not appear to take account of abortion amongst unmarried women, presumably because they were so intent on supporting their conviction that it was selfishness which was the root cause of prevention and limitation. It is perhaps even more curious given that they did not shy away from dealing with illegitimacy as such. Evidence from elsewhere indicates that abortion was being employed by both single and married women in large numbers by the latter nineteenth century, although prior to that, when it was more dangerous, it was probably more often the resort of the unwed. See, for example, Mohr (1978: 86-91) for an examination of this very question in the American context.

for that purpose, or ‘procuring’, ‘aiding’, ‘moving’, ‘counselling’, ‘inciting’ or ‘conspiring’ with such intent. Each was a criminal felony carrying a gaol term of either five or ten years; and this apart from those cases involving murder, manslaughter, or grievous bodily harm. Yet each year, in all of Australia, only about ten or eleven abortionists were convicted according to Mayer (*SMH*, 1.10.62: 12). The chances of involvement in an abortion resulting in a criminal charge were, at the least, then, exceedingly small. Yet the knowledge of illegality permeated all abortion practice and operated as a powerful form of social control, not so much to lessen the incidence of abortion, but to keep it submerged in a murky, shady underworld with its full import hidden from an averted and largely grateful public gaze.

The nurse who had procured Kate’s abortion and helped drag her to a telephone was obviously terrified that she herself was dangerously close to prosecution given the ways things had turned out in that instance. In the event, by protecting herself in impressing upon Kate the necessity for silence, she had also shielded Kate:

Oh yes, it was only because she kept reiterating it again and again that I didn’t tell them in the hospital. Mainly I think because she had said that she would be the one to get into trouble - I didn’t understand that at the time - even through all that pain it puzzled me vaguely, but it would have been far too much effort to ask really what she meant. You see, I knew abortion was illegal but I had no idea that anyone helping you could be implicated - I was very young and quite naive about things like that then. But she had managed to impress it on me so when they asked me who did it, I said I had. I felt stupid saying that because they obviously knew I was lying, but because she had begged me not to, I would have felt I was betraying her if I had told them. It wasn’t till much later that I became aware that if I had said someone else had done it they would have been legally obliged to call in the police. My God, can you imagine that on top of that whole hideous episode. In retrospect, I think that they [in the hospital] were quite prepared, even sort of relieved, to leave it at that, although they were obviously sceptical - it meant they didn’t have to bring in the police - because they didn’t press me about it, which, at the time, I remember surprised me. Some months later I heard that the woman who did it [the abortion] was caught - apparently, she had aborted the daughter of the local magistrate in Wollongong.

In fact, in no country in the world, despite the seriousness of the offence which might seem implied by various statute penalties, has abortion been strenuously policed. (Potts et al, 1977: 132) In NSW in particular, a complex amalgam of circumstances, beliefs and practices structured the relation between abortion and law enforcement to produce a relatively stable negotiated order. A full empirical analysis of how that emerged over time is beyond the ambit of this study, but certain factors stand out as salient. Generally, police did not seek out and charge abortionists, on the whole turning a blind eye to the matter. This is apparent, for example, from the fact that when a crackdown on the practice was initiated in 1970, in a very short space of time the police were able to charge over a hundred persons with the offence, indicating that they had no difficulty in locating alleged offenders. One reason for the ease with which this was accomplished at the time stems from the web of corruption and bribery in which certain police officers and abortionists were enmeshed.⁸⁹ Many, and probably most, abortionists received ‘protection’ from interference in return for regular payments to police (a system of corruption that in the 1960s at least, reached right up to the Police Commissioner and the state Premier.) Nevertheless, it is arguable that corruption was, in large part, a *result* of a lack of will on the part of police to enforce the law against abortion, rather than the reason for it.

Parties to the Silence

Police inaction was not specific to the decades of the 1950s and 1960s; rather it had a long and very stable history reaching back at least to the end of last century. Allen (1982: 114) cites the example of a police sergeant appearing before the 1904 Birthrate Commission who testified that he personally knew of thirty-six abortionists practising in the Sydney city area and yet at that time, as was to be the case for the next six

⁸⁹ No official inquiry was ever launched into corruption and abortion in NSW despite, for example, evidence alleging it which emerged at the landmark Heatherbrae trial under Judge Levine in 1972. By the 1980s numerous commentators were to refer to a long history of corruption in the State as established knowledge, and allegations and evidence emerged of political and even judicial involvement, for instance, the case of Farquhar (see footnote 5 this chapter). In Victoria in 1969, allegations of police corruption in abortion eventually resulted in an inquiry, and subsequently a trial of several police officers, as we shall see below. Geoffrey Davis of the Sydney abortion clinic Population Services International, who was performing abortions prior to liberalisation, claims that no medical practitioner has ever been found guilty of an abortion charge in NSW, apart from cases involving death or grievous bodily harm (personal communication.) I have encountered no evidence to counter his claim other than the case of George Smart, which, ironically, occurred in 1981, almost a decade after liberalisation, and which will be dealt with in Chapter Seven.

decades, the number of prosecutions launched against abortionists was very low, and the number of convictions very much lower.

Even if police had been more zealous in pursuing illegal operators, the fact that convictions were very difficult to secure, particularly of medical practitioners, acted as a deterrent to attempted enforcement.⁹⁰ Again, the 1904 Commission was told that the difficulty in obtaining evidence accounted for the failure of the police and justice system to adequately enforce the law in reproduction-related crimes, including abortion. (Allen, 1982: 123). This pattern shows remarkable consistency throughout the century, as noted by Allen for the period 1900 to 1939, and confirmed by figures for the later period. Generally, the conviction rate was approximately twenty-five percent, with “juries reluctant to convict, no matter how convincing the evidence” (Allen, 1982: 123.)

Police themselves admitted that they were disinclined to charge known and established abortionists, lest by closing down their operations more women were driven to ‘backyard butchers’ (*SMH*, 21.3.68: 4). Another consideration pointed out by Allen (1982: 125) was the working-class background of the large majority of police, which gave them some insight into the economic conditions which prompted many married women, already overburdened with too many children, to abort; and perhaps also, engendered a degree of sympathy for the plight of unwed pregnant girls. Juries too, were often loath to convict abortionists even when the evidence was apparently overwhelming: in the prosecution of abortion cases there was no injured party that the jury could see as being wronged by the deed (that is, in those cases which did not involve death or injury). Furthermore, the woman involved had usually been coerced by the police under threat of her own prosecution to testify for the Crown, in which case it was usually easy for the defence to destroy her credibility on moral grounds, and thus secure an acquittal. (Allen, 1982: 123)

Quite apart from these considerations, disclosures of the 1970s showed that certainly in NSW and Victoria many (if not most) of the very police responsible for enforcing the abortion laws were themselves involved in protection rackets whereby nearly all medically qualified illegal abortionists - and some not qualified - paid regular bribes for immunity against prosecution or legal harassment. With this sort of arrangement in place, police action tended to be limited to ‘small-time’ unqualified operators and, as Allen (1982: 122) points out, from the interwar years on, many of these tended to be women: midwives, women with some nursing experience or housewives who had somehow learnt the skills involved.

For whatever reason or reasons, in the decades following the war, politicians showed no interest in opening up abortion to public scrutiny and turning it into an issue. Certainly, there was no particular pressure for them to do so. Abortion, like a number of other illegal activities which flourished, such as SP bookmaking and ‘sly grog shops’ on the one hand, and prostitution on the other, is a ‘victimless’ crime.⁹¹ But in the cases of SP bookmaking and the illicit sale of alcohol, the state had a certain interest in suppression: it was denied taxation revenue and was subject to pressure from legal competitors; in the case of prostitution, the activity was policed sufficiently to ensure its confinement to ‘agreed’ areas out of sight of ‘decent’ people, thus quelling public indignation at its existence. Thus, one could speculate that politicians recognised there was little or no political gain to be made from elevating abortion to the level of public debate, and that they saw it, like prostitution, as an ‘unavoidable evil’ impossible to stamp out. (Certainly, when some politicians did attempt to use it for political ends in the late 1960s and early 1970s and then again in the 1980s, it proved to be largely a no-win issue, as we shall see in the succeeding two chapters.) As already mentioned, recent allegations and anecdotal evidence suggests that some politicians in powerful positions benefited from the endemic corruption facilitating abortion. Allen suggests that others viewed the cost to the state of having to

⁹⁰ Geoffrey Davis of the Sydney abortion clinic Population Services International, who was performing abortions prior to liberalisation, claims that no medical practitioner has ever been found guilty of an abortion charge in NSW, apart from cases involving death or grievous bodily harm (personal communication.) I have encountered no evidence to counter his claim other than the case of George Smart, which, ironically, occurred in 1981, almost a decade after liberalisation, and which will be dealt with in Chapter Seven.

⁹¹ All victimless crimes which provide the provision of marketable services or goods but no directly injured party are likely to involve networks of corruption and bribery between operators, police and occasionally politicians. Policing tends, therefore, to be directed at containment within acceptable limits, rather than outright suppression. Schur, speaking of the USA, maintained that protection of illegal abortion was the norm for full-time operators (1965: 34).

support numerous illegitimate children, and pursuing fathers for paternity support, as less preferable than abortion. Alternatively, it's more likely that the subject simply didn't enter into their framework of meaning as one fit for political or public posturing. This suggestion is supported by comments made by journalist Max Walsh in 1970. He claimed that Labor politicians considered themselves progressive on issues of law reform merely on the basis of their opposition to the death penalty, whereas:

Questions of homosexual and abortion reform have simply been avoided at all costs. They were not condemned - simply never raised. Within the ranks of the Government - where conservatism is practised as well as preached - the same policy has been the order of the day. (Walsh, 1970: 5)

Walsh said that "this mutual pact of silence" was broken by the influx into the ALP by the new breed of "middle-class radicals" at the 1969 federal election and their belief that the Party had responsibilities in social as well as economic reform. With this progressive base, Whitlam was able to assert his long-held liberalism towards issues such as abortion and homosexuality, a characteristic which in the past he had been forced to dissemble as a "handicap in a Labor Party which outside a narrow framework of economic aspirations has been ultra-conservative".⁹² Walsh concluded that because of this deeply-entrenched conservatism on social issues in all political parties, "Australian political awareness on these subjects has been stunted through lack of public debate". (1970: 5)

In passing, it is worth noting that, as Allen points out, this long silence from politicians on the question of abortion certainly contrasts oddly with the assumed 'pro-fatalist' characterization of the state and with the position of those who argue that the state operates as an agent of capital in repressing non-reproductive sexuality, an argument Foucault rejects in terms of state regulation of sex (1980a: 6).

Medical practitioners too were in a position which afforded them a very considerable knowledge of the frequency of abortion, both from the number of women, married and unmarried, who presented to them with unwanted pregnancies,⁹³ and because they were well placed to witness, or hear from colleagues about, the results of 'botched' abortions. For example, 746 women were treated at Royal Prince Henry Hospital in 1934 for complications arising from illegal operations; a gradual rise from 54 in 1919. Whereas this figure is likely to have decreased with the introduction of sulphonamides in the 1930s and antibiotics in the later 1940s, and the wresting by medical practitioners of an increasing proportion of the illegal abortion trade from quacks, backyard operators and midwives, what it also indicates is the increasing reliance by women over the century on abortion as a form of birth-control. Nevertheless, even with these improvements, abortion still had its dangers. A medical practitioner who had worked at Royal Prince Alfred Hospital in 1950 and 1951 remembers:

...the "seg huts", the segregation Army huts where women who had been aborted by backyard practitioners languished with jaundice and kidney failure from septicaemia. Most of them died. (*SMH*, L.E., 23.7.88)

One of the women interviewed for the research had this to say about botched abortions in the 1940s:

Oh, abortion was *very* common, and an awful lot of people *died* of it too. I had a cousin who did her training at the Coast Hospital [Prince Henry] and they used to get those cases in there where everything had gone wrong, and she came to me crying once and said, "that poor woman there, she's so ill", and she said "she's had two very defective babies and became pregnant the third time and nobody would do anything about it, so she went to this really bad place". Oh, there were some very bad places, I believe. It was very wicked! Yes, an awful lot of women were in a very parlous state because of botched abortions. There was one here in ---, it haunted me for a long time. They found her dead on the floor. She'd had a

⁹² This aspect of the Labor Party will be explored in more detail in Chapter Seven.

⁹³ A study of ninety-two general practitioners found that, on average, each had been approached in the previous twelve months by at least ten pregnant women seeking advice or assistance on abortion. Moreover, the researchers stated that, due to the delicate nature of the question, they concluded this number to be a decided understatement which should be taken as a bare minimum. Also, in forty-two percent of cases, the women were directly helped by the practitioner to obtain a termination. This figure, too, was likely to be an understatement. One surprising finding which ran contrary to trends found in polls of the general public was that the longer a doctor had been in practice, the more liberal he or she was towards abortion. The researchers interpreted this as indicating a growing realization with experience "of the size of the problem and the need for a more enlightened approach to its solution". (Sussman & Adams, 1970)

self-induced abortion, and she had five little children. It was such a terrible thing. Poor woman, she must have been driven - can you imagine - total desperation, absolutely! (Enid, emphasis in speech)

The Prevalence of Abortion

In fact, the number of officially recorded abortion-related deaths had been increasing markedly in NSW from the beginning of the century: whereas the records show there were 54 deaths during the decade between 1900 and 1909, by 1930 to 1939 this had risen to 818. In citing these figures Allen disputes them as severe understatements. She recalculates what she still considers to be very conservative estimates (see Table 1 below), but points out that these too would be “a long way short of the true position”. (1982: 117)

Allen’s contention receives very strong support from a number of other sources, including exhaustive research by Edward Shorter (1984).⁹⁴ Whilst this of course shows marked differences between countries - the conditions obtaining in each, and even between regions, being very different - the trends are unmistakable. Up until the early part of the nineteenth century, Potts and his associates (1977: 282) claim that virtually all abortions were by means of abortifacients; herbal recipes handed down by folklore with degrees of efficacy varying from the successful to the thoroughly useless.⁹⁵ Hence abortion was decidedly unreliable. For all those that were successful there would have been many more which were not. From the later eighteenth century and through the nineteenth, gynaecological medical practice was becoming steadily more ‘heroic’, paralleling advances in knowledge of female physiology and the process of gestation, and the prestige and professionalisation of medicine. The use of instruments and other means to dilate the cervix,⁹⁶ forceps deliveries and Caesarean, made it apparent that the female body and processes of pregnancy could be subjectified to, and, partially at least, brought under, the control of invasive surgical intervention. Innovations in syringes and douches, catheters and finally, the curette, provided absolutely certain, if often still dangerous, means of interfering with the natural progress of pregnancy. In 1865 Lister started using carbolic acid to prevent sepsis and in 1869 Pasteur identified microbes in the blood and vaginal discharge of women dying from puerperal fever. (Llewellyn Jones, 1975: 304) Recognition of the critical need for asepsis in gynaecological and surgical practices made childbirth, instrumental and other invasive procedures, and of course, abortion, potentially far less hazardous to life than formerly. Whilst dissemination of knowledge about and techniques for asepsis was uneven in its spread and adoption, being rejected by some die-hards and eagerly taken up by others, the way was cleared for the demise of the dreaded epidemics of childbed fever and for relatively safe abortion. Yet, as Shorter demonstrates, the records of some hospitals in Europe, the UK, and USA could soon boast thousands of deliveries without one instance of puerperal fever and a dramatic drop in maternal mortality, whilst others showed little change or even an increase going well into the twentieth century, by which stage there was a virtually universal acceptance of the doctrine and practice of asepsis. I intend to argue that this this puzzling phenomenon can only be understood by taking account of abortion and, that in turn, an examination of it throws light on the incidence of abortion in the late nineteenth and early twentieth centuries.

These gynaecological innovations were rapidly seized upon by professional abortionists both within and outside the medical profession. Also, their ease in bringing on a miscarriage, *if* used properly, suited them admirably for self-induced abortion. The proliferation of these technical innovations in the 1820s and 1830s, and their combination from the 1870s with knowledge of asepsis made possible a ‘veritable explosion’ of abortion. It is in this context that the 1828 amendment to the English abortion law, to include induced miscarriage by instrument, makes particular sense as does the “epidemic of abortions” to which Callahan

⁹⁴ Shorter surveyed an enormous volume of literature and hospital and public health records and statistics for the last 200 years in various western countries on childbirth, puerperal fever and abortion, on associated mortality and morbidity, on medical and midwifery practice, and on advances in gynaecological knowledge and techniques.

⁹⁵ Despite this assertion, there is evidence that abortions were performed by surgical intervention in ancient Greece, Rome and Egypt. For example, the Hippocratic corpus describes the instruments to be used and how the operation should be performed. For a study of surgical abortion in the ancient world see M.T. Fontanille, *Avortement et Contraception dans la Médecine Greco-Romaine*, Laboratoires Searle, Paris, 1977. Also, Gordon (1977) outlines a number of methods - including mechanical, non-abortifacient ones - used in early western and ‘primitive’ societies.

⁹⁶ For example, laminarium tents. These were long strips of a form of seaweed which were rolled up and inserted in the cervix. They subsequently swelled, thus dilating the opening.

refers as prompting the Papal pronouncement of 1869 against abortion. Shorter cites voluminous evidence from the writings of medical practitioners who attested that from the end of the nineteenth century on up until the 1930s or so, virtually every married woman had a syringe in the household medical cabinet, and those that were too poor to have their own often shared one with a neighbour, it being passed between them as the need arose. (1984: 202)

The vast amount of evidence cited by Shorter (and supported by others such as Llewellyn Jones [1975], Potts et al [1977], Ruzicka & Caldwell [1977]) bears out his argument that the period between the 1870s and 1930s can justifiably be referred to as the time of “the first abortion revolution”; a revolution of such magnitude that the increase in abortion accompanying liberalisation in the 1970s pales in comparison.

Abortion changed in those years from a desperate expedient of unmarried servants and child-weary forty-two-year olds to a common means of birth control. (Shorter, 1984: 191)

The genesis for this development can be traced back to the early 1800s when professional abortionists began adopting the first of the new techniques. As these were refined, and others invented, abortion slowly became more widespread, but it was still plagued with danger and a very real possibility of death. The massive acceleration came with the introduction of aseptic procedures in the 1870s and was spurred on further by the steady dissemination of syringes amongst the general populace, so that by 1900 self-induction was commonplace.

This extraordinary rise in the number of abortions in this earlier period paralleled the steep rise in the recorded number of deaths in childbirth in most countries. This curious shift is usually attributed to the switch from homebirth to hospital delivery and the triumph of medical practice over midwifery, both contributing to a greater prevalence of death from puerperal fever despite the new knowledge of asepsis. For example, as we saw in the previous chapter, Hicks attributed the high Australian maternal mortality rate to puerperal fever, instead of, as the Commissioners and their medical witnesses did, to abortion and the pathological consequences of contraception.

In fact, in this respect, the 1904 Commissioners were probably close to the truth. Shorter’s research is particularly illuminating in this context. Whilst there were exceptions and differences between countries and regions, there was a marked trend to include amongst the maternal mortality statistics deaths from abortion, especially septic abortions, unless there was some reason for not doing so, such as a coronial inquiry. Hence, a death from septic abortion was recorded as a maternal mortality from septicaemia giving the impression that it was in fact a case of puerperal fever. Allen shows that in NSW, even in cases where a coronial inquiry was held, only those in which an abortionist was identified or the dying woman admitted to an induced miscarriage was the death classified as resulting from criminal abortion. (1982: 117) Thus the statistics for abortion mortality comprise only those specifically identified by a coroner as abortion-related. Any certified by a medical practitioner as caused by fever (or ‘haemorrhage’, ‘accident of pregnancy’, etcetera) were merely recorded as maternal deaths. Where the records were kept more exactly, as in Switzerland, the incidence of puerperal fever mortality was shown to have decreased rapidly so as to be virtually approaching zero by the first decades of the twentieth century, whereas the statistics for abortion deaths show an exponential increase. (Shorter, 1984: 126-132) On his analysis of the evidence, Shorter concludes:

By the First World War it generally would be fair to say that the only women dying of obstetric infection in hospitals on both sides of the Atlantic, aside from the occasional caesarean fatality, were abortion victims. Nor were many more women dying at home. (1984: 131,2)

Table 1 shows the number of officially recorded maternal and criminal abortion deaths in NSW and Allen’s deliberately conservative estimate of actual abortion mortality figures. The latter is derived from an examination of coronial records and includes in addition only those cases where evidence at the inquiry makes it clear that an abortion was involved but the verdict was open or ambiguous.

Table 1: Official maternal and criminal abortion mortality, and Allen's estimate of actual abortion deaths.

Decade	1880-89	1890-99	1900-09	1910-19	1920-29	1930-39	Total
Maternal mortality	1,427	2,375	2,701	2,896	3,023	2311	4,733
Criminal abortions	*	*	54	138	424	818	1,434
Allen's estimates	42	103	132	209	577	1,214	2,277

* Official statistics did not begin until 1905

Source: Allen (1982: 116,7)

Several points follow from the table and the preceding discussion. The actual rate of abortion deaths would have been a much greater proportion of the maternal mortality rate than Allen's conservative estimate indicates and as she herself suggests. The Royal Commissioners declared themselves concerned with a fifty percent increase in maternal mortality in the period between 1881-1900⁹⁷ and 1890-1902. Certainly, the rise between the 1880s and 1890s is very steep indeed, and takes place *precisely* in the period when it would be expected that the rate would *decrease* considerably given the advance of knowledge about asepsis. Furthermore, the decline in the birth-rate in NSW began quite suddenly in the late 1880s, falling by some thirty percent between then and the beginning of the twentieth century (RCBR, V1: 6,7) hence, the mortality rate rose dramatically over the same period when the birth-rate was itself falling dramatically, a relationship which is the obverse of what one would expect, other things being equal. That is, the combined effect of the introduction of asepsis and a falling birth-rate should have entailed a dramatic decline in maternal deaths.

A number of conclusions emerge from this. First, the extraordinary demographic transition beginning in the late 1880s in Australia - and earlier elsewhere - was a direct result of the adoption of abortion as a form of birth control. This, in turn, was made possible by various developments allowing for reliable and relatively safer abortions. It almost goes without saying that this was no simple technological determinism. The scientific advances merely created the material opportunities for women and couples to exercise the control over reproduction that they had long wanted; a desire which had always existed to some degree or another and for one or a number of reasons, but which would have been exacerbated by social and economic shifts in train for the preceding century or so. Urbanisation, wage labour, the cessation of paid employment of children and then their compulsory schooling, the need for many women to combine paid work with domestic labour, cramped housing: all overlaid older motivations such as the need for relief of the physical toll of multiple pregnancies and births. These, combined with the more latterly emerging accent on the quality of maternal care and the importance of the individual child's development created a populace desperately eager for reliable birth control.

Secondly, if a large number, or even a majority, of recorded maternal deaths were in fact from fatal septic abortions - and I believe the evidence for this is convincing - it represented only a fraction of the number of abortions actually being induced. This follows, of course, from the magnitude of the decline in the birth-rate if it is accepted that the means for accomplishing this was indeed abortion. It is also apparent from much of the evidence presented to the Royal Commission, for example, testimony by medical practitioners that working-class women patients almost invariably admitted to having had at least one miscarriage. Whilst some of these were undoubtedly spontaneous, others - perhaps most - would not have been. One medical

⁹⁷ This would appear to be a typographical error. Presumably it was meant to be 1881-1890. The dates are also confused in that each does not cover an identical period of time for comparison. Nevertheless, it is the increase to which the Commissioners were referring that is important for our purposes.

practitioner, Dr Charles MacLaurin - who had a good deal of experience treating women presenting at Royal Prince Alfred Hospital following abortions - gave evidence that in 1902 there would have been some fifteen thousand pregnancies in NSW which ended in miscarriage. (RCBR, V2: 68) In the same year, another 37,835 were brought to full-term delivery. In all, this amounts to 52,835 pregnancies. It would be normal for approximately seven percent of these (3,698) to end in spontaneous miscarriage.⁹⁸ This would indicate that some 11,300 were aborted in NSW that year. Given that the birth-rate had fallen by thirty percent over the fifteen years prior to 1901 (RCBR, V1: 6), this is precisely the extent of the 'shortfall', that is, the number of pregnancies which would 'need' to have been aborted to achieve that reduction, assuming the rate of conception to be the same.⁹⁹

MacLaurin also gave details of 369 women treated at the hospital between 1899 and 1903 for complications accompanying miscarriage. (RCBR, V2: 282) In eighty-eight percent of the cases the women had only foetal remains still in the womb, indicating that the miscarriage was not spontaneous, and in thirty-seven percent of these the remains were infected. Nevertheless, only three percent of the women died. This gives a very good indication that the risk of death from abortion, whilst present, was minimal. The great majority of abortions would have incurred no complications at all. In fact, one common method of aborting was to introduce a catheter into the cervical opening and seek medical help once bleeding started. In 352 of the cases MacLaurin cited haemorrhage was the specific symptom with which they presented and hence it is likely that for many of the sample their abortions would have finished successfully without medical intervention. If we assume that the estimate of 11,300 abortions in 1902 is roughly correct, and that half of the maternal deaths for the year were caused by abortion (taking 270 as an annual average of all deaths for the decade) this would indicate that approximately 1.2 percent of all abortions resulted in death. As we can safely assume that many laypeople would have been ignorant of all the precautions necessary to ensure aseptic interventions, this would not seem to be an unreasonably high estimate.

Shortly after the 1904 Royal Commission the birth-rate rose somewhat and experienced considerable fluctuations until the post-World War Two period. These changes were strongly related to variables such as the proportion of the population marrying and age of first confinement, so that the general trend for smaller families continued. The depression brought another decline but with the end of the war and the near universal tendency for marriage thereafter the rate of natural increase accelerated, not falling again until after the advent of the contraceptive pill in 1961, which gave women the first legal, and most accessible, reliable and apparently safest means of controlling fertility yet available. But the maternal mortality rate continued to rise until well into the 1930s, its decline thereafter being presumably a function of the introduction of sulphonamides. It is difficult to believe that sixty years after the introduction of antiseptic procedures normal childbirth could still be as hazardous as it was in the last decades of the nineteenth century. Yet, if we take the maternal mortality figures at face value that is the conclusion with which we are presented. This lends even stronger evidence to the argument that, in fact, these figures largely represented the tip of the abortion iceberg. The average number of children had by each married woman in the population had declined from seven in the 1870s to three in the 1920s (Allen, 1982; 111) indicating an increasing reliance on abortion as a

⁹⁸ Potts, Diggory and Peel reviewed a range of literature dealing with research into the rate of spontaneous miscarriage (that is, in respect of pregnancies which have progressed sufficiently for women to be aware they are pregnant; many abort unknowingly in the first few weeks after conception). Whilst obstetricians do not agree on the precise figure they do consider it to be a reasonable assumption that the rate is similar across all communities at all times (Potts et al, 1977: 57). The problem in estimating the rate is due to the fact that many women will report as spontaneous an abortion which has actually been induced. Potts and his associates argue that a study by Tietze and his colleagues gives what is probably the most reliable indicator of the rate. They followed the pregnancies of 1497 women who had stopped using contraception with the express purpose of conceiving. The rate of miscarriage was seven percent. Because the women conceived deliberately, the incidence of induced abortion could be expected to be negligible. (Potts et al, 1977: 52-7) MacLaurin himself estimated that 6,300 of the 15,000 could have been spontaneous but he based this on prevailing estimates of the rate of spontaneous abortions. Allen points out that modern estimates would be lower than this (1982: 119). His method of calculation would have been contaminated by the problem of deceptive reporting to which Potts and his associates refer.

⁹⁹ I have not taken account here of the incidence of infanticide and babyfarming. It is unlikely that they played any particularly significant role in the decline in the birth-rate as they were options of last desperate resort always open to women. In fact, as abortion became more widespread it is probable that they decreased. Their incidence still in the 1900s and 1910s does remind us that there remained difficulties in obtaining abortion, and suggests that the smaller family size obtaining was still higher than many women actually desired it to be. See Allen (1982) for a very scholarly treatment of infanticide and babyfarming in NSW in the late nineteenth and early twentieth centuries.

primary means of birth control. This contention receives support from anecdotal evidence collected during the course of this research involving women whose childbearing years covered the period between the 1920s to 1940s.¹⁰⁰ One woman had seven abortions, another had five, and several four; numerous others had between one and three abortions.

The Medical Profession

The forgoing discussion would suggest that in the decades prior to open public debate of abortion no medical practitioner could have been unaware of the incidence of illness, injury and death caused by abortion, and an informed guess, along with their own experiences with women patients, would have indicated to them some idea of the dimension of the practice. In fact, it is far more likely that the great majority of medical practitioners were very well-informed regarding abortion, with some disapproving heartily of the practice and others accepting its necessity and, in many instances, even referring patients to illegal operators. Whatever their views on it, however, to reveal to the public gaze the everyday practice of abortion would have also meant exposing the involvement in it of numerous members of the profession, a revelation presumably irksome to a profession which prided itself on its status and derived much of its power from its alleged integrity, service ethic and altruism. Even those who may have seen abortion as an inevitable, if unfortunate, necessity were very likely constrained by implicit peer control and the inherent conservatism of their professional socialisation from even considering raising the issue publicly.

Even when abortion was being heatedly debated in the late 1960s, medical practitioners were generally to prove extremely reticent about commenting publicly on it. Whilst several individual medicos were prominent protagonists in the struggle over liberalisation, the profession as a whole, and its professional association, was manifestly at pains to avoid entering the controversy. That being so, it is perhaps not surprising that they failed to speak out during the period of silence. What is somewhat surprising was their continued reluctance after that, given that in most other western countries medical practitioners and their professional associations were very active participants in the debates waged over abortion from the mid-sixties onwards.¹⁰¹ In contrast, in Australia, with a very few individual exceptions, they were conspicuously absent. What debate they did engage in tended to be 'in house', that is, in the pages of the *Medical Journal of Australia*, and even that did not gather much momentum until 1969. Yet a 1970 study showed that of ninety-two general practitioners interviewed seventy-six percent favoured some reform of the existing law in NSW (Sussman & Adams, 1970).¹⁰² Given the high profile adopted by medicos elsewhere it is worthwhile considering what factors accounted for the determined reluctance of the profession in Australia to be drawn into the abortion debate, let alone to initiate any action itself. Of all countries, it was in the USA that physicians were most prominent in campaigns over abortion. Thus, an examination of the condition and forces giving rise to their intervention there should, by comparison, help us to understand their aloofness from the debate in Australia.

Kristen Luker's analysis of the history of abortion politics in the USA identifies a number of factors crucial to the early involvement of the medical profession in reform of abortion law in the 1960s and, prior to that, in a major campaign against abortion in the nineteenth century. One of the first sparks to the modern reform

¹⁰⁰ Some of this was gained from women specifically interviewed and referred to themselves or to their own mothers or to their friends. Other information was gained from informal discussions with a number of women when occasions presented but where no formal interviews were carried out.

¹⁰¹ For example, in the USA (see Gordon, 1977; Mohr, 1979; Petchesky, 1985); in the UK (see Francome, 1978; Marsh & Chambers, 1981; Simms & Hindell, 1971); the Netherlands (see Outshoorn, 1986); Ireland (Randall, 1986); Norway (see Wiik, 1986).

¹⁰² The results of this survey, undertaken by two members of the Department of Preventive and Social Medicine at the University of Sydney, were reported in the *Herald* (25.7.70: 1). The response of the NSW Branch of the AMA is typical of the posture it consistently adopted with regard to the abortion issue. Its Medical Secretary, Dr Nicholas Larkin, said that the survey was undertaken without reference to the Association, that the Branch had not carried out any census of the views of its members on their attitudes to law reform and nor did it intend to do so. It had raised the issue with interested medical and *religious* bodies and decided to recommend no alteration to the present system. He said if the Attorney-General was to advise the Government that the law should be changed the AMA was prepared to consult with him on the medical aspects.

movement was struck in the very first years of the decade in California.¹⁰³ The law governing abortion in that State allowed therapeutic terminations only in cases where they were necessary to 'preserve the life of the woman'. Within the profession there existed a division, hitherto largely unrecognised by the physicians themselves, between 'strict' and 'broad' constructions of precisely what this meant in practice. Whereas those adhering to a 'strict' interpretation were only prepared to condone or perform an abortion where there was a demonstrable threat to the physical life of the woman, others variously took the law as allowing it when there were indications of foetal abnormality, when the pregnancy was the result of rape or incest, when there was a risk to the physical or mental health of the women, or even when they considered there were extreme socio-economic circumstances warranting it. (Luker, 1984: 68)

By the 1950s obstetrics had progressed to the point that there were virtually no medical conditions where pregnancy or birth could be said to endanger women's lives. Yet therapeutic abortions were still being performed, which began to make it apparent to 'strict constructionists' that for certain practitioners, indications other than a threat to life were being taken as sufficient justification for therapeutic abortion. Based on her interview research with physicians concerned about the issue at the time, Luker argues that hitherto practitioners had assumed that others shared their view of what justified an abortion, whether they adhered to a 'strict' or 'broad' construction of the law. (1984: 72) Certain elite physicians who interpreted the law broadly began to be concerned that abortions being done for reasons other than preservation of a woman's life could be subject to prosecution. This unease became felt as far back as the beginnings of the 1950s, and manifested in hospitals putting into place specific review procedures and committees to assess each proposed abortion, whereas previously it had been deemed sufficient to consult more informally with a senior physician.¹⁰⁴ Approaches to the office of the State Attorney-General failed to clarify the position, the legal authorities themselves being unclear how the law should, or in the case of a prosecution, how it would be interpreted.

In 1959 a lawyer and a lawyer-physician published an article in a law journal based on a survey of twenty-six California hospitals which showed there to be a huge divergence in opinion between them as to what were considered legitimate grounds for a therapeutic abortion. The incidence of such operations ranged from a ratio of one to 126 live births to one to 7615 at different hospitals. Further, asked to assess from a number of hypothetical cases which would be regarded as justifying a therapeutic termination, some indicated only those where the woman's life was in danger whilst other variously cited cases involving probable foetal deformity, rape or incest, the women's mental health and drastic socio-economic circumstances. Clearly, medical personnel differed widely in the criteria they were applying. The authors argued, moreover, that according to a 'strict construction' of the law, most of the abortions being done would have been considered illegal. On reading the article a lawyer from the Attorney-General's office secured the assistance of a State assemblyman to introduce a bill to amend the law. (Luker, 1984: 68,9) The aim was to bring it in line with what was the actual practice of most physicians, who, the article had made clear, were interpreting the law widely. Introduced in 1961, the bill failed to get through the committee stage, but the attempt began to bring together concerned physicians with other elite professionals - public health officials, psychiatrists, lawyers - who also had an interest in liberalising the law. (Luker, 1984: 76) A further attempt in 1964 was equally unsuccessful but by then the first of two critical events had occurred - events which brought into the open the chasm between the 'strict' and 'broad constructionists' - which made it apparent to the physicians that the matter was assuming a certain urgency.

¹⁰³ The following account is drawn from Luker's case study of California. Comparative research and interviews in six other states confirmed that similar forces and understandings were operating in those. The general parameters of the case, then, if not the particular events, were common to the early abortion reforms in the USA.

¹⁰⁴ These procedures - developing out of the dawning perception of a gulf between the two interpretations - themselves exacerbated the tensions in the situation. Hospitals applied differing criteria and members of the same committee often disagreed. This reinforced growing acknowledgement of the split. The net result was a tendency to be more stringent and informally apply quotas to minimise the number of abortions. Consequently fewer therapeutic abortions were performed in the 1950s than previously. Presumably, this must have been frustrating for those physicians recommending terminations on broad grounds, and would have added to their perception of a need for legal change.

In 1962 it was reported that the drug Thalidomide caused foetal deformity. Thalidomide was not available in the USA but the husband of a woman, Sherri Finkbane, had brought some back from Europe and she had used it in the early stages of pregnancy. Finkbane, a journalist, became aware of the overseas concern about the drug and approached her obstetrician about it, who arranged for an abortion the following week. In the meantime, Finkbane, concerned that other women might be in a similar position, arranged with another journalist to write up and publish her story but to withhold her name. On the morning of the scheduled operation the local newspaper carried a front-page article headlined: "Baby-Deforming Drug May Cost Woman Her Child Here". The effect was electric; the hospital cancelled the abortion and wire services all over the country picked up the story. The Finkbanes went to court in an attempt to get an order allowing the operation to go ahead. They were unsuccessful, but the action meant that their names were publicly revealed. They were deluged with letters and phone calls, some of which made death threats and they were given the protection of the FBI. Eventually, they fled to Sweden and she made application there for an abortion. After a gruelling medical and bureaucratic procedure, she had the pregnancy terminated. The foetus exhibited particularly gross deformities of the kind linked to Thalidomide. After returning home Finkbane was sacked from her job because of the publicity and the couple continued to receive letters and calls for some time, many of them abusive. (Luker, 1984: 62-5)

For the liberal physicians, the Finkbane case demonstrated the potential dangers of a narrow interpretation and was the catalyst for them formally organising into a coalition with elite professionals from other fields - the California Committee on Therapeutic Abortions (CCTA) - to campaign for legal change. Moreover, the event served to alert the 'strict constructionists' as to what was fairly general practice and the nature of their opposition made it apparent to the liberals that their objections were based on moral principles. More widely, the case transformed what had been an internecine medical issue, thought by the 'broad constructionists' to be only about the *technical* grounds for a therapeutic abortion, into a major public and *moral* debate.

The second event culminated in 1966. In 1964 and 1965 California was swept by a rubella epidemic. The association between the disease in early pregnancy and birth deformities had been well documented since the 1940s and most reputable physicians considered it to be a proper indication for therapeutic termination. (Luker, 1984: 80,1) Large hospitals had procedures in place to review such cases and abortion was fairly generally seen as both ethical and as good medical practice.¹⁰⁵ Physicians continued this practice throughout the rubella epidemic but were becoming increasingly uneasy about the possibility of these abortions being classified as illegal: an unease which was intensified by the public furore over the Finkbane case and the mobilisation of 'strict constructionists' which it had prompted.

Luker points out that, traditionally, physicians who were known to take a strict approach to the question of therapeutic abortion were likely not to be included in deliberations about them. Her interviews with liberal-minded physicians of the time suggest that there existed a tacit understanding which meant that hard-liners were rarely confronted with the immediate issue of abortion. (1984: 79) This informally negotiated order enabled the divergence between 'strict' and 'broad constructionists' to remain largely unnoticed and unarticulated. But the Finkbane case and the epidemic seriously threatened the stability of these understandings. The existence of a strict interpretation of the law amongst certain other physicians (and a section of the public) could no longer be tacitly overlooked.

The issue came to a head after a public hearing on the subject at which the head of the State Board of Medical Examiners, a vehement Catholic with a very strict view of what indications justified a therapeutic abortion, threatened that the Board would "get" any practitioner who performed an abortion in cases where the pregnant woman had rubella. (Luker, 1984: 86) Subsequently, the Board charged seven physicians for doing illegal abortions in these circumstances. The seven were amongst the most reputable consultants in the State. The abortions in question were open and, according to the consensus prevailing amongst 'broad constructionists', all 'above board': the proper consulting processes had been adhered to and the procedures leading up to them were documented in the medical records.

¹⁰⁵ This was, of course, not the case in Catholic hospitals. (Luker, 1984: 63)

This event shook the “broad constructionists” within the medical profession.... To them, the head of the Board ... had broken the cardinal rule of medicine: he had singled out reputable colleagues, who had been performing in accordance with the accepted *technical* criteria of the profession, and had accused them of *moral* turpitude. Moreover ... they considered his construction of the law to be a “religious” one, hence illegitimate. (Luker, 1984: 87, emphasis in original)

The charges galvanised liberal medical practitioners across the country. A nationwide organisation of medical practitioners was formed which included the deans of most major medical schools. Money and support flowed in for defence of the seven physicians and for a campaign to reform the abortion laws. For the CCTA the event proved that their concern was justified and they were able to capitalise on it to orchestrate pressure on legislators. Ironically, the action of the Medical Examiners Board head was the precipitating catalyst for reform: the next year, 1967, the Californian legislation on abortion was amended to widen the grounds for therapeutic abortion.

For the present purposes what is significant is that influential members of the medical profession perceived the issue of abortion to be problematic and began to take actions in connection with it *prior* to the matter becoming the subject of public debate. As far as they were concerned, however, the matter was a technical one about proper and ethical medical practice; the only reason for taking the dispute outside the profession was that the ambiguity of legal regulation allowed for contradictory interpretations. The pressure for reform gained the backing of professional associations: the American Medical Association, the American Academy of Paediatrics, the California Medical Association, as well as the American Bar Association and the California Bar Association. Although individual physicians may have been concerned about the humane considerations covered by a ‘broad construction’, their primary motivation in seeking a reformed and clarified law was legal protection. Luker stresses also the fact that those who became involved in the early attempts at reform were prestigious physicians and elite members of other professions. There was no realisation on their part at that stage that the issue was one with a potentially huge public constituency either of support or opposition.

Secondly, as far as the profession was concerned, the difficulty was with therapeutic abortions; with ambiguity in the law and ambivalence within the profession which could mean that some abortions were construed as illegal and the physicians prosecuted. It was not concerned about criminal abortions done by unlicensed persons nor those by medical practitioners who did them outside of hospitals and did not conform to the correct procedures of peer control and review. These they regarded as commercial “backyard operators”, whether licensed or not, and they saw them as properly a matter for the legal authorities, not the medical profession.

The physicians, elite professionals and legislators who took up the issue did not regard it as a moral one and even less as one in which religion was relevant. When the Finkbane episode exploded it became apparent to them that, as far as conservative medicos and the public were concerned, abortion was a matter of morality, and the collision with the head of the Examiners Board demonstrated that, in fact, the ‘strict constructionist’ opposition derived primarily from adherence to Catholic doctrine. The assemblymen who took it on were aware initially that it was somewhat “touchy” but only because, as they thought at the time, it related to a “general social taboo concerning sexuality” and because Catholics were particularly opposed to it on any grounds. Luker points out that both the politicians who carried the bills were ‘naive freshmen’ looking for issues to make their mark. What they did not foresee was that abortion was “political dynamite”. (1984: 71,2)

In Australia none of the precipitating factors obtaining in California were present and, arguably, others mitigating against intervention by the medical profession were. There is no indication from the *Medical Journal of Australia* in the 1950s and early 1960s of any split in interpretations of what constituted valid grounds for therapeutic abortion. In fact, there was unanimity amongst both the legal and medical professions that there were circumstances where therapeutic terminations were legal. Although there were some variations in the statutes on abortion between Australian States all referred to abortion as being a crime when ‘unlawfully’ performed. This was interpreted as meaning there were situations where an abortion could be legal, it being on this word that Justice McNaughten’s 1938 decision in the English *R v. Bourne* case hinged. Because the law of all States was based on the British Offences Against the Person Act of 1861, McNaughton’s precedent was applicable here although there had been no test case to precisely determine the

meaning of ‘unlawfully’. In practice, the opinion of the Australian Medical Association (AMA) was that terminations could be performed if it was necessary for the woman’s physical or mental health. (*SMH*, 1.3.68: 5) This was interpreted as including abortions for pregnancies occurring as a result of criminal acts, and those where there was a likelihood that a baby would be born deformed, as in the case of the woman having taken Thalidomide or having contracted rubella at a critical stage of the pregnancy. (*SMH*, 16.3.68: 7) As well, AMA policy required the opinions of two senior consulting physicians (one of whom was to be a psychiatrist where it was a question of mental health) and that the operation be carried out in a public hospital. (*SMH*, 2.3.68: 5; 18.2.67: 18) Thus, even though there may have been disagreement amongst individual practitioners as to what constituted sufficient grounds for a therapeutic termination, or personal moral or religious objections to abortion on the part of some (for instance, none were ever performed at Catholic public hospitals and presumably, many practising Catholic practitioners refused to recommend or do them) a practitioner carrying out an abortion according to AMA procedure would have had the weight of the McNaughton precedent and the support of the AMA behind him or her.¹⁰⁶

Certainly, then, the profession could not have been apprehensive about prosecution of reputable practitioners, considering also that even those operating ‘abortion factories’ were not in practice liable to policing unless a death or serious injury was involved. To suggestions that the law was in need of reform, the Medical Secretary of the NSW Branch of the AMA, Dr Nicholas Larkin, replied: “Medically and clinically the present laws offer no opposition to people doing their work. There has never been a case, a doctor has never been charged for terminating a pregnancy for surgical reasons.” (quoted in *SMH*, 27.7.70: 6) Moreover, collegiate solidarity amongst medical practitioners in Australia has traditionally been very strong, probably even more so than in the USA. I suggest it would have been unthinkable here for a member of the profession to precipitate legal action, nor even to lend support by testifying, against a reputable practitioner for performing what was generally regarded as a necessary therapeutic termination.

Thus, when debate on abortion started in Australia, it was, from the outset, a *public* debate, rather than one within the medical profession, as in the USA.¹⁰⁷ Although most proposals for law reform¹⁰⁸ (modelled on the UK abortion bills) were similar to those posed by the ‘broad constructionists’ in America, there was only the very occasional and understated acknowledgement that legislative change along such lines would, if interpreted very strictly, merely formally legitimate what was already accepted in the medical profession as correct practice. Rather, the sense consistently and definitely conveyed was that such legislative amendments would permit women with the stated indications to have their pregnancies legally terminated instead of them being driven to the criminal abortionist. That abortions of this sort were being performed by reputable

¹⁰⁶ Certainly, practitioners were aware that they needed to handle a therapeutic termination with care for the correct procedures. In 1968 a general practitioner wrote to the *Medical Journal of Australia* calling for legislation to liberalise and more clearly define the grounds for abortion. She recounted the case of a patient who had contracted rubella whilst pregnant. As a result of inquiries made by the GP amongst other doctors and a representative of the AMA the woman was referred to an obstetrician and was aborted “openly and presumably legally at King George V Hospital”. The GP wrote: “The advice I received was uniform: ‘Yes, she should be aborted, but for Heaven’s sake, don’t touch her yourself’” Indicating how dependent the practice was on the caprice of individual consultants, she continued: “I wonder what my position would have been had the eminent obstetrician to whom I referred the girl refused to abort her?”; and how stringently the policy was in application: “Many doctors see ... patients for whom abortion seems to be the only humane answer. I do not include among these all unmarried girls or mother, aged 35 to 40, who say they are too old to start washing nappies again. Most of us in general practice have had to turn away from our doors women and girls to whom pregnancy is an overwhelming blow, from which they may never recover.”. (in *SMH*, 16.3.68: 7) Conversely, according to Dr Harvey Carey - one of the few medical critics to consistently speak out in opposition to abortion - the policy was being frequently ‘abused’. He claimed that some psychiatrists were “browed-off” with requests to legitimise terminations and were refusing to give opinions on proposed abortions intended “to make it legal”. (*SMH*, 30.9.66: 6)

¹⁰⁷ As we shall see, amongst the first rumblings were a discussion forum featuring mainly (non-medical) academics and clergy, statements from prominent churchmen, and a section on abortion at an international medical conference held here, with the speakers at the latter being non-Australians. The impetus for these, however, was emanating from events overseas, rather than from any dilemma amongst the Australian medical profession on the question.

¹⁰⁸ Whilst most pro-abortionist, including the Abortion Law Reform Association, maintained that a woman should be able to have an abortion when she thought it necessary, this position was not seriously incorporated into particular suggestions for legislative change prior to the early 1970s, and then presumably as a result of the emergent Women Movement.

physicians and were agreed within the profession to be ‘above board’ was never highlighted in the debate.¹⁰⁹ The impression pervading discussion was that legal therapeutic abortions were virtually, if not altogether, unavailable.¹¹⁰ Hence, the emphasis in the debate was always on what were assumed to be illegal abortions but which came under the ‘broad constructionist’ categories (although eventually the Menhennitt and Levine judgements defined these as lawful). Having been defined as centring on illegal abortion, the formal position of the medical profession was that the issue was primarily the concern of legislative or legal authority rather than of the profession (a position articulated on a number of occasions by the AMA, for example, when the NSW Government attempted to off-load responsibility for policy change recommendations onto it).

Largely as a function of the debate in Australia being from the outset a public one, from the moment of its emergence it was inextricably laden with *moral* meanings, with much of the opposition clearly linked to religious doctrine and affiliation. That the profession viewed it as such is clear, for example, from a 1968 leading article in the *MJA* on one of the few occasions when the matter was raised within the profession (in any formal way, at least).¹¹¹ Because it assumed this tenor immediately it is likely that the medical profession, not wishing to become embroiled in an argument conducted on a moral terrain, was at pains to distance itself. Hence, the AMA’s Dr Larkin, in rejecting any role for the profession in discussion about changes to the law - the Association having no difficulty with the existing situation - stated:

The people who want reform of the law want to introduce all sorts of other reasons for abortion - economic, psychological, social religious, political - and these are not matters which the medical profession should be asked to deliberate on. (quoted in *SMH*, 27.7.70: 6)

In a very telling passage, the editors of the *MJA* asked rhetorically whether “we” (referring to the profession) would be any “better off” for a change in the law. Clearly, the ultimate concern was with potential threats to the autonomy of medical practice, rather than with any possible benefits to patients. As Larkin indicated, the law as it was practiced put no impediment in the way of practitioners exercising their judgement. An amended law which spelt out in detail exactly what circumstances warranted a legal termination would have made them much more clearly and precisely answerable to legal authority rather than, as things stood, only to their peers who, in practice, were very circumspect about questioning what was seen as the professional judgement of one of their own. Unlike in California, then, Australian doctors, being under no threat of prosecution, remained free to interpret the present law without outside interference. Whereas American ‘broad constructionists’ wanted the law changed to protect themselves, the elite of the Australian profession were likely to find themselves with less discretion and control if that were to happen. The majority of general practitioners may well have favoured legal reform but the only body organised and in a position to express that view was the AMA which, historically, has always been dominated by elite members of the profession, tended to protect what was seen as their interests, and took a conservative position on contentious social issues.

¹⁰⁹ Perhaps even more routinely, some obstetricians and gynaecologists would perform abortions in their consulting rooms for regular middle- and upper-class patients well-known to them, and classify the operation as a straight D&C. Because this euphemistic strategy lacked the commercial orientation which was seen as defining the illegal abortionist, it apparently incurred no peer disapproval. One of the women interviewed for this research, pregnant at eighteen in the early 1960s and completely ignorant of any other alternative, admitted her condition to her mother who took her along to her Macquarie Street gynaecologist for just such a procedure.

¹¹⁰ The lack of discussion about and public knowledge of the possibilities for legal therapeutic terminations will be dealt with further in Chapter Six.

¹¹¹ The impetus for the article was the apparent imminence of legislative amendment in a number of States. The editors of the *MJA* voiced their concern about the implications from the point of view of the profession. They contended that “it would be quite ostrich-like to pretend that the matter [of Statutory changes] will not come up sooner or later”. “Many people”, it continued, “would say that the matter should be left as it is ... and we realise that we lay ourselves open to criticism for raising the issue in these columns at all.... However, the greatest problem is the wide divergence of thought on abortion as a *moral issue*. Here again it is silly to bury our heads in the sand and talk as if these differences were not fundamental and, as they stand, irreconcilable. Moreover, they are unlikely to be changed in the foreseeable future, as they are based on *strong philosophical and theological convictions*, and on attitudes ranging from *deep religious loyalties to atheistic humanism*, overlain in many cases with emotionalism.” (quoted in *SMH*, 2.3.68: 5, my emphasis) The reference to ‘criticism’ for bringing up the issue is particularly telling, indicating a clear perception that it was conceptualised as a moral rather a technical or medical matter, and therefore not a ‘proper’ subject for discussion in the *MJA*.

Whatever muted division there was within the profession about interpretation of the laws in Australian States, certainly the sets of understandings governing medical termination remained undisturbed. Nothing occurred in Australia to prompt any sense of unease; the events occurring in the USA not even being reported here and apparently having no influence on the profession. And curiously, the sensation around Thalidomide was not translated here into any discussion about abortion, despite the drug having been available and many deformed babies born as a result of it.¹¹² Perhaps public horror at the deformities and Australians' pride at it being one of their own nationals (William McBride) who had discovered the link overshadowed all else. Instead, the trigger for debate in Australia and the breaking of the silence was an attempt at legal reform in the UK. There, the Thalidomide episode proved also to be a potent factor spurring reform, as it had been in the USA (Francome, 1984: 82), but that element in the debate was not transferred to Australia.

Analysis of the press coverage on abortion for the period reveals a related and much more general factor also at work; one which was not confined to abortion in particular but permeated much Australian culture and thinking. Press coverage for much of the 1960s still reflected Australia's historical attachment to Britain, even as that 'special relationship' was being supplanted by an equally subservient one to the USA. Conversely, as we shall see, attempts in the UK to achieve reform were reported with reasonable detail; and indeed, were sufficient to influence the process here.

The Medical Profession and Foetal Life

Luker's research also directs our attention to one critical discursive difference between the USA and Australia in terms of how abortion has been historically conceptualised, and in particular, to the role of the medical profession in the USA in the production of knowledge about abortion. She details how there, in the nineteenth century, medical practitioners constructed abortion as a public issue by seizing on and mobilising around it in their struggle to exclude 'irregulars', quacks and alternative healers from medical practice. Lacking the British or European heritage of a guild system, American 'scientific' physicians were in direct competition with their 'unscientific' adversaries for clients, and moreover, they lacked the legitimacy of state recognition and licensing. In the second half of the century abortion began to emerge as a public health problem, with newspapers carrying frequent stories of women dying from it (presumably as a result of the proliferation of abortion as a method of birth control). Luker argues that this provided physicians with the opportunity to mark themselves out from their competition by asserting their superior scientific knowledge of the process of gestation and the development of the foetus. Rejecting the traditional notion of quickening as signaling the moment when the foetus became human, physicians maintained that the science of biology proved that the foetus was a human being from conception and that, therefore, women who aborted their pregnancies were murderesses.

In campaigning for stringent abortion laws they could represent themselves as saving human lives. Given the primitive state of medicine at the time physicians were hard-put to demonstrate that their methods were any more efficacious in curing and healing than were those of 'irregulars'.

Because they could offer no direct, easily observable, and dramatic proof of their superiority, regular physicians were forced to make an indirect, *symbolic* claim about their status. By becoming visible activists on an issue such as abortion, they could claim both *moral stature* (as a high-minded, self-regulating group of professionals) and *technical expertise* (derived from their superior training)....

Physicians, therefore, had to exaggerate the differences between themselves and the lay public. Anti-abortion physicians had to claim that women placed no value on embryonic life whereas they themselves ranked the embryo as a full human life, namely, as a baby. (Luker, 1984: 31, emphasis in original)

Yet the physicians, because of their professional aspirations, ensnared themselves in a fundamental contradiction. To declare, as the logic of their position entailed, that no abortion could ever be justifiable, would have been to cede all regulation of abortion to the criminal justice system and the legal profession. Instead, the object of their campaign was to have abortion subject to medical regulation, which meant they

¹¹² As far as I could ascertain, the Finkbane case, which was covered extensively in major American newspapers (Luker, 1984: 78) did not receive a mention in the Australian press, despite the much greater degree of interest here about Thalidomide. Nor did the passage of the California reform law in 1967. In fact, my research found no report or article in the *Herald* on the struggle over abortion in the USA until 1970.

had to maintain that some abortions were necessary, but that only they had the required expertise to decide which.

Ironically, what the physicians did, in effect, was to simultaneously claim both an *absolute* right to life for the embryo (by claiming that abortion is always murder) and a *conditional* one (by claiming that doctors have a right to declare some abortions “necessary”).

Physicians could not give up either half of the paradox. In order to claim that doctors as professionals were sufficiently prestigious and upright to be trusted with arbitrating the sacred boundary between life and death, they had to claim both that the embryo was a life and that physicians could sometimes sacrifice that life. (Luker, 1984: 32, emphasis in original)

Thus, in their bid to enhance their prestige (by taking the high moral ground) and to secure exclusive license to medical practice (because of their scientific knowledge of matters bearing on life and death) physicians needed to *create* but also *control* abortion as a problem. Legislatively, the consequences of their success were the enactment of numerous State laws which were vague and ambiguous, leaving open to the discretion of medical practitioners their specific interpretation. (Luker, 1984: 32) In so doing they laid the seeds for the dilemma between ‘strict’ and ‘broad constructions’ of the law almost a century later.

But what also emerged in the USA as a result of this was the institutionalisation, both within the medical profession and to some degree outside it, of the ‘fact’ that the foetus is a human being from conception, and that therefore its deliberate destruction is murder. This is the very (moral/scientific) knowledge which was conspicuously absent from the discourse on abortion at the Birth-Rate Commission. Here, abortion, as an issue, and the particular construction of the foetus as a human life from conception, was never of any particular salience in the history of the medical profession. Any latent divergence in views about how the law should be interpreted would have been a function only of the ambiguity inherent in the British legislation and transposed to Australia along with it, as well as individual moral and/or religious and/or humanitarian concerns.

In other words, by the early 1960s in the USA there was an historical tension built into, and dormant within, the profession’s whole approach to abortion, which pivoted around an institutionalised recognition of the foetus as a life, whereas in Australia, by contrast, this key premise had no special reason to be a critical element in Australian medical practitioners’ discourse. Here, there was neither an historical legacy nor any precipitating contemporary events to create conditions for medical practitioners to perceive any need to initiate action in relation to abortion, nor to intervene in the issue once it was the subject of public debate.

Other Parties to the Debate

In fact, and somewhat incongruously, given the particularly secular culture of Australian society, when the issue did emerge from the long silence and onto the public agenda here, it was the clerical profession which spoke out most loudly and frequently against any suggestion that the law on abortion be liberalised, and for some years their opposition received generous media coverage. (Interestingly, for a brief period when the debate was tentatively beginning, several Protestant clergy, and one in particular, argued strongly in favour of abortion reform, as we shall see.) Nevertheless, prior to that, churchmen appear to have been as equally reticent as others to draw public attention to the ‘moral corruption’ indicated by the existence of abortion. They could hardly have been oblivious to the practice - witness the Dean of Sydney’s attack on it in 1951 - and Catholic priests in particular must have had remarkable insights into the reality of abortion via the medium of confession: Catholic women, as we shall see, being no less likely to resort to abortion than non-Catholics. Certainly, it was Catholic clergy who were the most vociferous of all churchmen in their condemnation of abortion once the silence was broken. And yet they too had ‘colluded’ in maintaining that veil of silence. Possibly they had been motivated in part by a belief that knowledge of immorality itself leads to further immorality - a position which was to be argued in the 1980s by fundamentalist religious groups opposing sex education in schools on the grounds that ignorance of sex preserves chastity - but even if this was a factor, it is, at the most, a very partial and inadequate explanation.

Lastly, the media itself maintained a euphemistic discretion in its treatment of the subject, as we have seen was the case with the *Sydney Morning Herald*. Yet the media thrives on sensationalism and exposé, and even the ‘respectable’ press can indulge in such tactics if they do so tastefully and in the ‘public interest’.

Certainly, the press was sensitive to the publication of material dealing with sex given the draconian laws operating to censor 'indecent' or 'obscene' material. Nevertheless, from the vantage point of the 1980s, it is easy to suppose that abortion could easily have been approached in ways which didn't directly address sex, or at least not in a manner which could be construed as obscene. With our present understandings of abortion influenced by nearly two decades of normalisation of the practice, it is difficult to imagine what must have been the strength of that injunction to silence. In fact, the forbearance on the part of the press most surely indicates that to speak of abortion would have been to speak 'out of turn', to utter what was publicly unmentionable and unspeakable.

Silence, Discourse and Power

The silence did not even constitute a denial, in that no one actively denied what was common knowledge anyway. It was not a pretence that abortion did not exist, nor was it a discursive vacuum. More like a whisper, it operated in strategic conjunction with what was articulated, with those discourses defining sexual subjectivities. Silence suppressed the massive contradictions between what was said and what was not said, between what was known and what was 'apparently' not known, thus working in a complementary relationship with what the actual reality of abortion denied (women's 'innate' maternalism and their alleged asexuality). Conversely, it shored up the truth of what it affirmed (the lustfulness of bad women and the sexual accessibility of 'sluts'). Hence, it made possible the production of a discursive organisation - of which it was itself a fundamental part - facilitating the operation of power through sex and bodies and subjectivities.

[T]his was not a plain and simple imposition of silence. Rather it was a new regime of discourses.... Silence itself - the things one declines to say, or is forbidden to name, the discretion that is required between different speakers - is less the absolute limit of discourse, the other side from which it is separated by a strict boundary, *than an element that functions alongside the things said, with them and in relation to them within over-all strategies*. There is no binary division to be made between what one says and what one does not say; we must try to determine the different ways of not saying such things, how those who can and those who cannot speak of them are distributed, which type of discourse is authorised, or which form of discretion is required in either case. There is not one but many silences, and they are *an integral part of the strategies that underlie and permeate discourses*. (Foucault, 1980a: 27, my emphasis.)

The everyday knowledge which people have of the world, that knowledge which makes possible purposive action and is engaged in the process of producing social reality, which makes sense of that reality, and therefore allows people to negotiate their way through it, is a complex amalgam of both coherence and contradiction. In Foucault's genealogy of discourses on sex and sexuality he concentrates on the knowledge produced and enunciated by the medical profession, psychiatry and psychoanalysis, and by demographers, those concerned with measuring population statistics, and understanding related human behaviours. Yet, it is clear that the critical point in the juncture between knowledge and power and their operation in and on the social body is achieved when knowledges filter out and percolate through the populace to become (in vitiated and adulterated versions and employing a range of different instruments) the everyday wisdom of commonsense truths. (Foucault, 1980a: 122) It is at this level, when a knowledge is taken for granted as the way things 'obviously' are (or should be) that power is at its most insidious in its reach and most effective in its operation. (Henriques et al, 1984: 102) The silence cloaking abortion can be seen as one particular mechanism in the sexualisation of the populace, one tactic in the regulation of the population and the management of the family, and as one element in the discourses deployed in these over-arching strategies.

Yet, as Foucault cautions, discourses should not be conceived of as emanating from 'above' and disseminating down. Whilst their origins can be traced in one sense to particular sets of interests and concerns, and their initial construction seen in another as weapons or tools of leverage in struggle, discourses take hold and consolidate their grip when they merge and combine with other discourses, with wider sets of understandings and webs of material practices, and operate, as it were, independently of their origins. At this point they become part of a discursive complex, or of shared knowledges - systems of belief or meaning in which people cognitively and subjectively, although usually implicitly, participate (and construct their identities and 'recognise' themselves): discourses which, like 'paradigms' (Kuhn, 1970), define the way things are in social reality. This is not to imply, however, that they are clearly and completely articulated, nor coherently worked out, organised and arranged in a systematic and consistent order. In many respects people can unwittingly hold to contradictory knowledges or beliefs without one knowledge being experienced as a

threat to its opposite, and without the contradiction occasioning any anxiety (Bilton et al, 1987: 406). They draw on different contradictory knowledges in making sense of, or giving meaning to, phenomena in different contexts, or maintain them, as it were, on different terrains or fields of consciousness. Nevertheless, I would suggest that there are situations which would make the simultaneous maintenance of contradictory knowledges potentially unstable and untenable; there is a limit to the kind and degree of contradictions which can be adhered to without social reality fracturing into a confused and incoherent jumble. At the point when one set of understandings is incontrovertibly and recognisably confronted by its opposite the two collide and the process of forging new knowledge is set in train.

In these terms we can perhaps understand the process which began in the mid 1960s, its most extreme resolution being manifested in the ideology of 'sexual liberation' (and consequently and later, in reaction against the era of 'permissiveness' itself, in the new moral authoritarianism of the late 1970s and 1980s). (This is not to suggest, however, that the forging of new truths about sex and sexuality inaugurated the end of the relation between sex, knowledge and power; the sexual 'revolution' "represented nothing more, but nothing less ... than a tactical shift and reversal in the great deployment of sexuality". [Foucault, 1980a: 131]) Prior to that, however, the discourses which defined sex and sexuality, which worked as vehicles for the operation of power in the constitution of subjectivities and the invasion of bodies, could only be sustained in their prevailing form if the reality of abortion, and all that it signified about sex, women's sexuality and their maternal impulse, remained discursively dormant. To actively confront and articulate the issue of abortion in all its magnitude would have fundamentally contradicted and thrown into acute chaos the entire ensemble of taken-for-granted truths about the distinction between the sexuality (or lack of it) of 'good' and 'bad' girls, about marriage and procreation, about women's sexuality and their maternal instinct, and about female chastity and virginity.

The Discourses of Birth Control

In the interim between the 1904 Birth-Rate Commission and the 1960s - roughly paralleling the period of silence, or in Summer's terms, that of rampant puritanism - it became difficult, and sometimes even impossible, for Australian women to acquire either accurate knowledge of, or access to, safe and efficient contraception.¹¹³ Indeed, the evidence suggests that for the fifty years or so prior to the 1960s, it was often easier to find an abortionist than it was to get anything resembling reliable contraception. The medical profession gained control over many forms of contraception - a prescription being required to obtain them - and practitioners operated as gatekeepers, many being less than forthcoming in the exercise of their discretion. The advertising of all forms of birth control, or information about them, had been prohibited by various laws enacted in the 1910s and 1920s in each state. (RCHR, Final Report, V3, 1977, 96-99) Many, if not most, women, and presumably working-class ones in particular, lacked accurate knowledge of what might be available, quite apart from any difficulty then involved in acquiring it.

Yet, at the turn of the century, the medical classified columns of newspapers had been littered with advertisements for a vast range of (effective and ineffective) types of contraceptives (French goods - gent's best, No More Worry Co's Patent Pessary, Lambert's new Combined Pessary and Sheath, the Sanitas Sponge); very thinly-veiled references to abortifacients such as Malthus Soluble Quinine Tablets, euphemistically alluded to as cures for 'blockages' or 'menstrual irregularities'; equipment for home abortions ("Perfect syringe for a far reaching vagina douche", Mrs B. Smyth's 'vaginal irrigators', The Marvel Co.'s Whirling Spray - the new Female Syringe, Injection and Suction); and for professional abortions - 'accouchement' or 'lying-in homes' specialising in 'women's problems' or guaranteeing to 'restore regularity' - indicated by their advertisement side-by-side with those for contraceptives and abortifacients. (Pringle, 1973: 21-23; Hicks, 1978: 94,5; 125; Summers, 1975: 319,20).¹¹⁴

¹¹³ This is confirmed by Summers (1975: 341), by articles, editorials and correspondent's letters in the *Herald* in the late 1960s, and by the interview data.

¹¹⁴ Three wholesalers admitted to the 1904 Royal Commissioners that their annual sales of imported pessaries and sheaths exceeded 200,000. In addition, pessaries, sponges, syringes and abortifacients were also produced locally. (Hicks, 1978: 124) An 1895 letter to the *Bulletin* claimed that a recent Southern daily newspaper carried twenty advertisements for well-known abortionists. Payment was commonly ten shillings down with the balance by instalments. (Summers, 1975: 320)

For the Birth-Rate Commissioners all means of birth control - both contraceptive and abortive - were seen as equal in terms of their moral connotations (the Commissioner's preoccupation being with population, highlighting again the absence of any moral concern with foetal destruction). Yet, to the bulk of the population who employed contraception and abortion, it was apparent that no moral meanings attached to either and one can assume that the latter was only far less desirable due to its cost and possibly its danger (although Pringle suggests the latter is debatable, given some of the drastic measures and chemical ingredients used for contraception [1973: 23]).

During the early part of the century, then, the immorality of birth control was 'obvious' only to 'establishment' figures: concerned men in public affairs like the Commissioners, churchmen, the medical profession and the like. This knowledge prompted the spate of what Hogan calls 'wowsers' legislation (1987: 147-54), which, amongst others things, drove the means for fertility control underground. A sleazy trade developed in expensive and often useless if not downright dangerous contraceptives, and abortion was "removed from shop front to backyard and women required know-how and money to find a safe abortion". (Summers, 1975: 341) Even in 1943 Norman Haire (in *Sex Problems of Today*) could remark that contraception was "still not quite respectable" in Australia and that as far as he could ascertain there were only two birth control clinics in the whole of the country. But, in contrast, he said, "abortion flourishes to a surprising and alarming extent". (quoted in Summers, 1975: 419) The somewhat shady connotation attaching to contraception and the uncooperative, even condemnatory attitude of medical practitioners meant that reliable contraception was difficult to obtain. Summers cites a survey which shows that in the depression years only forty-six percent of married fertile women were practising birth control, and over half of these relied on condoms or coitus interruptus, and another twelve percent on the rhythm method. (1975: 407) Working class women in particular were far less likely than were their wealthier and more informed counterparts to have access to private gynaecologists who might perform a discrete curette, or to have knowledge of, and be able to obtain, reliable methods of contraception.

I must have been very run-down because the doctor gave me the address of Family Planning - then it was the Racial Hygiene Society - it used to teeter on the verge of being illegal; sometimes it was and sometimes it wasn't. I remember once when the Catholic oriented government [the Labor Party] got in and the clamp would be down again. Before that you could just go in, but then you had to get a certificate from your doctor to say that for health reasons you had to have it. Fortunately, I had two women doctors. I remember a poor young woman who was about twenty-eight and she had four children and her doctor refused to give her a letter. He said she was a good healthy young woman and there was no reason why she shouldn't have more children. But she was able to get a diaphragm from Racial Hygiene which was used with jelly. Before going there she just used jelly - not very effective - people used to say so-and-so was a jelly baby. Another friend of mine had six children. The doctor was even a personal friend of theirs but he never saw fit to supply her with contraceptives, until her husband had a heart attack, and then! Oh, the husband shouldn't have the worry of any more children! You know, it still makes me so angry, how dare they decide for you. (Enid)

The Catholic Church specifically forbade the use of any form of contraception other than the rhythm method, damning it as a mortal sin. Catholic women were, thus, in a position of double jeopardy: they sinned if they did practice birth control by any artificial means, and if they didn't, they ran a very high risk of unwanted pregnancy. Whilst some were prepared to bear this, others were not. As a group, Catholic women relied on abortion at least as much as non-Catholics.¹¹⁵ Thus, for those unable to acquire any relatively effective form of contraception or for Catholic women who took the Church's prohibition seriously, and for those who did not practise abstinence, or regulate it successfully in accordance with their monthly cycle of fertility, an unwanted child or abortion were likely to be the only options.

¹¹⁵ All the surveys cited by the Royal Commission on Human Relationships which collected data on religion confirmed that the proportion of Catholic women having abortions was similar to their proportion in the population. (RCHR, Final Report, V3: 200) In 1973, a survey commissioned by the Catholic Church itself yielded the same finding. This will be discussed in the next chapter. The surveys also found a higher proportion of women claiming to have no religion than in the general population and it was suggested that many of these were Catholics embarrassed to disclose their religion because of the Church's opposition to abortion. Evidence from the surveys also suggested that amongst Catholics, a higher proportion of the women were married than was the case amongst Protestants. Catholic women frequently expressed themselves much less willing to use contraception than non-Catholics, but were prepared to resort to abortion when absolutely necessary, their rationale being that one sin was better (and presumably easier to live with) than the ongoing series of sins entailed in contraception.

(Interviewer: Did you have other friends who had abortions?)

Oh yes, of course! Most of the women I knew well enough to talk about those things did, and they all knew others. I've known of women having six or seven, poor things, because they were so fertile and you couldn't get decent contraception. That wasn't terribly unusual. (Enid)

In fact, by condemning contraception as strenuously as abortion the Commissioners and their ilk,¹¹⁶ and the subsequent laws suppressing contraception, actually *promoted* the need for, recourse to, and hence the incidence of the latter. Ironically, the expansion of the underground abortion industry can be seen at least in part, then, as a consequence of the actions of those purportedly aiming to curb the use of birth control in the interests of population and morality.

Yet these establishment figures *were* 'successful' in one important respect: in the reinforcement or infusion of sex and birth control with schemas of understandings which invested them with profound and inescapable significances and meanings. It was not that the Commissioners 'invented' these meanings. They themselves were operating discursively within a wider discourse on sex and sexuality already firmly established in the West: a discourse from which they derived their knowledge of the way things were and should be. The fact that sex and the use to which it was put were matters necessitating investigation in the 'national interest' is testimony to this. We can see the Royal Commission, then, as one instance of this discourse being contextualised within Australian culture. This is not to say that the Commission 'caused' the wave of puritanism, nor that it was the starting point for it, or its most important ingredient.¹¹⁷ The 'wowsers' element in Australian culture can be seen as emerging from a complex interplay of a number of factors including the temperance movement, the sectarian divisions between the Protestant and Roman Catholic Churches, and the links between religious affiliation, social class and party politics (Hogan, 1987: 147-54). But the Commission provides a heuristic 'exemplar' of the more extreme manifestations of a particular discourse on sex and sexuality, and especially on birth control.

By juxtaposing the discourse of the Commission, firstly, with the meanings which birth control (and particularly abortion) had for the people - mainly women - under its investigation, and secondly, with the discourses (or more properly, the discursive silence) on abortion in the period prior to public debate, we can see how, in the interim, sex and fertility control came to be, as it were, 'overdetermined' in their significance and meanings. It would seem that around the turn of the century, for those people under scrutiny by the Commissioners, sex was one facet of a life dominated by economic considerations, something which needed to be controlled due to the financial implications of unwanted pregnancy (contraception being a way of avoiding that, and abortion a means of circumventing it if it did happen: the very way of 'living' sex which the Commissioners simply could not countenance). Yet, half a century later the way people 'lived' sex and experienced their sexuality was drenched with a multiplicity of new significances. The silence bears witness to this: a silence signifying not an absence of discursive constructs, but rather a muted pandemonium of discourse. It becomes evident also in the fact that abortion could become the centre of a major and sustained social and moral debate, in the nature of the discourses in which we shall see the debate was embedded, and in the discourses of liberation and what they denounced in the name of freedom.

At first glance it may seem, then, that the Commissioners and the forces they represented were at least successful in their aim of instilling into people's consciousness a deep sense of the immorality of birth control. On closer inspection, however, this interpretation can be seen as inadequate. Certainly, 'rampant puritanism' and 'wowsers' legislation hounded contraception and abortion out of the public gaze; but in part, it was the shadiness and secrecy of obtaining products and services on a squalid black market which was, indirectly, more responsible for infusing birth control with the taint of wrongdoing and immorality. The

¹¹⁶ For example, in 1907 the Commonwealth Royal Commission on Secret Drugs, Cures and Foods, in recommending various means of state regulation, reported that many alleged abortifacients and birth control devices could be injurious to women's health and impair their capacity for reproduction. Summers points out that although this was undoubtedly correct, that report was also pervaded by a "zealous moralism and insistence that a high birth-rate was essential to national greatness" (1975: 320).

¹¹⁷ I am not suggesting that the the new moralism represented an hegemonic ideology 'imposed' on Australian society: there was always resistance to it, for example, the *Bulletin* magazine denounced the Commissioner's Report as 'Toryism', and wowsers has always been the butt of jokes in Australian culture. Nor did it influence action so much through ideas as through legislative coercion and unintended consequences.

pervasive spread of the ‘truths’ about the maternal instinct and the critical function of mothers in childrearing, increasing emphasis on the ideal of the single-breadwinner family and the marginalisation of women from the workforce, the growing trend towards suburbanisation and the privatised sex-role divided nuclear family, an explosion in the notion of romantic love as the only proper motive for marriage: all of these elements, in various and complex ways, also fed into processes which gave sex a heightened and charged significance, which necessitated stringent controls over the sexuality of girls¹¹⁸ and women, and which shifted the meanings associated with birth control. Hence, the investiture of birth control with immoral and shameful connotations was a function of wider discursive and material practices rather than being, in itself, fundamental. Certainly, any moral scruples people had rarely outweighed their more immediate and pressing concerns. There is little doubt that availability, pragmatism and the avoidance of either familial or public shaming were far more potent factors than any sense of morality in women’s decisions about contraception and abortion.

Over time, the connotations attaching to contraception and abortion split. Previously, the open availability of both meant that married and single women would have had equal access to them: “women had no hesitation about going to chemists and asking for them [contraceptives] ‘as openly and indifferently as they would ask for a toothbrush’” (Summers, 1975: 319). The suppression of contraceptives meant that whereas married women faced great difficulty in obtaining them, unmarried women would have found it well-nigh impossible. This meant they were very much at the mercy of their male partners. Although, certainly by the 1950s and 1960s, it was relatively easy for men to obtain condoms – they were sold ‘under the counter’ at barbers’ shops, for instance – few of the women I interviewed had any experience of protected sex until they were married or had been sexually active for quite a number of years. Margo’s experience was typical:

I’ve always thought I was incredibly lucky not to get pregnant until I was twenty-one. [She became pregnant again a year later.] I never used any form of birth control; we didn’t even know birth control existed. Except in steady relationships where usually the bloke would withdraw.

But with the incorporation of increasing numbers of married woman into the workforce from the mid 1950s, coupled subsequently with the publicity around the launching of the pill and the scientific legitimacy bestowed on it, contraception for married women became much more acceptable. Thus, once national economic growth required women to have more control over their reproduction, moral sanctions against contraception were rapidly diluted (at least that is, for women who had a ‘right’ or a respectable need to use it; unmarried women didn’t qualify so were still at the mercy of judgemental medical practitioners, as also were many women with Catholic medicos). Indeed, so accepted was it to become by the late 1960s that a charge frequently levelled at women wanting an abortion was that if they had been ‘responsible’ in the first place in using contraception, they wouldn’t have ended up ‘needing’ abortion. Hence, as we shall see, contraception eventually came to be advocated as the *solution* to the problem of abortion, rather than being seen as an evil virtually on a par with it (at least that is, for non-Catholics).

Conversely, abortion became increasingly linked in people’s minds with pre-nuptial sex and the deepening sense of disgrace associated with that.

In accordance with the descent of puritanism ... ‘illegitimate’ births and ‘shot-gun’ marriages now carried even more social stigma than previously and signaled a victory for those who wanted sexuality restricted to a procreative act. (Summers, 1975: 341)

Curiously, the illegitimate birth-rate fell steadily after the first decade of the century from the very time that contraceptives became less accessible, particularly, we can assume, for unmarried women. Certainly, a higher proportion of the population was marrying, and generally doing so at a younger age than before, and this in itself would have served to limit the incidence of pre-marital sex and illegitimate births. But apart from this, the fall would indicate either, or presumably a combination of, an increased abstinence on the part of women from pre-nuptial sex (Summers, 1975: 341) or a greater resort to abortion. For those single women who did find themselves pregnant, the strengthening stigma and shame associated with pre-marital sex made a hasty

¹¹⁸ I use the term ‘girl’ in this context as it was the term more often used of unmarried women at that time. Becoming a ‘woman’ seems to have been largely a function of marriage.

marriage or an abortion a matter of extraordinary urgency. The only other option was going away, ostensibly 'to stay with relatives', and adopting out the baby.¹¹⁹

Alternatives to Abortion

Enid was eighteen in 1935 when she became pregnant to the man she was later to marry. A rushed marriage was out of the question, partly for economic reasons, but more particularly because it would not have avoided the shame and gossip she dreaded. Although legitimating an extremely 'premature' birth, a 'shotgun' marriage would still have exposed her private sexual life and her parents to public humiliation.

My father had a friend - a Catholic priest - who used to say, "It's remarkable how many first babies are premature and all the rest go full term." I went to school with a little girl and she was married at thirteen because she was pregnant - she was such a nice child too. You see, that was a horrible example of what might happen to you if you didn't resist these urges. The number of terribly unhappy marriages I knew of because there was a one-night stand and she got pregnant. I thought that was really sad - absolute tragedies - and there was no way they could get out of it then.

For Enid, abortion was the only means of avoiding shame in that it eliminated the pregnancy, the inevitable visible testimony to her public disgrace. A pregnant body would have signified what she had done; it would have been an unendurable proof she could not hide or escape. Having a baby and adopting it out was an alternative she did not even contemplate at that stage, and yet in retrospect she had realised how common that practice was:

A lot of girls were sent away on long 'holidays'. There were some very nice kids around who had been adopted, and it was only later I realised they belonged to big sister and mum had adopted them. It was quite common for the grandparents to adopt them. Now I realise my parents would have supported me and very obviously adopted it. But then I couldn't have imagined facing them.... I didn't even think of it then but now I know I wouldn't have liked the idea of having a baby and someone else [strangers] taking it. Having known some lasses who did adopt their babies - it was a terrible thing to happen to a woman. I don't think I could have faced it.

Similarly, Margo thought that abortion "was the only solution" both times she became pregnant in the 1950s:

I could never have had a baby and adopted it out. I would have hated the idea of it. I know I would have gone searching for it later. I saw too many of my girlfriends do it. It was a fairly common thing but I thought it was really traumatic. Both times I never considered any course of action other than abortion. I saw it as a total disaster - something that had to be remedied as quickly and as effectively as possible.

Married Women and Abortion

As indicated above and contrary to what was assumed knowledge, many of the women availing themselves of abortion were married. Some had no children but were trying to 'get ahead' financially before starting a family; others already had two or more, and an additional child was perceived as an economic, physical or emotional burden which they could not, or would not, tolerate.¹²⁰

¹¹⁹ As Allen's (1982) research shows for the earlier part of the century, many women resorted to infanticide. For example, the Royal Commission on Secret Drugs, Cures and Foods reported that each year in NSW alone there were fifteen-thousand known cases of babies dying from overdoses of patent medicines containing chloroform or opium and designed to quiet babies. Summers (1975: 321) agrees with Pringle (1973: 21) that it can be safely assumed that many of these deaths were deliberate. It is reasonable to assume that many, especially single, women concealed pregnancies and births and then killed the baby. In 1989 the body of a new-born baby was discovered inside a blue plastic bag on the floor of the women's lavatories in the Macarthur Shopping Square in Cambelltown, a satellite city near Sydney (*SMH*, 10.10.89: 7)

¹²⁰ What evidence there is from Australia, the UK and USA suggests a shift over time in the proportions of married and single women having abortions. It would appear that for the first part of the century the majority was married, but from surveys which were carried out after liberalisation in the 1970s, we know that the majority by then was comprised of single women of one category or another. It is reasonable to suppose that as contraception became more reliable and more accessible to married women, and particularly with the advent of the pill after 1961, they needed to rely on abortion much less than formerly. On the basis of a number of surveys, the Royal Commission on Human Relationships estimated that about half of women having abortions were never married, up to forty percent were married and the rest were divorced, separated or widowed. (Final Report, V3: 198-200) Earlier, an unnamed medical practitioner who operated as a full-time abortionist was quoted in the *Herald* as stating that "about sixty percent" of his patients were married. (23.3.68: 18) Similarly, a Victorian practitioner struck off the medical register following the police crackdown there told a journalist in 1971 that there was a "60/40 bias towards married women" in his full-time practice. (Hanford, 1971: 798) Extrapolating

So many women had abortions because they simply could not afford another child. Economically, things were still in a poor state [in the early 1940s] and another mouth to feed was a terrible thing. Its bad enough now being on the dole but then it was really crook. (Gwen)

Finding herself pregnant again when she already had two small babies abortion seemed the only viable alternative for Enid:

We got married and I fell pregnant almost immediately despite using contraception - it was very inadequate - and then when she was about ten months old I was pregnant again, and then when that baby was just on a year old I was pregnant again, but I said that I thought I would die if I had another baby. I was exhausted already, another one would have been more than I could endure. I was just too tired.

Regulating sexuality and reproduction was an integral part of charting life for women, and of exerting some measure of control over the future. How well it was managed could influence who and when a woman married, a couple's chances of 'getting ahead' economically once married, or even just keeping their 'heads above water' financially. Too many children too soon in a marriage would ruin any slight chance of upward mobility if a couple hadn't already consolidated their position. Gwen married at twenty-six in 1941:

We didn't have much money and decided to both work and build something up. We had a little car and eighty or ninety pounds but we spent all that on our honeymoon. We stayed with his mother for about eight months and then rented a little house for thirty-two and sixpence. Vic [her husband] still worked on the milk cart and I was in a drapery shop at Ashfield. And then I got pregnant. We didn't want children for at least a few years, we were saving up to buy a house and we needed to both keep working. Vic said we should go and tell his mother because she knew what to do to get rid of it.

Once married, a woman was afforded some rights of control and privacy over her own body, or perhaps more correctly those rights were implicitly seen as passing to her husband and thus out of the public and parental sphere of regulation. (How these were negotiated within each individual marriage would be a matter of spousal power relations, within of course, the wider social context of gendered relations of power.) An unwanted pregnancy within marriage may have been experienced as a financial or personal burden, or even a disaster, but it escaped the web of shame and terror of exposure enveloping the unmarried pregnant girl. Consequently, the decision to abort was one made to avoid the practical consequences of carrying the pregnancy full-term. The aim of an abortion was hence significantly different for married as opposed to single women, as was the meaning in which the act was embedded.

One fact is undeniably clear: the knowledge that married women had of abortions was resolutely kept from single women. None of the women interviewed, whose adolescent years ranged between the 1930s and 1960s, had the faintest idea, usually before they were themselves married, that abortion was employed by married women as a form of birth control. They all assumed it to be nothing other than a desperate remedy for pre-marital pregnancy; something shameful in itself and even dangerous but infinitely preferable to the disgrace and humiliation of public exposure:

It never even occurred to me until you [the interviewer] mentioned it just now that married women were having abortions. I've just always assumed that it was only pregnant girls. I mean, I didn't just think that when I was younger - I've *always* assumed it - until just now. (Kate)

I suppose I never thought about it. It was such a secret, and well, sordid thing that you simply had the idea that it was only those people who had no choice. I guess that's how I thought about it. So no, I don't suppose I did realise then that married women were having abortions. Of course, I've known since - friends - I mean married friends of mine have had abortions, but I suppose I didn't realise that when I was single. (Margaret)

from studies in the UK and from the Kinsey Report, the NSW Humanist report on abortion estimated that in 1963 about sixty-five thousand married women had abortions compared to about twenty-five thousand unmarried women. It also estimated that approximately twenty-five percent of all married women had one or more illegal abortions. (*Bulletin*, 5.10.63) It is possible that once abortion was liberalised more unmarried women had access to it thus boosting the numbers of abortions to single women as a proportion of the whole. Whatever the exact proportion was, it would appear that for most of the century, and possibly even into the 1960s, the majority of abortions were undergone by married women.

Yet, as previously indicated, if one takes the 1904 Royal Commission as a guide, the prevailing, and very likely correct, assumption earlier in the century was that it was largely married women who were the clients of illegal abortionists - “selfish” women who preferred luxury and comfort to their duty to race and nation. Over the intervening period, and certainly by the 1950s and 1960s, this notion of ‘duty’ as the alleged motivation for women’s childbearing was supplanted by that of the maternal instinct - that supposedly fundamental urge grounded in female biology and intrinsic to the nature of femininity. The other side of the maternalism coin derives from discourses of child development and emphasises the infant’s need for constant attendance by its mother if it is not to suffer the pathological effects of maternal deprivation. Finally, so the story goes, it is only via the experience of pregnancy, birth and childrearing that complete womanhood and femininity blossom into fulfilment.

This body of knowledge, as we have already seen, has been an integral part of the discourse of ‘proper’ femininity. But it was also a knowledge about the nature of women which stood to be undermined by exposure of the fact that so many married women chose abortion in preference to continuing an unwanted pregnancy.¹²¹ Moreover, the prevalence of abortion suggested that women could be much more pragmatic regarding reproduction, and much less prepared to sacrifice themselves, than the ideology of maternalism implied. In this, at least, we could almost agree with the Royal Commissioners; except that what they labelled selfishness could equally be construed from another perspective as self-determination. Despite the illegality of abortion, and the efforts of the medical profession and the clergy to control women’s fertility, many married women were determined, then, to retain that crucial measure of power over their own lives - the decision when to have children and how many - by recourse to abortion when they deemed it necessary. This insistence constituted a covert challenge to social definitions of femininity and accepted norms of female acquiescence. Although, presumably, most abortion decisions were joint ones within married couples, they still reflected women’s desire to exercise, indeed, to seize control over their own bodies and destinies, rather than cede it to institutionalised powers.

It was one thing, then, to publicly acknowledge the frequency and apparent amoral ease with which married women resorted to abortion when it was their duty and responsibility to race and nation that they were repudiating. After all, whilst women allegedly represented the higher moral values of the species, they were simultaneously defined as possessing a lesser moral conscience than men. In women, “the level of what is ethically normal” was seen as inferior to what it was in men, as was their capacity “to submit to the great exigencies of life” (Freud, 1977: 342). It would have been, however, quite another matter to do so once women were construed as fundamentally motivated by an inherent instinct to maternalism, their being thus conceptualised as driven by an essential urge to bear and rear children. Married women’s determination to control their fertility by abortion constituted a radical repudiation of what had been discovered to be the truth of their essence; of what positioned them in discourse, in material practice and in social relations.

Women and Pre-Marital Sex

Averting the public gaze from the reality of married women’s use of abortion entailed a denial of the actuality of the practice. Simultaneously, abortion became linked in tacit but muted knowledge with pre-marital pregnancy and thus, inextricably, with illicit sex; with sex for its own sake, or sex as the defining characteristic of the whore, the slut, the easy, cheap, or common woman or girl. Sex for its own sake, as exemplified in unmarried sex, was conceived of as ‘dirty’, and consequently young women or girls (but not males) who indulged in it, or who ‘gave in’ to the biologically driven sexual advances of men, were repositioned in discourse. Even if raped they ‘must have asked for it’, ‘really wanted it anyway’, or ‘got what they deserved’.

¹²¹ Whilst I write this I am reminded of the extraordinary tenacity with which so many people cling to the ‘truth’ of the maternal instinct *despite* the volume of evidence which can be summonsed to logically invalidate it. Innumerable tutorial discussions had by myself and colleagues with tertiary students bear relentless witness to this. Even though there has been some dilution in what it implies about women - and, by inference, about men - the existence of the instinct is still a pillar in the production of most forms of feminine subjectivity. Conversely, its ‘truth’ confirms, in its difference, the ‘fundamental’ nature of masculine identity and the biologically-given force of the male sex drive. Of course, the investment which people have in the existence of the instinct is a subjective investment in their own sense of identity.

This contradiction between sexual awareness [on the part of girls] as 'dirty' and at the same time [their] being responsible for leading boys on lies behind the division of girls into the two categories, of virgin and whore. (Lees, 1986: 164)

There is a sense too in which these terms and expressions (of abuse) connoted not only moral degeneration but also social inferiority, and hence via a curious slippage from the domain of sex to that of class (as popularly understood) they cast aspersions not only on a girl's sexuality, but also on her class status and family position. The 'lower' a girl's class the more likely was she to be identified as 'loose' and 'easy', whereas it was implicitly expected that a girl of 'breeding' would maintain herself as chaste and pure.

I started screwing when I was about sixteen, but I didn't do it any more than was normal. I grew up with the working-class attitude that if you had sex you hid it. Either you went out with a bloke for two or three years and he was honour bound not to tell his mates or you were seen as something that anyone could pick up in the pub and fuck. I found this very difficult; I liked sex but didn't like the social stigma of being considered 'dirty'. It was like this with the abortions too - I didn't want too many people to know about them. I just wanted to get on with my life. (Margo)

Whereas Margo was brought up in a working-class environment in the outer-western suburbs of Sydney, Margaret came from a very status-conscious family living on the North Shore and was sent to a prestigious private school.

I suppose I started to have sexual feelings from when I was about thirteen, although I didn't really understand much about sex or even how it was connected to babies. They were really strong feelings that I would get when I was having a cuddle or whatever with a boy. But I knew I had to be very careful about it all even though I didn't know why, and not even let the boy realise I had those sexual feelings. I was very lucky - I could have an orgasm (although I didn't know then what it was called or what it meant) just from having my breasts touched or from bodies moving against each other still with clothes on. But I wouldn't show that I was having it, and then I'd push him away, saying, "No, that's far enough". You see, by stopping before they got anything done to them, I mean touching them or going further, I absolved myself - it meant I wasn't loose or easy. They were dangerous labels to get; to be seen as someone that boys were after only for what they could get.

Her mother was, in Margaret's terms, "obsessed" with what other people would think. Any appearance of sexuality - mode of dress, makeup, particular behaviours, etcetera - was invariably condemned in class terms: "If you go around looking like that people will think you come from a common family, just like so-and-so." Margaret said she came to associate sexual activity with social classes other than her own, which she understood from her mother meant poorer people without "breeding". Her first sexual encounters were with boys met at forbidden venues in working-class suburbs or with local boys known to have had some encounter with the law: boys from "common families", as her mother described them.

I would never allow myself to get into that sort of situation with private school boys - that is, with the type of boy that my mother approved of me going out with. Instead, I'd lead a kind of double life: going to dances and parties with the 'respectable' lot of friends and, totally unbeknown to my family and others, meeting another working-class mob of friends in milk bars or wherever, in areas of Sydney no one from where I came from would have dreamt of going. It was with boys from this second lot that I had my first sexual encounters, though I was still careful not to be the kind of girl that they would have thought too easy or loose either. But overall, it was easier that way. I could keep up appearances and also avoid censure. Perhaps there was a sense that even though I was being on the loose side from the perspective of my own background, I'd found the rung on the social ladder that befitted my behaviour. And by the same token, I probably unconsciously felt they were less likely than the 'approved' set of friends to label me, simply by virtue of my different background.

Sex was construed on the one hand, as the cornerstone of marriage and its product as part of one's contribution to society, and on the other, as a sign of an individual's positioning in discourse, depending on the sex of the person. Whereas it affirmed the masculinity of men and served to locate them firmly (and proudly) in the "male sexual drive discourse" (Hollway, 1984: 231), it signified that an unmarried woman was 'dirty' and 'easy', and lacking in self-respect because she allowed men to 'get at her'. For women, these discourses on femininity operated as filters to sort out and define the worthy from the unworthy, the respectable from the unrespectable, the good from the bad.

Woman is not primarily defined in terms of her humanity but in terms of her marital or sexual status - wife, mother or spinster - or in terms of feminine or sexual categories - as virgin or whore. (Lees, 1986: 156)

Unwanted pregnancy in the unmarried girl was not only a condition, then, it was, more importantly, a *sign* locating the individual in those discourses. Abortion was a means of obliterating the sign and its connotations, and maintaining one's position in discourse on the 'correct' side of the divide.

How did you feel when you first discovered you were pregnant? (Interviewer)

Shock, horror - absolute horror! I felt absolutely desperate. There was no way I was going to have it. Have you ever lived in a small country town? Well, you can't imagine what it was like. There was such sniggering and finger-pointing, hush, hush, talking. It was one thing I wasn't having. There would have been people very keen to point the finger and say that stuck up so and so - she's no better than she ought to be and so on. So, from purely social reasons, pride, and also I would have thought I was letting my father down, also I couldn't have borne my mother's dramatics.

It must have been dangerous in those days. Were you frightened of having an abortion? (Interviewer)

Oh yes, because you heard stories of people dying from it. But in a way you would rather be dead than go through with it [the pregnancy] so I suppose you're willing to take the risk. (Enid)

I was utterly appalled, completely terrified of my parents' reaction. I knew I would have got the worst beating of my life and they would have treated me like dirt. One way or another I had to get rid of it. (Margaret)

Folk Remedies and Abortifacients

Earlier we saw Kate's reaction: powerless to do anything about it she completely denied what was happening to her body. In her situation it was just too dreadful to be true. The reactions which women recalled to the discovery that they were pregnant varied largely in accord with their knowledge, or lack of it, of how to get an abortion. Those who already had friends who could tell them where to go saw it as a disaster but thankfully one which could be rectified. For those who lacked ready access the situation was desperate. What emerges also is the complete disregard women had for their own safety, both in terms of the 'home remedies' and alleged abortifacients they tried, and in the quality of abortion they obtained. Any fears they had were overruled by the urgency of getting rid of the pregnancy. A surprising number tried various other methods before resorting to the abortionist, a testimony to the continuity and strength of folklore:

I always remember a woman I knew, poor thing - there were a lot of fairy tales about how you could bring it on, you see, drinking a lot of gin and sitting in a hot bath was one which was recommended but I never heard of it having a result - but this poor thing leapt off a little cliff; she broke her leg and she ended up as pregnant as she started. You know, I always thought that was a terrible thing. (Joyce)

Women's desire to find some means short of outright abortion and to avoid the expense of it had long promoted a brisk trade in less drastic, although mainly useless if not dangerous, alternatives. Max graduated as a pharmacist in 1956 and opened up a chemist shop in Kings Cross shortly afterwards.

I knew all about giving injections and things like that; I learnt it from a doctor who did abortions. I started to experiment with ways to terminate pregnancy. First I tried injections - a preparation which caused terrific contractions of the uterus - sometimes it worked and sometimes it didn't. Then I got into tablets. Large doses of oestrogen compound taken two to three times a day over three days brought it on like that [snapping his fingers]. I only used it in the early stages, I wouldn't use it past that - it could cause rupture - I had principles, you know. If they were past that sometimes I'd send them on to this doctor I learnt things from.

It was to this pharmacist that Val went in 1959 after hearing that he could get rid of pregnancies without abortion:

As soon as I realised I was pregnant I tried all the old remedies: exercise, hot baths, drinking castor oil. I asked around and was directed to a Kings Cross chemist who sold me tablets which were supposed to dilate the cervix. They didn't work so then the chemist - his name was Max - gave me injections which were supposed to bring on my period, for an extra fee, of course. They didn't work either. By then I was about three months pregnant and I was getting really worried, and I went back for more injections. It was a very hot day, I remember. I swam really strenuously, ran for miles and lay in the sun, and at the end of

the day started to bleed quite heavily. I'd decided that if nothing happened, I'd have to go and have an abortion. (Val, who was eighteen at that time.)¹²²

And I remember we got some tablets which I took and they made me shockingly ill. I remember we went to the pictures and I had to hastily rush outside and vomit in the gutter. And I thought to myself, "these are simply making me vomit; they are simply not doing anything". Oh, it was a dreadful feeling, and I'd wake up thinking I'd got my period, what a blessed relief, and of course, hadn't, and that went on after I was married; just to see them arrive was such a relief. (I've consumed a fair amount of gin and hot baths in my time. Never works for anyone, of course, but dulls the misery.) But I persisted and persisted, but all they did was make me sick, and so I said to Bert, "We'll just have to do something more drastic." (Enid)

The Abortion

Doing "something more drastic" meant, of course, having an abortion. Enid's story of this highlights a number of themes common to the abortion experiences of most of the women interviewed although her first abortion was in the 1930s, two to three decades before those of most of the other women. Surprisingly, only three women interviewed had what could be called 'quality' operations in medically proper surroundings with anaesthetic: one overseas, one by a Macquarie Street gynaecologist and the other - apparently from her description - at the Heatherbrae clinic at Bondi (the subject of the first prosecution following the police crackdown of the early 1970s). These were trouble-free and the women had little to say about them, being quite matter of fact and giving the impression that neither had left any particularly indelible memories. In contrast, most had experiences like Enid's, or worse, and they emphasised the squalid nature of the experience, their desperate wish to keep it secret from their parents, and the awful, sometimes almost intolerable, pain they endured. Even if they had not spoken of their abortions for years - and several had never discussed them with anyone prior to the interviews - it was apparent that for most, their abortions were ugly and horrible memories engraved in fine detail in their minds despite the passage of a quarter of a century, or even much more, in time. It is evident that it was the quality of the abortion and the events connected with it, rather than any notion of foetal destruction, which largely determined whether or not abortion was a traumatic experience and memory.

Having realised that abortion was the only alternative, Enid and Bert were then faced with a typical problem: how to find an abortionist whilst minimising the number of people who had to be made aware of her condition.

It was such a shady thing in those days and one had to be very reticent in the way you went about finding an abortion. It was a very different attitude from now and you had to be pretty desperate. It was only by word of mouth of course, and there were certain doctors who did it but I didn't know when I went whether it would be a doctor or not. I don't think he was a doctor, in fact I'm pretty sure he wasn't. We sort of had to ask around, you know, *very* diffidently; well actually, very diffidently. It was Bert who found it, through a friend of a girl he knew. I met her for a cup of coffee and I remember her saying to me, "Well, you intend to get married, why don't you hasten it on because it's the most terrible experience.", and she was quite right, it was too. She very reluctantly gave me the address; as I remember it was in Elizabeth Street.¹²³ It was a most tatty place. Another friend of mine who I later found had been there described it - it had the look of a place where blood had been mopped up recently - and it did too. Why people didn't get septicaemia I can't imagine. You made an appointment by telephone and gave a recommendation; it was illegal of course, and they could have gone to gaol. (emphasis in speech)

The man inserted something inside her to expand the cervix, sent her home and told her to go to an address in Woollahara the next morning. She had little understanding of what was being done to her or of what to

¹²² It is likely that Val's pregnancy was unstable which would explain why the injections worked. Once married, she had great difficulty carrying her two pregnancies to full term, having to spend most of them in bed.

¹²³ Colbourne (Matron and proprietor of Heatherbrae) refers to a "notorious abortion business in Sydney carried on under the name of 'Keller', sometimes referred to by patients as 'Dr Keller'. The business was started by the first bearer of the name in a building in Elizabeth Street.... 'Keller' must have died before the second war, and since then a number of people have worked under the same name." She says that the most common 'Keller' technique was to start a miscarriage by syringe and once the woman had begun to miscarry, she would go to a prearranged medical practitioner who would perform a curette. (Colbourne, 1973d: 1562) Presumably, this is where Enid went, the only difference between what she described and Colbourne's account being that Enid was not sent to a doctor but an apparently unqualified woman. Enid's experience predated Colbourne's description by some forty years so, on the whole, things had not changed much.

expect. "No generation could have been as ignorant as mine about their sexual organs." She had recently got a job in Sydney and was staying with her grandmother. They were living in one room and sharing a double bed together:

I went home feeling cold and shocked. And I shall never forget that night, I still remember it like yesterday even though it was more than fifty years ago now. Of course, it started to hurt and I daren't utter a sound. One thing I was making absolutely sure of was that my grandmother didn't know anything about it - it would have shocked her speechless - but now I don't think it would have. However, then I thought it would. I can always remember by sheer strength of will lying there next to her in bed and keeping my pain to myself - that night seemed to last forever - and sitting on the verandah the next morning wishing, wishing, that Bert would come quickly. It was almost unbearable by then.

They drove to the address given them and Bert waited in the car. She paid twenty pounds - "about five times the basic wage then" - to a "quite nice but very business-like woman" who then examined her. As the cervix was still not sufficiently dilated Enid was directed to walk back and forth across the room.

I've never forgotten that walking up and down, up and down, that room. There was an etching of a church on the wall I kept looking at, gritting my teeth and marching up and down. Finally, she decided I'd had enough and started to examine me again, and before I realised what was happening she just curetted me in cold blood. It was absolutely agonising. It took me by surprise and the pain was so intense that I cried out. And she shushed me, really very peremptorily, and I didn't say anything then, but, oh dear, it was such agony. When it was over I think I was in a state of shock - I just shook and shook and couldn't stop - and she gave me something, some hot whiskey, and I left with something said about if there was any trouble, if this or that happened, I was to contact her or the man immediately.

Whenever I think of it I think of icy cold, but I think that was just pure fear on my part and also the very tattiness of the first place [in Elizabeth Street] because I can remember that everything looked very old. No, it wasn't just that; it was something else but I can't quite put my finger on it. The man treated me with, well, with what you might call, chilling friendliness.

Enid had this abortion before the discovery of sulphonamides or antibiotics. Hence, if anything had gone seriously wrong and she had become infected her chances of survival would have been slim. The risk of fatality or sterility was certainly much higher before medicine had the means of dealing with infection. Nevertheless, the fundamentals of abortion technique were well in place by the end of the nineteenth century, there being no particular advances until the development of the suction method in the 1970s. Thus, after the advent of sulphonamides in the late 1930s and antibiotics in the late 1940s, any dangers associated with abortion were not a function of technical shortcomings or lack of knowledge, but of factors deriving from its illegal status. A dilation and curettage (D&C) performed in a proper and sterile medical environment by a medical practitioner with experience in terminations is less hazardous, both in terms of mortality and morbidity, than carrying a pregnancy to full term. Conversely, performed less than competently or without maximum regard for asepsis it can be very dangerous indeed.¹²⁴ The practices of some abortionists conformed to conditions and procedures which were as medically proper and competent as they would have been if the operation was legal (for example, Heatherbrae) but those of some others were substandard to varying degrees, whether in terms of the physical conditions, the competence of the practitioner (licensed or not), or in the techniques employed. One woman interviewed, as we shall see, had an abortion by an unregistered practitioner on a kitchen table, and in fact I have been able to confirm - in an interview with the chemist who referred women to him and assisted at the operations - that this was his normal procedure. Kate's abortion involved a technique potentially fatal in itself if not performed skilfully, and in her particular case either the syringe or the soap mixture used was not sterile, thus causing a life-threatening septicaemia. Nor was Kate's experience as rare as might be assumed: Enid's daughter, who was also interviewed for this research, related the story of an abortion she had in the early 1960s which was strikingly similar in its

¹²⁴ "Performed with moderate skill, and with appreciation of all the problems involved, the procedure can have a very high degree of safety. However, the pregnant uterus is particularly intolerant of bad technique. It is vascular and can bleed severely; the venous sinuses in the placental bed are particularly susceptible to the creation of emboli; the raw areas of the endometrium, and especially any placental debris inadvertently left behind, form an ideal site for infection, to which they are, anatomically, peculiarly exposed. Finally, the relatively inaccessible position of the uterus and the extremely soft wall of the pregnant organ make perforation a distinct possibility, unless particular care is taken." (Potts et al, 1977: 179)

horrendous detail to that of Kate's.¹²⁵ The same technique was used with similar consequences and she too ended up in hospital with a raging infection. Two other women interviewed had abortions by the same method, one without any ill effects and the other, as we are about to hear, suffering constant bleeding for several months. All were done by women, purportedly nurses, in their own homes and all cost twenty-five pounds, apparently the going rate for that type of abortion, compared with sixty to one hundred pounds or even more for a D&C performed by a medical practitioner.

Margot had been going out with a man for some time when he dropped her for another woman, but because she was still "very keen on him" she continued to see him and became pregnant. When she told him he disclaimed any responsibility, claiming she could be pregnant to anyone. So, she borrowed twenty-five pounds from a friend and

... went to this nasty lady who lived in a little cottage at the back of Cleveland Street there. She used one of those douche-type things. Luckily, I wasn't well advanced and it did work. It did work but I didn't stop bleeding, and after four months I was getting pretty concerned, but I'm one of those people who tends to turn a blind eye to anything until it's obvious that it isn't going to go away. And it didn't go away so one of my friends said, "Look, you are going to have to go to Crown Street [Women's Hospital] and you will likely get a curette". And I went to Crown Street, and I always remember that I was in a public ward, and the doctor came around with the group of students and I was lying there spread-eagled. "This is an interesting case; this is a really fine example of a botched abortion", he said, telling them all to have a look.

Incidentally, the latter part of that tale highlights the insensitivity encountered by some women from medical practitioners. We saw how Kate was subjected to repeated attempts by numerous, apparently curious, medical officers and the outright cruel moralism of the specialist. Additionally, during an outpatients check-up after hospitalisation, she, like Margot, was exposed in stirrups when the door opened and a large group of medical students were ushered in. The presiding doctor invited them to examine her "like an interesting object, without the faintest acknowledgement of me as a person, or any sense that perhaps they should ask my permission". She burst into tears at what she felt to be a violation of her dignity and demanded, but with what she attributes to sheer emotional exhaustion rather than assertiveness, that they leave. They did but, as she recalls, with what seemed an air of mystification that she should be upset. For the rest of the visit she was treated as a "bad and uncooperative" patient which, she remembers, had the effect of making her feel ashamed of her outburst.

In contrast to Margot, Dianna had two abortions performed by medical practitioners, one in 1966 when she was nineteen and the second two years later. The first, done by a Phillip Street surgeon, she described as "very good, actually", although she felt the experience of having to find an abortionist "traumatic" as it was "all illegal". The actual abortion, the physical procedure carried out on her body, was "revolting", but generally the abortion was "perfectly okay, really". She felt dreadful, however, for several weeks afterwards: "that's the problem without counselling; you think it's guilt and it's not - it's just depression caused by your hormones". Notably, this was all Dianna had to say about the first abortion. Apart from her concern at the absence of counselling, her way of speaking about it suggested a certain indifference and no sense of personal engagement with the memories she was recounting. Conversely, as she related the story of her second abortion, she became quite angry:

It was really revolting, I mean the way it was done was horrible and somehow disgusting. I could feel it inside me and it really hurt and he just said - he didn't say anything to *me*, I was made to feel just like a *thing* - he said to the woman there, "Oh, we'll give the next one more anaesthetic", as if we were chickens on a processing line. He was an awful man - his name was Smart, I think it was. In fact, he got busted

¹²⁵ Reliving that experience in the interview turned out to be particularly traumatic for Enid's daughter who had never spoken of it in such detail with anyone prior to the interview. In fact, she said that she had pushed most of it out of her mind for as long as she could remember. The interview brought to the surface all the minute details of the experience and the memories of the mental and physical anguish it occasioned at the time. She wept throughout most of it and for a long time afterwards. Whilst she said later that she found the interview cathartic it had disturbed her deeply. She asked that the tape be destroyed because, as she said, although she had no regrets about having talked with me or about anything she had said, she felt acutely embarrassed at the thought of me listening to it again from a dispassionate and analytic perspective. She added that she had no objection to me using any details I could recall from the interview without listening to it again on tape.

later and I was so pleased.¹²⁶ Anyhow, after the abortion I went up to Toowoomba for a while, and he must have left something in there or done something else wrong because I started to haemorrhage very badly and feel really ill. I was so frightened, I really thought I was going to die. And being in Queensland, you know what it's like up there, I was frightened to go to hospital in case they called in the police. Anyhow I was bleeding just so much the friends I was staying with carted me off to the hospital. And in fact, they [the hospital staff] were so fascinated by the whole thing I gave them all the details including who had done it - that bastard Smart - I think I sort of hoped they'd tell the NSW police. (emphasis in speech)

Contrasting two abortions had by Elizabeth in 1960 highlights the very different sorts of conditions and treatment which women could find themselves facing in the illegal underworld produced by the legislative prohibition against abortion. With the first pregnancy she was fortunate enough to be directed to Heatherbrae. Elizabeth was a friend of Val and the two of them took the morning off work and arrived at Bondi early in the day as instructed. Val went along for moral support and sat in the waiting room. The clinic was set up like any private surgical hospital and apart from handing over sixty pounds in an envelope first, Elizabeth was treated in much the same way as she would have been for any legal minor operation. She was given a curette and although it was an unpleasant sensation and hurt, as they warned her previously and were so considerate, she was not upset by it. When it was over she lay down for a while and they gave her a cup of tea. After a series of instructions about avoiding very hot baths, sunbaking and intercourse for six weeks, and contacting the doctor in case of bleeding or certain other symptoms, she left the clinic at about midday. They caught the tram back to the city, and Elizabeth recalls that after discussing the abortion they went on to chat about other unrelated things, which she saw in retrospect as a good indication of how non traumatic and 'ordinary' the whole event seemed. She felt fine and had intended going back to work for the afternoon, but as she had been told at the clinic to take it easy, she decided to "follow the doctor's advice" and go home to rest instead.

Unfortunately, several months later she became pregnant again, but attributed the first two missed periods to after effects of the abortion. When she finally realised she was pregnant she felt far too embarrassed to return to Heatherbrae so soon:

I would have felt absolutely mortified, really ashamed, as if I could not control myself or have enough sense to make sure it didn't happen again. I would have felt like a tramp or something, or at least as if they would think of me that way. It was a really stupid mistake. I think that one [the first abortion] was so easy and simple it made me think it couldn't be all that bad elsewhere. I couldn't have been more wrong though.

Val introduced her to the chemist, Max, who gave her the same injections as he had given Val but they didn't work. The chemist then said he could arrange an abortion for her by a doctor. "The chemist was in league with the doctor. And the story was, as we heard it, that he was a doctor in Greece but his qualifications weren't accepted here. That's why he was doing abortions, they said, so he could make a living." (Elizabeth). Val tried to talk her into going back to the Bondi clinic but Max was very persuasive, pointing out that his associate cost ten pounds less, and this, coupled with her embarrassment at returning to Heatherbrae, decided her to agree with the chemist's suggestion. By this time she was about thirteen weeks pregnant but she had allowed Max to understand that she was considerably less than that. He arranged for her to come to the pharmacy at closing time one night and then took her to a house where, it transpired, the operation was to be done.

I was told to undress and get up on the kitchen table with a sheet over me and just a towel on the table. It was utterly hideous. The chemist was helping him do something down there but when it really started to hurt he actually held me down. There was no anaesthetic and it took ages and hurt like hell. What made it even worse was that the two of them started to talk in Greek. At one stage I opened my eyes and the chemist had blood all over his shirt, and once, when it suddenly hurt even more and I yelled the chemist told me to keep quiet and put his hand over my mouth and it was covered in blood. Also, when I yelled the door suddenly opened and a woman - it must have been his wife who must have been in another room all the time - shouted in Greek, I suppose telling them to keep me quite. Later, Val found out he also had a little daughter who I suppose was there too. Isn't that incredible!... Whenever I remember it, I think of myself as being like a slab of bloody meat on a butcher's block and the two of them like butchers you see in a shop with blood on the front of their clothes.... When it was over, they gave me some antibiotics to

¹²⁶ Dianna is presumably referring to George Smart.

take and the chemist drove me to town and put me in a taxi. He didn't even change his shirt, just put a jacket over it. He seemed very agitated and said it was my fault that it hurt so much because I was more pregnant than I'd said.

We can juxtapose Elizabeth's account with what Max had to say about his role in assisting at abortions. At the time of the interview he was very nervous and extremely guarded about what he was saying, and generally behaved and spoke in a way which struck me as mentally unstable, even ill. He seemed to be very frightened and concerned that what he said might be used against him legally, despite repeated assurances and the inappropriateness of such a perception several decades after the events in question. I had been told that he had been imprisoned for an abortion-related offence but all he would say was that he had got into some trouble over not keeping his drug records properly. His fear of the law, some sixteen years after the liberalisation of abortion, and his attempts to justify his involvement (to me and/or himself?) were, in fact, the most striking aspects of the interview.

When girls came needing help I would first give them the injections, then tablets, and if these didn't work I would arrange an abortion for them. I was ethical that way. When nothing else in medicine worked I would suggest the abortion.... This man was an artist, a real artist!... I used to come and help with them. You know, you have to hold the vagina down while he was doing it. He used to do them on my kitchen table.... There were some ticklish problems sometimes, when girls were more pregnant than they should be. That was bad - three months or something - that's terrible, that's like murder. Bad, bad, the formation - the arms and legs and things - it wasn't nice, wasn't nice. I didn't like it. He didn't like it either if I brought someone too far gone and he'd started it.... He charged a hundred dollars [fifty pounds then] and I'd get twenty dollars commission.

Did you work with or send women to any other abortionists? (Interviewer)

No, oh no, I'd only work with him. You see, he was an artist; the best, the very best.¹²⁷ No, I wouldn't have anything to do with anyone else. He had real skill, real finesse. There was a woman who used to blow them up, use water and soap. That caused infections and things. She used to want me to work for her procuring, but no, I wouldn't have anything to do with that. And anyway, there was the commission - I deserved it - I was doing a service, though some people wouldn't see it that way. [With the 'market price' for that type of abortion being only twenty-five pounds there wouldn't have been much for Max in the way of commission.]

Were you ever troubled by the police? (Interviewer)

I was approached by a detective for bribes, top detective, high up. [He would not say whether or not he paid the police.]

What sort of women used to come to you, married or single, what ages? (Interviewer)

Young girls, unmarried, probably playing the field. You know, that sort of type. Not like you, [in an aside to Val,¹²⁸] I always knew you were a decent sort of girl.

Sexuality and Femininity

Being seen as, and experiencing oneself as 'decent', was the marker determining a girl's positioning in discourse as well as being an important element in one's sense of identity. Transgressing the powerful norms decreeing female puberty and adolescence to be sexless had the potential to make that period of a girl's life emotionally painful and fraught with anxiety. Alice, sexually aware and active from an early age remembers her teenage years as generally traumatic and deeply unhappy:

I think I was different from most other girls of that time in terms of sex. Actually, I still find it embarrassing now and difficult to admit to.... I started masturbating from about the age of seven or eight

¹²⁷ Max reiterated this point - that the abortionist was "an artist", etcetera - on numerous occasions during the interview. Any questions about his knowledge of other abortionists named by me were swept away by his insistence that the 'doctor' with whom he worked was "the best" and all others operating at that time were inferior. It was impossible to judge whether or not he had believed this at the time, had convinced himself of it since, or was merely trying to justify himself to me.

¹²⁸ In the early 1960s Val had become quite friendly with Max. She said that in those days he was very charming and had a lot of style. He must also have made a lot of money: by his mid-twenties he had owned two pharmacies in Kings Cross and one in the city. Twenty years later he had re-appeared, working as an assistant in her local pharmacy. He was by then living in a rooming house, having apparently lost his previous wealth. He did not dispense prescriptions in the pharmacy, leading us to believe that he had probably been deregistered. Val had persuaded him to be interviewed and had been present during it. In retrospect, given his reticence in the interview, we decided he had probably consented in the hope of striking up an old friendship. By 1988 he appeared a lonely, somewhat dishevelled and pathetic figure.

and actually having orgasms from then too. At the same time I used to play around with boys a few years older than myself - my cousins at first and then others - but the thing was, I was doing it because I wanted to do it. I can even remember plotting and planning how to get boys around to sex - I was always much to shy to be outright about it - getting them into situations where we were alone and then starting conversations which in one way or another led into it. As I got a bit older, about eleven or so, I started doing things like sitting in parks near where there were boys and going to places where groups of boys known to be into that sort of thing hung out. But by then I somehow knew that I wasn't supposed to appear to want it, and had to feign resistance at the same time as I desperately wanted them to force the issue so that I could eventually seem to give in with the appearance of being worn down by their insistence. In a sense it was a real problem: I desperately wanted to have sex - it was a real driving desire - but felt I must never let on to that or to the fact that I liked it. I was trying to give them the impression that they had more or less forced or tricked me into it. If I was ever accused of really wanting it I'd behave really insulted and in fact, even *feel* insulted. I most cases I would only do it once with the same bloke, because to see them again when they'd shown what they were about would be like admitting that I did want it.

Here we see a feminine sexual identity totally at odds with the asexual and virginal definition of how Alice was supposed to be and of how she herself had learnt she should be. The yawning contradiction between the discursive prescription and the reality of her own sexual desire involved her in a constant effort to deny, in the eyes of others, what she secretly knew to be the truth of herself. Prevented from merely acting out her desire, it is apparent from the way she spoke that, for her, sex progressively became the obsessive but secret core of her sense of self. But at the same time she was compelled to outwardly deny her desire, to convince herself at least that her 'essence' remained concealed from external surveillance. In juggling sexual satisfaction and a distinction between what she knew to be her true self and how others would perceive her she was able to keep at bay the inevitable shame of exposure.

But the other really awful part of it was that I would feel physically sick from guilt, and really, well, somehow, sort of *dirty* or something after having done it; in fact, immediately after it. So that was another reason for not seeing them again so I would not be reminded of that. Ideally, I would have liked them to disappear the moment it was over. Mostly then, they were just strangers who started talking to me in the street or the park or somewhere and I wouldn't run into them again. I would feel so bad and self-disgusted afterwards, just as I would after masturbating, and I would wish I could stop it, both the boys and the masturbation, but I had these terribly strong sexual feelings that I couldn't control. It didn't matter who they were, what they looked like, and even whether I liked them or not - I wasn't actually concerned with that - all I suppose I wanted to do was use them to have sex, but I couldn't appear to be like that. In retrospect, what I think made it all that much harder was that I didn't look at all like that sort of girl, I think I probably looked a very innocent and sexless little thing, and I was always so guarded at putting out the message, I needed to appear to be this passive decent girl who had to be conned into it. So of course, I was approached much less than I wanted to be. Probably just as well, looking back, or I would have ended up being raped, or getting pregnant before I did. Also, in a way it was probably just as well I chose strangers I'd never see again so I never became known as that sort of girl and my parents never had a clue, they probably thought I was a mature and independent thing, going off to town and the pictures and things by myself. I did a lot of things alone - I've always been a pretty solitary person - so I suppose that didn't seem odd to them; being so shy I was never part of a group of friends. I think it was all quite sad really, I must sound so pathetic telling you all this. But at that stage I would desperately have wanted more friends, but that had nothing to do with the sex; it wasn't like this notion going around today that lonely girls get into trouble with sex because they want someone to care - I wasn't interested in that, or in wanting boys to like me, I wasn't interested in them as people, it was quite another thing.

When she finally did get pregnant she felt "absolutely desperate to get rid of it" because a pregnant body signified the truth she had been compulsively hiding for so long. Fortunately, she was working and had saved money and was able to find an abortionist through a girl at work by pretending she had a friend who was pregnant. "I suppose she guessed it was really for me but I just insisted it was someone else." She made the appointment with the doctor and went to his surgery, paid him and then, as directed, stripped and got up on the examination table. He then said he wouldn't go ahead with the abortion unless she had sex with him first.

I don't know why he picked me. Presumably it hadn't happened to the girl at work or she wouldn't have recommended him. Perhaps he could sense how utterly desperate I was and prepared to do anything to get it over. And I was, of course, and I just said to myself that it didn't matter, I just had to have the abortion, so I let him. I certainly found out then that there was a difference between pretending to be forced and really being forced. It was revolting, but I kept trying to tell myself to treat it like part of the abortion. One awful thing too was that I was afraid at first that my body might react and I'd have an orgasm - I couldn't have borne to give him that satisfaction - but of course, it didn't, it was just vile. I hated him for it, and

whenever I thought about it after I just felt such hatred for him doing that. The other thing I was really scared about was that he wouldn't do the abortion afterwards, but he did. Even though that hurt like hell I was so angry and humiliated - humiliated too that I needed him to do the abortion - that it wasn't as horrible as him raping me, because that's what it was really; it was rape!

For Alice, negotiating her sexuality against a backdrop which denied the legitimacy of feminine sexual desire constructed her passage through adolescence as an anguished and guilt-ridden process. In fact, what she was having to deal with and hide was a sexuality which would have been considered and experienced as entirely appropriate, and even proudly valorised, in a male. Yet in a female body, it constituted a contradiction to the essential asexuality 'known' to characterise dominant feminine identity, constantly threatening to propel Alice towards a discursive positioning of deviant femininity. Following Weeks, we can see this making for a fractured sense of self, for a self constantly failing to perceive itself as mirrored in and aligned with a socially valued and esteemed femininity. On the individual level this failure was experienced as traumatic and painful. Also, because Alice's account of her history speaks to us so clearly as an instance of sexual and gender construction markedly different from the alleged norm, it affords a graphic insight into how sex operates as the medium, *par excellence*, for invasion of the body and self by power. Moreover, it is apparent here that regulation of bodies and sexuality operates not only through the social dissemination of discursive knowledges, but that also, and even more insidiously, via psychic processes and mechanisms constituted within subjectivity. Here, Weeks' insistence on the need to take account of psychoanalysis is relevant, not only in its more apparent insights towards an understanding of gender as a social construct, but also in the crucial interaction and tension which Freud theorised between the super ego and ego.¹²⁹

Whereas Alice shows us a feminine identity traversed by a sexuality customarily assumed to be masculine, and a process of producing the self which skates perilously close to social and self-definition as 'dirty', 'common' and 'sexually easy', Barbara, in contrast, presents a femininity which is virtually a stereotype of the ideal. She married at twenty-six, still a virgin despite having had numerous boyfriends including one very long and close relationship. She selflessly devoted the first six years of her marriage to bringing up her husband's two children from a previous marriage, then had two neatly spaced children of her own. When she became pregnant a third time she regretfully decided to have an abortion because another child would have been "too much for her husband to put up with". Prior to her marriage she had eventually refused to marry the young man with whom she had gone out for seven years because he was never going to "make anything of himself".

Her mother, Joyce, (also interviewed), had no doubt that it was Barbara's "keeping herself" which had helped make her the sort of young women attractive to the very thoughtful and generous, although considerably older, (and wealthy) man she did marry (and with whom she was, in fact, very happy). And indeed, it is arguable that it was this, at least in part, which gave Barbara the internalised sense of value allowing her to live and project a femininity which she thought made her lucky enough to be worthy of such a man: she hadn't 'thrown herself away' or 'wasted herself' before marriage on anyone of lesser stature! Importantly, to her mother it wasn't the wealth which mattered so much (although she wanted her daughter to be spared any nagging financial worries and, even more to the point, to be free of the exasperation and frustration of having to beg a niggardly husband for money); it was being in a position to widen one's choice of men and therefore the possibility of a decent and reasonable one. There was a grim understanding on Joyce's part that men had a lot of power over their wives if they decided to use it, and therefore young women needed to be very careful in selecting a husband. Thus, Joyce successfully schooled her daughter against marrying too young: a husband chosen in immaturity was likely to be a mistake (and moreover, there was more chance of ending up

¹²⁹ I do not believe it is appropriate here for me to embark on a crude attempt at pseudo-psychoanalysis of Alice (or of any of the other interviewees). Apart from the question of validity it would be an unethical impertinence on my part. Such a project would require specific skills on the part of the researcher and the knowledge and permission of the people concerned. Moreover, it would be an unnecessary digression; the point here is to demonstrate the linkage between discourses of femininity, sexuality and abortion. Nevertheless, I would suggest Alice's account does show that Weeks, and others (for example, Gross [1986] and Connell [1987]), are correct in asserting the value of psychoanalysis to theorisations of subjectivity and identity. Alice spent some years in Freudian psychotherapy which no doubt influenced the way she spoke about her sexuality and the links she herself made between it and her abortion, whereas most women (but not all) tended to recount their abortions in isolation from other aspects of their selves. Her experience in psychotherapy probably also explains, in part, the revealing honesty which Alice brought to the interview.

burdened with too many children). She knew that the wrong sort of man could make a woman's life a misery. But apart even from that, she warned, most men demanded their wives' total attention be directed to them and the home, and they prevented woman from having any independent life or interests.

In Barbara we can see, then, a (largely idealised but nevertheless sometimes real), form of femininity being constructed: she was actively engaged in 'making' her identity within a discourse merging sexuality and class. With parents who had worked their way out of the working class to a comfortable lower-middle class life she was herself deeply imbued with an ethic of social mobility and was able to merge easily into the established upper-class culture into which she married. She still, in the 1980s, frowned on pre-marital sex and she and her husband had been deeply disturbed, even grieved, when one of his daughters from a previous marriage had gone to live with a man. So, she had incorporated those values about virginity, love and marriage into her sense of self and her view of the way things should be. This needs to be distinguished, however, from a simple moralism on her part. It was her interpretation of the sort of femininity appropriate to a young woman of her stepdaughter's class, and a 'way of being' most likely to bring her happiness, as it had Barbara herself. When she did have an abortion it was for the sake of her husband and her marriage. She told me she would have liked another baby but realised that would have been 'selfish' of her in view of her husband's age - they would have ended up childrearing for the rest of his life - and the fact that he had already had four children. Thus, for her, the decision to abort the pregnancy was the proper and responsible course of action. (This is a total inversion of the Royal Commissioners' view of women's 'selfishness'. Historically, it has more in common with the radical liberalism expressed by Judge Windeyer a century before and condemned by the Commissioners: that there could be family circumstances where not to practise birth control would be irresponsible.) Nevertheless, she chose not to go to her normal gynaecologist and obstetrician, preferring the anonymity of Pre Term.

Barbara's is a feminine identity forged in a childhood and adolescence experienced between the mid 1940s and early 1960s, one closely aligned with the dominant or, as Connell et al (1982) express it, 'hegemonic' ideal of femininity prevailing at that time. The period could well be characterised as the high-water mark of romantic love (or in Summer's terms, as the crest of rampant puritanism) - indeed to speak of it in terms of sexuality would have been to speak 'out of place' - the discourse was one of love and marriage fuelled by romance stories, women's magazines and endless hours in the cinema with Cary Grant and Doris Day. Virginity was publicly valorised (and privately defiled by men at every opportunity); girls understood they should remain chaste until marriage - or at least, publicly appear to do so - and that a future husband had every right to expect this. Any fall from grace needed to be kept resolutely hidden, and a girl looked forward to a romantic and (at least seemingly) chaste courtship and a white wedding symbolising her 'wholeness'. Whilst from the vantage point of the 1980s we look back and see hypocrisy and charade, and chuckle knowingly or exclaim angrily at the transparent contradiction between public expectations of virtuous females and experienced males, it is easy to discount the fact that for many young women growing up then, like Barbara, that discursive construction of femininity 'worked'. For some, like her, it worked so well that it remained resiliently intact through the disruptions and perturbations in sexual discourses and practices of the later 1960s and 1970s. This is an important point which can be all too easily overlooked by feminist critiques, and its a point to which I will return below when dealing with right-wing women.

Discourses, then, are not only systematic, although often contradictory, constructions of knowledge which classify, hierarchise and make sense of social reality; they are simultaneously systems or frameworks of meaning within which subjectivity is constructed in a complex interaction of determinancy and agency. Nor are they mere representations or reflections of social reality and relations; they actually organise and structure social reality, they are in fact *material practices* (Lees, 1986: 159) employed on and by subjects in the process of identity formation and definition. In this sense discourses are like tools or instruments of production which are utilised by others, by groups and institutions, and by subjects themselves, in the process of working on and making subjectivities. Subjecthood, or the state of social human being, is not an *a priori* given: it is created out of, by, and through social interactions, material practices and discourses (which are in turn products of human agency). Discourses are the media utilised by subjects in the process of coming to know themselves, the world around them, their relation to it and their position within it. They are the means allowing individuals to negotiate and navigate their way, sensibly and congruently, through social reality -

psychically, emotionally, cognitively, economically, etcetera - at the same time as subjectivity is produced in and by them. Nevertheless, the range of discourses available, although theoretically infinite in possibility, is in practice remarkably limited; a closure of possibilities inextricably linked to the history of the social formation and power relations (particularly relations of gender).¹³⁰ Discourses then, are productive - and in this way too they are material practices - in that they allow for the construction of, amongst other things, subjectivities. It is a subjectivity forged, however, within the parameters and constraints of historically specific discursive potentialities, parameters which have been drawn, marked out, and operate in the interests of power relations. In this sense, power actually invades the subject, in that its very constitution is integrally steeped in the exercise of power; only particular ways of knowing and interpreting reality are possible; only specific mechanisms for accommodating and positioning the self within that reality are available. This is not to suggest that the miniature of subject construction is (pre)determined or fixed. In the process of making the self, subjects exercise agency, reflexivity, and choice: identity formation is a process of negotiation between self and the environment. Nevertheless, it can only be carried out within what is knowable and thinkable.

Whilst pre-marital chastity had become central to Barbara's feminine identity, her mother's adoption of that course of action a generation before had a more pragmatic rationale. She said that although sometimes tempted, she had been afraid she might have liked sex and been "unable to stop", revealing a fear of sex as some powerful and potentially dominating force. Similar to how Kate described her mother's view of sex, Joyce saw it as the only potent resource women had in negotiating relations with men - "you didn't throw it away easily" and "once a girl gave in they weren't interested any more" - therefore, implicitly, a woman couldn't afford to 'like it'. To 'like' sex and indulge in it before marriage meant also that a woman ran the risk of being re-defined in discourse, as Joyce knew and as we saw threatening and constantly destabilising Alice's self-construction through adolescence. The dread of being located and positioned socially in terms of the discourse of 'whore' or 'slut' was a powerful form of regulation; labels like 'cheap' and 'common' defied exact definition, their meaning floated uneasily whilst fusing together sex, class and status in a confused but telling jumble.

Married Women's Networks

What is apparent too with the shift in the meaning of abortion accompanying the married state, was a new possibility of access to networks of information more readily available to the wedded woman. The 'sacrament of marriage' conferred on her a new status and dispelled the haunting threat of shame. The right to privacy over one's body and sexuality was now respected and what one did with one's body or allowed to be done to it was no longer exposed to the same kind of intrusive and humiliating public surveillance. Although still a matter of some embarrassment, the legitimacy which marriage bestowed on sex and pregnancy afforded women a certain freedom, allowing a degree of frank, although still muted, discussion. Shared sets of understandings about the genuine difficulties of unwanted pregnancy made discrete enquiries possible, and likely to be fruitful. With contraception precarious and difficult to obtain anyway, many people appreciated that recourse to abortion was often a necessity for married women. In contrast to the painful and ugly abortion she had prior to marriage, Enid remembers the second one very differently:

By this time I knew more people in my situation and we knew of a doctor - he really was a doctor - and it was done in a much kinder fashion, out near Centennial Park. It was in a spotlessly clean and scrubbed up sterile kitchen that they actually did it and he had a proper nurse and everything was above board, almost. In every way it was a much kinder experience. There were three of us, all friends, about the same age and one of the others knew of him because she'd had one there. We all ended up having two children and one abortion [when married].

Notably, this was all Enid had to say about that particular experience, a retelling which contrasts vividly with the detail she sketched of her first abortion. Not only was that physically traumatic, it was swathed in secrecy and the dread of exposure, two of the elements which appear and reappear as major influences in constructing women's experience of pre-marital illegal abortion as traumatic and ugly.

¹³⁰ Discourses do not float unattached over, or independent of, material reality and history; rather - following Giddens's theorisation of structure and agency - we can conceptualise a 'duality' of discourse: discourses are both constitutive of, and constituted by, social reality and history (Giddens, 1984: 25).

In suburbs of old established working-class communities where people were unlikely to have access to medical practitioners for abortions, or to have the money to pay for them even if they did, certain women with experience in nursing or midwifery often functioned as the local abortionist. (Arguably, these women were accepted as performing a necessary service in the pre-War era, but more latterly, with increasing monopolisation of illegal abortion by medical practitioners – promoted in part perhaps by a more widespread affluence which meant that most women and girls either had, or could borrow, the much larger amounts of money demanded by medical professionals – they came to personify the ugly and dirty backstreet operator.) When Gwen found she was pregnant early in her marriage, she and Vic went to see his mother who lived in Balmain, then a working-class community with a heavily Irish-Catholic heritage. Vic’s mother herself was Catholic although she no longer practised, due probably to having divorced her husband years before after he deserted her. (Divorce had been essential in order for her to find a new provider, an unattached mother of two small children would otherwise have been in a desperate state financially.) Vic’s mother was a “very practical and capable person” and she agreed with the couple that it would be unwise to start a family at that stage:

And that was the first time I realised she could do that sort of thing. Vic knew she did, because she did it for friends and neighbours. Most of the women she did it for were married and had already had all the babies they wanted. I didn’t find out much about it then but later I met some women she’d helped out. She didn’t make a charge for it but she expected something as some sort of payment, like a gift or something. One of these women told me she had visited her with a nice piece of dress material. She [her mother-in-law] took a fancy to it and said “I’ll have that for what I did for you”, and just more or less took it because she liked the look of it. I don’t think it was advertised around so that strangers came to her, just friends, neighbours and friends of friends. You would have had to know someone who knew her. People thought of her as a nurse, but she wasn’t a qualified nurse, she had just worked at a hospital somewhere or as a nurse’s aid or something – not a Public hospital – and I suppose that’s where she learnt it. She probably got the instrument that she used there too. It was some sort of a catheter thing they called it – to me it was just a curved metal looking rod thing with a little hole in one end or something – I don’t know just what that was supposed to do. See, she inserted it and it had to stay there for some time, from memory about twelve to twenty hours. It was about nine or ten inches long and it went right in, I think it had a cord attached. You could walk around – it didn’t hurt – more a slightly uncomfortable feeling than a pain. It didn’t hurt when it went in either, so she must have been pretty good at it, and I guess that means she had a lot of practice. She was very matter of fact about it, professional, I suppose you could almost say. She removed it, and then when everything started to come away we called the doctor just to be doubly sure, although she didn’t normally do that. Apparently, it always worked and she’d never had any trouble. He put me into hospital and gave me a curette. I told him I’d had it done, but of course not who did it. He was a very understanding man, not at all difficult, he didn’t say I shouldn’t have done it or that it was wrong or anything – he was a man who understood about things. I didn’t feel bad about telling him, just embarrassed. We were all embarrassed about things like that in those days. For people of my generation it has never been easy to talk about things like that. I remember when I was about eleven or twelve and started menstruating, my mother couldn’t speak about it and got a friend of hers to talk to me.

Parental Surveillance and Sexuality

Whilst the difficulty experienced by mothers, like Gwen’s, in communicating with their daughters about sex and the reproductive processes of bodies is now commonplace knowledge, it is usually interpreted simply as a reflection of women’s inhibitions about their own sexuality. Mothers of the generation supposedly ‘freed’ from their inhibitions by the sexual liberation and Women’s movements have had to shoulder a good deal of personal blame for their inability to educate their daughters about sex without shame and anxiety, and have been burdened “with so much guilt for having once made sex a sin” (Foucault, 1980a: 9). This received wisdom does indeed make sense of people’s experience, but on another level of analysis it can be seen not only as simplistic, but as trapped within that framework of interpretation that Foucault has termed the repression hypothesis. Within those terms our mothers, and their mothers too, were products of the Victorian regime which repressed sexuality so forcefully and successfully, both individually and socially, that it was eliminated from private and public discourse and virtually from consciousness. With respect to children, Foucault’s parody captures the essence of this assumed repression:

Everyone knew ... that children had no sex, which was why they were forbidden to talk about it, why one closed one’s eyes and stopped one’s ears whenever they came to show evidence to the contrary, and why a general and studied silence was imposed. (Foucault, 1980a: 4)

According to this set of understandings the sexuality of individuals was so twisted and deformed by societal repression that it was incapable of natural expression. Virtually disabled themselves by the damming up of

their own erotic impulses, parents, and particularly mothers, were totally incompetent to deal ‘naturally’ with the sexual maturation of their children’s bodies. Accompanying their own crippling inhibitions was the fear that sexual knowledge in itself could lead to the corruption of innocence, catapulting the child into a fantasy world of carnal desire and actual degeneracy.

Emerging from the interviews for this study, however, is another aspect of the processes operating in interactions between parents and daughters, one which puts the emphasis on the child or emerging adolescent rather than on the mother. At the beginning of this chapter Kate spoke of the disgust which any form of intimacy with her parents entailed for her. To have them thinking about her body in sexual terms, or knowing what it had experienced was, for her, a “revolting” thought. It wasn’t *only* fear of their reaction, or shame in the ordinary sense for having transgressed; it was a deep and nauseous repugnance at them being privy to her innermost and most private recesses, a shrinking recoil from them inspecting and ‘picking over’ her desires. Anything, and as it turned out, almost death, was preferable to them knowing the truth of herself and her body. In this context, and in an attempt to relay the depth of aversion, she related an incident which occurred when she was about seven years old. After being caught with a boy cousin of about the same age observing each other urinating, she had been subjected, first by her grandmother and then by her mother, to an explicit and detailed questioning and cross-examination of what they had ‘done to each other’; sessions, which in her memory, she was sure went on for several excruciating hours. She remembered still the sickening pain in her stomach as they pried relentlessly into what they imagined or feared could have happened.

Every year, dozens of thousands of girls ventured into the sordid underworld of the illegal abortionist, not knowing usually what they would encounter, allowing strangers in often grimy circumstances, on kitchen tables or floors, to penetrate their bodies with instruments or douches. From newspapers and gossip many of them knew they risked pain or even death; they spent their savings or borrowed large amounts of money; and all this to avoid telling their parents of their condition.

In a 1965 trial of a woman charged with performing an abortion which resulted in the girl in question spending six weeks in hospital in a critical condition, the judge remarked on how disturbing it was that “unmarried expectant mothers were frightened to confide in their parents”. Judge Clegg said it was even more disturbing that instead, they felt “more or less compelled to undergo illegal operations performed by untrained persons in unhygienic conditions”.

It seems a great pity in this enlightened age there are existing circumstances where young people ... are afraid to tell their parents of the situation in which they find themselves. It is rather disturbing that there are parents who bring about fear in their children. (quoted in *SMH*, 25.6.65: 8)

What processes were at work to drive girls to such desperate solutions, what dynamics so common to the parent-daughter relationship? Kate’s case, whilst so stark and etched in with detail and insight, is by no means isolated; all women interviewed automatically recoiled from telling their parents regardless of the quality of their relationship with them.¹³¹ Margot, for example, had a “really good relationship” with her mother, who was, for the era, unusually frank about sex, and understanding of the sorts of difficulties it could pose for adolescent girls. In fact, at various times, four of Margot’s friends who had become pregnant, but feeling loath to approach their own mothers, had gone to Margot’s mother for help and advice about getting an abortion, and she had supported them through the experience.

I was very attached to her. My mother was a very intellectual woman - different from other women. I was brought up to believe that I could be different and independent. We were very close to each other. She was very good in some ways, like about sex: it was alright for women to enjoy it - everyone liked to screw, but on the other hand she saw it as fairly mechanical, as relieving a physical desire ... I had two abortions, but even though she helped my friends - she was the one that all the girls went to with their

¹³¹ Whilst none of the interviewees for this research told their parents we know from various sources that many girls did or that their condition was discovered by them. For example, Enid spoke of the common incidence of parents adopting as their own their daughters’ babies. Daphne Colbourne, matron of Heatherbrae, referred to girls who came for abortions accompanied by their mothers although she did not include this as one of the ‘typical’ types of cases with which they dealt (Colbourne, 1973c, 1511); much more common was the unmarried girl or woman alone or accompanied by the boyfriend or a girlfriend. It would seem likely that in most cases where girls did confide in parents it was done as an absolute last resort when there was no other alternative.

problems - I couldn't tell her I was pregnant. It's funny, I don't really know why. But I just didn't want her to know, even though it would have been much easier.

When she was still bleeding four months after the abortion and decided she should go to Crown Street for treatment she was still at pains not to alert her mother:

I packed my little dilly bag and told my mother I was going to spend a night at a girlfriend's and went in. I had to hide my shaved bum from my mother for four weeks which I found the most difficult part of it all. You know, how could I explain to my mother why all around my vagina had all been shaved? I couldn't think of an explanation that would work if she saw it, but I really didn't want her to find out. It makes me wonder now, come to think of it, because it wasn't that I would have got into trouble or anything, but I just didn't want her to know.

At another point in the interview when referring again to her mother's attitude to sex - "sex was a fairly cold, rational, mechanical thing and never intimate" - she switched to her own feelings about men sexually:

I think I have shied away from men that wanted some sort of intimacy, because I found intimacy to be really demanding and oppressive. They wanted you to give part of yourself, which was very much part of you. That form of intimacy is really threatening - I think that's governed most of my sort of relationships with men. Intimacy means you are giving part of yourself, and that makes you so vulnerable, and it drains you emotionally. I've been involved with men who were sort of resentful almost, that you wouldn't give that deep bit of yourself. I've been accused of 'fucking like a man' because I can enjoy just the physical pleasure of it. It's either that they want to overpower that last part of yourself, or it's that they think you're a bit of a tart or something, being able to just like sex.

Parental Invasion and the Truth of Sex

There is a parallel here between Margo's aversion to telling her mother of her pregnancy - which seems almost irrational given her mother's demonstrated attitude - and her distaste of total intimacy with men, including those with whom she has been deeply involved. Both instances are characterised by a refusal to surrender to, or have seized by, someone otherwise exceedingly close, a central, private core of the self. This point crystallizes starkly in the case of Kate: to her, for her parents to know of her sexuality was tantamount to having her mind and body ripped open for voyeuristic inspection. And in both cases, the critical point is that the 'knower', or the other with the 'will to know', is one who in most, if not all other respects, is the most intimate of associates. Both could confide in friends, both allowed untrained strangers to invade their bodies in dubious circumstances and in ways they didn't understand. Virtually *anything* was preferable to having one's intimates intrude into the private, ultimate truth of the self. This is not mere literary overstatement: in her letter to the *Herald* (previously cited) Dr Anne Leach recalled several instances from her own experience in the early 1950s of pregnant young nurses jumping to their deaths from the top of Royal Prince Alfred nurses' home (*SMH*, 23.7.88). Margaret expressed similar feelings in her interview:

I would rather have jumped off the Harbour Bridge than have them find out! It would have been the most enormous invasion of my privacy. My body was my business - even then I felt that very strongly - there were no rights or wrongs with what I did with my body. They would have tried to shame me: it wouldn't have been my shame at feeling I'd done something wrong, but an externally imposed shame - 'Look what you are doing to your mother!', or 'what will people say if they find out?'. (emphasis in speech)

Certainly, there is a subtle difference here between Margaret on the one hand, and Kate and Alice on the other. Margaret appears to have established a more solid sense of sense which enabled her to more easily fend off the incorporation of societal and parental condemnation. Hence, she spared herself the anguish suffered by Kate and Alice by their internalisation of shame. Nevertheless, all three showed a similar and profound aversion to parental surveillance of their private sexual selves. It's worthwhile pointing out here the contrast with Enid and her reaction three to four decades earlier. There was no sense in what she said of *personal* shame at the thought of exposure of her sexuality; rather there was a proud determination not to give others the satisfaction of 'pointing the finger', and to avoid being the cause of shame to her parents. Likewise, and very importantly, there was a complete absence in her account, detailed as it was, of any sense that her parents' knowledge of her pregnancy would have constituted, for her, an intrusive and distasteful invasion of her inner self. Whilst this is a matter of mere conjecture, being based on only one interview, it's worthwhile considering whether the deployment of sexuality and the operation of power *within* psyches and bodies - Foucault's instalment of sex as the truth of the self - only developed, at least amongst the Australian working

class, in the post-WW11 period. This would parallel the era we can see as the apogee of 'rampant puritanism'. It would also coincide with the triumph of the ultra-privatised, hyper-emotionalised nuclear family, a form of familial organisation most likely to promote a hitherto unrivalled degree of unconscious erotic investments coupled with equally deep aversions and rejections.

Margaret's case affords us a graphic example of parental surveillance of the female body and sex. From about the age of thirteen her father began beating her for any wrong, real or imagined. The beatings were regular and brutal. He would take off his belt and, holding her down on the floor, beat her with the metal end until her thighs and buttocks were covered with black and blue welts. Very often, the reason for a belting had some association with sex: coming home late after being out with a boy, wearing clothes likely to 'cause trouble', or just 'looking like' she would draw (sexual) attention to herself. Whenever it happened her mother would just purse her lips and leave the room shaking her head, indicating that Margaret deserved whatever she got. (Margaret's persona and style project a strong image of sexual attractiveness and no doubt already did in those earlier years, something her parents were obviously aware of.) Reflecting on it in later life, Margaret recognised the all too obvious incestuous undertone to these incidents. She had been her father's favourite, and she thinks her puberty 'provoked' his (unconscious?) desire, which found expression in physical violence. It also became clear to her that her mother was disgusted by sex and approved of her father "belting it out of her".

This tangled familial web of desire and violence would be explicable in psychodynamic terms, but importantly, it also offers insights into discourses of sex and their interaction with power and knowledge. At the most immediate level, Margaret's terror at her parents discovering she was pregnant was a justifiable fear of the inevitable violent repercussions. Former beatings would pale in significance and brutality compared to what she could expect if that were revealed. But beyond that was another, in some way more sickening apprehension:

It would mean that they would know I'd had sex, that they would be able to picture in their minds what I'd done. And then knowing that would be like them doing it to me, like rape. My father in particular, him *knowing* it would be *like him doing it* to me, like *him actually raping* me. The very thought of it makes me feel revulsion even now at the invasion of myself. It would be like my innermost self being exposed and violated by them.

She was never permitted any privacy. A closed door or a low-voiced telephone conversation provoked cross examination. She felt watched, eavesdropped and spied upon, as if, she later realised, her parents were always looking for clues indicating any sexual activity. Yet this began before she even knew about sex and what it entailed, let alone experienced it.

When I was about fourteen, I'd gone for a walk up to the local shop with a boy to have a milkshake. It must have been late Autumn or Winter because by the time we were coming home it was dark. We walked through the park down by the water and on the way we stopped and had a bit of a kiss and cuddle. At this stage I knew virtually nothing about sex, although I was getting sexual feelings. I knew there was this whole mystery and secret about something to do with that part of people's bodies, but I also had some notion that whatever it was, only bad people, like criminals, did it. Anyway, I got quite excited and in fact had what I later realised was an orgasm just from cuddling, although I didn't let the boy realise what I was feeling and stopped it all before it went very far. When I got undressed that night I found my pants were marked; it was really noticeable because I remember they were navy blue pants which we wore for sport at school. I didn't understand what it was, yet I connected it with what we had been doing and felt I had to hide it. So, I washed them by hand and then hung them out of my bedroom window to dry. But my mother came in and when she saw them, she started to look like thunder and wanted to know why I had washed them because I never did that. I was late starting to menstruate so I didn't have that to use as an excuse. And then she started and it was dreadful and I remember one thing in particular she said - 'you'll never get married now, you're soiled' - but I didn't understand what it all meant or just what I was being accused of. Eventually, somehow, I got her to explain about intercourse and virginity and hymens, but I was still confused about what she was accusing me of. Later, I realised that she must have thought there had been blood on the pants from me losing my virginity. She wouldn't believe that I hadn't done what she was saying and next day she kept me home from school and took me to the doctor to be examined, but he refused to do it and told her I was obviously telling the truth.... Even at the time I found the whole thing the most awful, vile invasion of my privacy; feeling such disgust that she had that power and control to think that. I mean, well, I don't mean 'think' that *of* me, in the sense of right or wrong, or how could she think *that* of me, as if she were misjudging me, but more, well something like, like outrage, that she had

this power that I couldn't stop, to think about *me* in that way, you know, to think about *me and sex*. Although I didn't know enough to express it that way then, but that's what it was that I felt.

Clearly here in this micro relationship, we can see power operating by penetrating and invading the body through the medium of knowledge, and that which it seeks to know is 'the truth of sex'. In Margaret, that truth which power pursued was her 'innermost self', her private, central core, which her parents aimed to control and discipline. Through relentless surveillance they sought to hunt down, pinpoint and discover the truth of that core; by bodily punishment to exorcise and eliminate it. The medical practitioner, with his expert knowledge, was called upon to delve into the truth and pronounce it. Her mother wanted him, under the guise of medical objectivity, to physically invade Margaret's body, to search out and affirm the evidence of her sexuality. Foiled in this attempt, she continued throughout her adolescence to relentlessly track down what she 'knew' was the truth, that sex did indeed lurk and hide within her daughter's body. In this process Margaret's sexual subjectivity and feminine identity was also being actively constructed. Her history is like a microcosm of the wider social processes described and analysed by Foucault. In these processes of familial interaction, we can see her identity being constituted so that she herself comes to experience sex as her essence: as the centre and the wherewithal of her feminine identity.

She became convinced that the only way to escape her parents' intrusiveness was to leave the country, which she did at nineteen - her father still beating her right up until the time of her departure - only returning eight years later when she was married and thus freed by her wedded status from her parents' control. A few years after she left but before she met her future husband, she became pregnant. She thinks this was almost deliberate; she knew she was in her fertile period of the month but decided not to use contraception. She was in a country where abortions were easily obtainable and properly done so she had nothing to worry about in that respect. In the meantime, she allowed herself the pleasure of knowing she was pregnant:

I knew I would have an abortion but nevertheless I went around feeling very happy and pleased with myself. I really liked the feeling, or I suppose the idea, that I was pregnant; it meant being terribly female and I was ever so proud of that. I kept feeling that I wanted to shout out in the streets that I was pregnant. I remember proudly telling the bread vendor and feeling ever so thrilled at her congratulating me. I let that go on for a few months, just simply indulging myself, and then found a clinic and went along.

What is striking about this is how being pregnant fortified a sense in Margaret of essential femininity - a femininity she experienced as grounded in her femaleness, in her biological sex and the capacity to conceive - and yet she experienced no desire to actually carry the pregnancy full term and have a baby. There was no question of doing this and no hesitation in aborting it at the appropriate time. Equally, there was no remorse at having an abortion, no sense of loss or of guilt. What she did feel was guilt at *not* feeling any guilt. Indeed, she tried to provoke in herself some feeling of guilt because she thought her lack of it meant she was "probably cold or callous". But in her heart she didn't really think that she was - "It was my body and if something was growing in it I didn't want I had the right to get rid of it" - and yet she still tried to feel guilty. She even went so far as to go and confess to an Orthodox priest and ask what she should do (although she wasn't religious and didn't belong to any Church). He told her she had committed murder and should feel remorseful for the rest of her life. She says that the 'baby' wasn't a baby at all to her - "all it was me *being pregnant*" (emphasis in speech) - and that was a "great" feeling which she allowed herself to enjoy for two months.

In fact, none of the women interviewed did feel any guilt after their abortions although Margot, after being berated by a Catholic friend, felt forced to "manufacture" a display of guilt to placate her friend who had made her feel, like Margaret, that she should feel remorse. This lack of guilt contradicts assumptions inherent in the alleged maternal instinct and, as we shall see in the following chapter, psychiatric 'knowledge' of the psychological sequelae of abortion. Margaret's case also shows that any trauma associated with pre-marital pregnancy and with abortion is clearly the product of material, cultural and personal circumstances.¹³² Secure in the knowledge that a safe abortion was readily available, isolated in a foreign country away from the

¹³² This has been confirmed in numerous historical and comparative studies (see for example, the collection of articles in David et al [1978]) and became clearly evident in Australia and elsewhere once abortion access was liberalised or legalised.

prying eyes of her parents and her home community she felt no sense of desperation and no fear of parental or public exposure and shaming.

Feminine Identity and the Female Body

Subsequent episodes in Margaret's history are enlightening too in terms of the cultural production of feminine identity and its relation to pregnancy and childbearing. Once married, she had one baby and intended to have another because it was then generally considered "selfish" to have an only child: "People thought then that only children grew up to be spoilt and self-centred; there was a lot of pressure not to have an only child." Instead, what followed was a series of miscarriages:

I took the first miscarriage very badly; it made me feel a real failure as a woman and I was terribly ashamed of it. I wanted to get pregnant again immediately. I was very careful to pinpoint exactly what time of the month was my fertile period and I would insist that Michael not go away at those times [on business trips] but stay and 'make the baby'. I look back on it now and realise that it was a horrible time; before that I used to really enjoy our sex life but then it just became a matter of trying again and again when I was most likely to conceive. I didn't care about the sex itself any more, only about trying to get pregnant. I'd make him come home at lunchtime and as early as he could after work and tell him we had to do it as much as possible when I was fertile. At other times of the month I lost interest in sex because there didn't seem any point in it if I couldn't conceive. When I did get pregnant I didn't realise it the first month because I continued to menstruate. When I did, I was so pleased and happy with myself, but then I started to bleed at eight weeks. The doctor put a stitch in the cervix which was supposed to help prevent miscarriage and sent me to bed for four months. I was told not to have sex and to take eight Valium a day. So, I used to just lie there too frightened to get up or move around in case I lost the baby. After a few months I started to bleed again but the doctor told me not to worry and just continue taking the Valium. After five months in bed I finally realised I couldn't be pregnant.

She phoned the doctor repeatedly but could not get him to come and see her. Because of her husband's work they were living in a third-world country and their medical services were organised through his employer. The arrangement meant that she could not get easy access to any other private medical practitioner. One day she finally decided she had "had enough and got up and went to a private hospital". There it was confirmed that she was no longer pregnant and was given a D&C. Although on one level she had realised for some time that she could not be pregnant - she would have been seven months by then - she was "devastated" by the news. She says that years later she realised that during the whole period of the miscarriages she was "mentally unbalanced or something". Her whole life had become consumed by an obsession to conceive and carry the pregnancy to birth. It was not so much a matter of actually having another child but rather of proving that she was capable of doing so. The hospital doctor warned her not to get pregnant for at least another six months "for psychological reasons" realising, evidently, something of her mental state, and suggested she go on the pill. But she refused,

... if I'd failed as a woman by not producing a baby, I still wanted to look like one and not get fat; women should look attractive with a slim waist, I thought.

Instead she used a spermicide but it failed and she got pregnant again. She was delighted, and when she did start to bleed again she refused to recognise it. She would wear a pad but remove it without looking so she would not see any blood, telling herself there was no blood and that she was using the pad "just in case". Eventually the bleeding became so profuse she could no longer ignore it and returned to the doctor who confirmed that she had miscarried again. He then told her that the previous doctor should not have inserted the cervical stitch; it was a procedure which should never be done prior to a pregnancy being five and a half months. Apart from that he should also have done tests before and after the operation to ensure that she was still pregnant. The doctor then told her that the state of foetal remains removed by the previous D&C had indicated that the pregnancy had probably terminated at the time the stitch was inserted.

That meant I'd spent five months lying in bed for nothing.... I didn't try and get pregnant again after that, and actually, once I'd decided that, I felt relieved; I felt that it wasn't meant to be. Although I was a failure as a female I was still going to be a sexually attractive woman and I went through a stage of flirting with other men which lasted until we left and came back to Australia. Within a year of getting here I left Michael. Eventually I was so relieved that those pregnancies did not go ahead. Certainly, now I feel that one teenage child is enough to cope with.

What is so clear here is how Margaret's sense of feminine identity was so dependent on realising the femaleness of her body. Even with the one child she did have she felt that ultimately she had failed: it refused to suckle and had to be fed by bottle and was born with a slight birth defect (which was eventually rectified). But both these things made her feel less successful in comparison to the other mothers in the maternity ward, as did the outright disapproval of several of the nurses. Her feminine self required her body to perfectly perform all of those functions which defined it as a female body in terms of conception, pregnancy, birth and lactation. As well, and certainly failing that, she needed to experience it as sexually attractive and this provided some compensation for its primary failure.

What is evident from her account (as related here and in other things she said) was that it was never the fact or experience of *being a mother* which was important but rather the biological *capacity* to be one. She has always eschewed being identified as 'a mother', avoids conversations with other women about children and does not even think to mention she has a child unless there is particular reason to do so.

From when she left Michael she threw herself into making her own life and career - with the same determination, tenacity and desire for perfection that she had previously devoted to conceiving and completing her pregnancies - and has been distinctly successful. Whilst she developed an exceptionally good relationship with her daughter she never allowed having her to interfere with the consuming interests she developed after her marriage finished. In fact, to a large degree, she has reconstructed her identity around her work, a creative pursuit which affords her a profound intrinsic pleasure and sense of gratification. Importantly, it is clear from the way she talks about her work, it is the *process* of producing with its tortuous difficulties and its triumphs - rather than the end product - which yields this delight and satisfaction. She, herself, draws the parallel between this and her attempts at perfect childbearing. But rather than construing her work as a substitute for that failure (which she knows is how an 'orthodox' view of femininity would interpret it), she sees her former efforts (and self) as an inadequate surrogate for what she now does (and is); as all that was available to her at that time given her stage of development and the external constraints imposed by her situation. In a way, it is as if her feminine and sexual identity has been (relatively) stabilised in the process of investing so much of her sense of self in another channel.

Margaret's history also illustrates with marked clarity the *social* construction of gendered and sexual identity. Whilst her early life - her delight in being pregnant and her driving, single-minded determination to have a baby - would have appeared at that time to be a proof of the truth of the maternal instinct and its biological origins, her subsequent life belies that interpretation. What stands out in her as singularly strong is a driving pursuit for self-fulfilment and the need to construct a strong sense of identity and personal worth. Forced by her parents to leave school at fifteen because, according to her father, too much education was bad for girls and gave them 'funny' ideas ("he always used to point to Bea Miles and what it had done to her") and then, once married, living in a foreign country where she was locked out of the workforce or of any participation in the public world, this drive manifested in the only socially and/or personally appropriate and available avenues: childbearer and sexually attractive woman.

This does not mean that these were superficial or mere 'roles' - on the contrary, the predilections were deeply embedded as functions of her social and psychic history - but nor does it mean that they were either biologically or culturally determined. Nor, as a way of attempting to forge a solid identity, was the course she chose free from internal contradiction. Once back in Australia an understanding medical practitioner told her there was no apparent physical reason for her first two miscarriages and attributed them instead to psychological factors. She herself felt certain that this was right. After the birth of her daughter her husband began and continued to attack her with extraordinary mental, and sometimes the threat of physical, violence which made her realise on one level that the marriage would not last and that eventually she would get out of it. But as long as they were living in a foreign country with her necessarily financially dependent on her husband and with a small child, she refused to acknowledge this realisation. She feels that underlying her apparent determination to have another baby and consolidate a sense of strong hyper-feminine identity was a contradictory, and ultimately stronger, determination not to compromise her future further by having another child and submerging her own sense of self in motherhood.

Aspects of Margaret's history brings us to one of the most poignant stories to emerge from the interviews. At the time she spoke to me Diedre was forty-two years old, married for eighteen years with three children, aged fifteen, twelve and seven. Meeting her, as I did a number of times before the interview, I was struck by an almost sublime sense of calmness and a serene grace in her manner. But this external 'presentation of self', it became apparent, veiled deep sadness and (still) suppressed anger and an awful frustration at the cage she had allowed herself and others to fabricate of her own life. Unfortunately, the written word cannot convey the sad, quiet tone and slow, measured pace of her speech which, I came to realise, reflected a grey depression and a sense of herself as lost and thwarted. In an attempt to recapture that I have presented much of what she said in her own words.

In the first part of the interview she spoke of her children and her husband - who, although born in Australia came from a very traditional middle-Eastern family - and recounted details of her childhood. Her mother died when she was very young so she was brought up by her father of whom she spoke sadly and lovingly; as she admitted, more of as a lover than a father. He had been much older than his wife and she was the last of three daughters.

He was an old, kindly man. I was always worried about him dying; to me he represented a core of security. He was tender and loving. I remember he would talk about my older sisters' 'beautiful breasts', but I did not find this threatening, only somewhat embarrassing. I remember sitting holding his hand listening to classical music which we used to do frequently. He treated me a bit like a sexual object, and I him a bit like a lover. I had quite sexual dreams about him - of him making love to me - the dreams were lovely, gentle and surprising and I didn't think of them as bad. As I got older, I went to boarding school and then I left home and I rejected him somewhat, and then I came to Australia. He said he wouldn't survive long after I had gone, and he didn't. He wrote me a last, well, it was a love letter. But I didn't reply. I regret that and still feel guilty about it. Now I treasure my memories of him.

Switching to her present life she said that it was structured totally by dependents and the people around her - she was pulled in four directions at once by her husband and children - and she always had to be on call and functional, alert and ready to respond (two of her children had a history of convulsions). She suggested it would have been better for her to be interviewed at night. It was only after the children were in bed when, freed from their needs and demands, there was some mental space for herself. Only then could she give herself permission to go into "that dark, slimy area", into a place where there were all sorts of possibilities of being herself beyond the actual reality of her life and present self. In saying this what she was conveying was a certain unease at thinking and talking about herself during the day, a time when she was reserved, or even 'owned' by others; her own space was in her head, her only time, a brief interval slotted in late at night.

She paused for a moment and, then, in one sudden revelation, made it apparent why she felt particularly 'off limits' (and perhaps, even exposed, by the daylight): "I've had sixteen abortions and six miscarriages".

Apart from one abortion for a pregnancy with her husband prior to their marriage and another after the birth of her son, all the abortions had occurred between when she was nineteen and twenty-three years old. She had never previously told anyone about them although, as her story revealed, she had been haunted both psychologically and physically by them ever since. All of those pregnancies had been to the same man, a medical practitioner twenty years older than Diedre whom she described as "powerful and heavy ... a rebel with left-wing politics who did quite a lot of good disrupting the medical establishment ... and a fantastic person [who] totally overwhelmed" her. *He, himself, performed all of the abortions on her.*

It was like a ritual, like some incredible ritual we were regularly enacting. There used to be this extraordinary thing of getting pregnant and having this extraordinary feeling that I was pregnant and yet I knew I was never going to have that child, and yet there was an excitement about getting pregnant, and excitement about, just that, *being pregnant* (emphasis in speech) - which I assume was to do with my underlying desire to have a child - and at the same time, worry, and there was this whole process of me, well, 'tonight's the night, and we'll have to do it', and getting ether and putting it on a thing over my face to make me go out. 'Going out' was the most extraordinary experience; I felt that I was God, and I was moving from universe to universe and I had this incredible feeling of, almost like power, very strange, like being in control of everything and having the power to direct the whole world. I was God. I think it's just like being really stoned, sometimes you feel enormous strength. And then coming out of it and that's all there was to it. *How I didn't manage to really do enormous damage to myself, I don't know.* (my emphasis) But great long needles, this long. He used to try various methods: there was a thing where you

could inject some stuff into the uterus and then it didn't hurt for it to be opened in order for a D&C to be done conscious and...., Look, I'm feeling pretty reluctant to go too much into that part of it.

At what stage did you do them? (Interviewer)

Oh, under three months. Except one of them, the first one, didn't work and it was about fifteen weeks, and I was in hospital. This was the one where the doctor turned to me and said "Look, we are going to do all we can for you to make that child survive". I had just gone on bleeding a bit and then stopping, and bleeding a bit and then stopping. Eventually he admitted me into hospital - he got me into hospital as a doctor saying I was about to abort - and he was giving me tablets to help me abort and they were doing what they could for me to hang on to it. I was there for a few days and then I got rid of it.

The time will come when I will confront what went on, and I will probably get back to that fellow and I will do something about it.

I was terribly naive, I really didn't think much of it. It wasn't a big deal, I mean it was horrific at the time, there is no doubt about that, and yet he totally possessed me, I was besotted with him and everything he bloody said. He had enormous power over me and I just went along with it. That's just part of that extraordinary four years and yet I find it odd in the light of the way I'm thinking now. I never thought along the lines of 'Hey, why don't you wear contraceptives, why are you doing this to me?' But he'd had a number of affairs before me and this was what, I found out later, what happened to all the other women he'd had dealings with.

I suppose it's sort of extraordinary, but it was all to do with a specific relationship, and my total ignorance and being English middle-class boarding school. I can see it now as a very masochistic element of my female sexuality, but then I was so involved, it could not have occurred to me that there was that sort of dynamic going on. To think like that had never been part of my life, the chink was never there, the possibility of an alternative was never there, I mean that was me. Its just like being psychotic, there's no space to even think that there is anything else.

Once married, she had extreme difficulty in carrying a pregnancy full term. She has no doubt that this was because of all the abortions - she thought it likely that whatever it was the man used to inject into her uterus had weakened the muscles - but she never told her husband about these. The abortion she had when pregnant to her future husband had been done by a gynaecologist and her uterus was perforated during the operation, so she allowed her husband to assume that this was the cause of her subsequent problems. She had three miscarriages before she had her first daughter, then another before her second and two more before she finally had a son. In fact, in two of these cases the babies were actually born alive. She had been put to bed, once at home and once in hospital with the bottom legs of the bed jacked up by bricks. Both times, a point came when she simply decided she had just had enough. Once, she got up and did some gardening and the next time, sick of lying with her head far below her feet, she turned around and lay the other way. On each occasion, she says she 'miscarried' within two days. One lived for twelve hours and the other for ten days. After the second one the baby was taken off to a special neo-natal unit at another hospital and she was so ill herself with peritonitis that her husband did not tell her until a week after that it had died. She has never looked at the photos which he took of it or been to see the grave and prefers to count it, and the prior birth, as a 'miscarriage'.

After the three earlier miscarriages the obstetrician told her she was unlikely to manage a complete pregnancy and she should give up and adopt:

I saw this as a personal challenge, I could not possibly let this happen. It was impossible that I could have had all those abortions and that whole experience with that man and that would still be affecting the effort I was making to get away from that. It was quite difficult, extraordinarily difficult to separate myself from him. And so, the next great project in my life was to have children and if I could have children it would be sufficient unto itself because I would then have accomplished this impossible thing. And I suppose it was pretty amazing that I did succeed. After all those abortions and miscarriages, I managed to have my first baby. Then I got on a conveyor belt of having to beat my difficulties by carrying babies full term.

Feminine Identity as a Social and Psychic Trap

For each of the three babies that lived she spent seven months in bed on drugs, the first time on Valium, then on barbiturates. A gynaecologist had a theory that as all of the miscarriages had been boys it was due to the release of the male hormone and as aspirin allegedly suppressed this she took that for the third one and finally had a boy. For all three she had a stitch put in the cervix.

I had to prove myself. It became the whole rationale of my being. I had to have these children. I thought I will have the children and that's enough. And it was an amazing success. Whereas I might have taken a toll in terms of myself - *where ever that is* - physically I managed. But now that's behind me I realise that having three children is somehow, well, [pause] well, I suppose it's not enough. And it's difficult in terms of the problems I'm having with Joseph now, in terms of, perhaps living an independent life. To have the responsibility of three children is not easy. (my emphasis)

Would you still be with Joseph if not for the children? (Interviewer)

No. No, definitely not. But it's very different with three children, especially a very demanding seven-year-old son. So, what to do about it, I don't know. I don't know what I think about it, I haven't got to the point where I really feel in touch with what has really happened to me. Some years ago, I went to this Women and Violence Conference and I really emerged from that feeling that, Christ, I have been really done over. It wasn't a totally new experience, I'd realised that before, but it really crystallized then, and all of this anger now is being projected into day to day living and in a way it's to do with a lot of my previous life, not the life I've spent with Joseph and in a way I feel it's a bit unfair on him, that he's coping it, but on the other hand, he's done his fair share of doing me over. But I'm not really wanting to destroy him, I'm trying to do it in a fairly humane way, I'm trying to point out certain things to him but back of this I have this sort of awful guilt feeling that's possessed me that it isn't all his doing, that there was a whole lot of living and experience before I met him of which he is ignorant and for which he's coping that sort of anger. And that's perhaps making me hesitate a bit about being more definite in saying to him 'look, this is not a viable relationship, maybe we had better do something about it.' There is an awful lot of guilt there. Sometimes I think I will [leave him], sometimes I think it's very close and at other times I think it's such an effort with no job, no money and three kids, three very demanding kids who haven't had to put up with much in the way of deprivation of any sort, and they are very powerful and I'm not very powerful. That's a big thing to take on. I'm sitting on the fence, I'm at a crossroads. I'm at a point where I don't know what is me and what is just habit in the sense of the way things are arranged, which way I go, where I have strengths, where my integrity is, where myself is. By the time I get around to me each day it's a tiring business. And yet I don't know whether it's me being scared and being guilty and being all these other things and so I'm not active. But I know most of my time I don't really feel as though I'm in touch, as though I'm on top of it. When I am on top of it I feel extraordinarily powerful but it's a very rare feeling, it's not a daily feeling, or a weekly feeling. It happened when I was at university and involved with things but now it doesn't seem to be a very common thing. But I know that I do have possibilities of moving into a very definite situation where life is real, where I feel in touch, where I don't feel as if there is a weight on top of my eyes, as though there is a sort of heaviness, a sort of deadness about me. When I feel in touch with myself, I know it, my whole body feels different, my mind feels alert, I feel that the world is a place that I am in possession of rather than it being in possession of me. I just feel powerful. I'm not very articulate about what I'm trying to get across, but there's a time when everything is more vivid, my breath is more real, my whole self, my whole body, I feel real, and at times like that I can hardly cope with it. I'm just coming to the point of trying to analyse what were the sort of preconditions which made me feel like that and what actually happened before and what's happening in my life at those times, in an effort to understand. But I know that for a great deal of my life at the moment I feel very switched off and very depressed.

She spoke a great deal about feeling both anger and guilt. Apart from that already expressed - that she had burdened their marriage with feelings carried over from her own past - there was a deep ambivalence towards her children. Whilst there was no doubt about her degree of love for them she acknowledged there were very strong feelings of resentment also, and that these were perhaps even stronger. At the same time as they were dependent on her so that her life was structured around them she felt consumed by them; to her they were overpowering and enormous and it was as if the strength of their demands made her shrink almost to nothingness as a being 'for herself'. The paradox of her femininity is that in realising her determined desire for children, she lost herself; in the actual having them in the present she feels as if she is prevented from finding any identity of her own; as if she is a shell constructed for them and even of them, there being nothing of or for herself, whatever or "where ever that is". She feels "done over thrice": all her years as a woman and her potentially productive life as a person spent first, in becoming pregnant and having abortions, second, in becoming pregnant and trying to hang onto them, and third, in having the children and being negated by them. They are "very strong, tough children" and so much of her time and energy has been, is, and for years more will be, used up by them. She could not afford to explore too deeply her feelings of resentment towards the children because of her "need for survival"; the necessity to keep them submerged so she could go on coping, however inadequately, with her day-to-day life.

Similarly, she had to resist allowing herself to dwell on or act out her anger towards her husband, the previous man in her life and, more generally, that about "the brainwashing" to which, as a girl and a woman, she had

been subjected so that her life was nothing more than relationships and their connection with her female body. Moreover, there was the anger with herself for allowing it all to happen, for “even getting a kick out of it all”, of the pregnancies and abortions, of striving to carry subsequent pregnancies full term. “Where was I in it all? I let it happen to me in the most extraordinary way.” There was anger towards the previous man and a sense of guilt about what she had done to herself by colluding in what he had done to her; in gaining from it “a perverse pleasure”; in allowing herself to be appropriated by him, by Joseph and by her children. And anger at her past and continuing failure to address and act out her anger, to remain, in a sense, “protected by her passivity”. In constructing her femininity she, in interaction with others, with social processes and structures, had wrought a cage. She had discovered her positioning within the discourse of maternity to be empty of the intrinsic meaning it had promised. Rather than providing a secure and stable sense of sense, a set of understandings in which she could identify herself as internally solid and real, she found instead a carapace; the femininity which had driven her and for which she had striven was a thick, crusty shell enclosing a void. But it was also a prison both structurally and psychically, operating to forestall the development of any other latent possibilities of self.

Undoubtedly, Diedre’s account proffers the ingredients and keys admitting a psychoanalytic understanding of her personal history - the barely unconscious incestual desire between herself and a much older father, the repetition of that relationship with an older man, the identification with and recreation of the mother she lost, as mother herself, and as lover to powerful father figures - but such an understanding, if it is not to trivialize her own experience, needs to be informed by a perspective on power, the deployment of it within the construction of gendered and sexual identity, and of the social relations of masculinity and femininity. The fabrication of her femininity and the stark interaction of this process with her body has clearly been inseparable from the operation of power. Her experience graphically illustrates how the female body and sexuality in general, and abortion in particular, have been socially constructed as ideal sites for the deployment of power on and in women and as elements in the relations of power between masculinity and femininity. Whereas the way abortion has been socially perceived and organised can be seen in a wider sense as deeply implicated in power relations, in Diedre’s unique experience we can actually see it deliberately mobilised in a one-to-one sexual/power - even sadistic/masochistic - relationship. (Indeed, Freud’s reference to the surgeon as unconscious sadist - a suggestion so apparently trite as to be meaningless - assumes a palpable resonance here.) Ultimately, the tragedy of her history lies, however, in her concerted attempt to realise and (mis)recognise herself in hegemonic femininity, an attempt which has resulted in her spinning in a void - a fractured self, isolated in an arid wasteland constructed as the product of her own feminine desires. Whilst this has had the effect of producing some degree of feminist consciousness, sympathy suggests that we could perhaps have wished for her the untroubled certitude of identity which immersion of the self in femininity afforded Barbara.

Postscript from the 1980s

To conclude, a cameo shot of abortion from the 1980s is appropriate to highlight, by its temporal contrast, a number of points made about the former illegality of abortion, the blanket of silence enclosing it and the links with feminine sexuality, personal privacy and shame. It concerns Enid’s daughter (Suzie) and her granddaughter.

Suzie’s teenage experiences with sex and the horrific abortion she had, in her determination to hide her sexual life from her parents, made her determined not to repeat the same processes with her daughter, Lucy. They have a very close, but relaxed and friendly relationship in which she has always been very open with her about sex without forcing the issue. Aware that wider influences would have their effect she aimed, nevertheless, to minimise the significance of sex one way or another, and to always respect her daughter’s own personhood and privacy. When Lucy decided, at seventeen, that it was right for her to have her first sexual relationship (with a boy she had been seeing for six months) she let her mother know by announcing that she needed to go to the doctor as she, after discussions with her boyfriend, thought it would soon be time for her to begin taking the pill. For her part, Suzie was pleased that her daughter’s decision was apparently a considered one. Previously, Lucy had often discussed with her the fact that most of her friends were already having sex with their boyfriends but that she didn’t feel ready for that. Suzie treated her daughter’s relationship as a normal part of her life, welcoming the boy to stay at night and ensuring that she did not

encroach on their privacy or embarrass them. After it ended the next year Lucy had several more boyfriends before she had her second sexual involvement. During that, at nineteen, she became pregnant, as she had ceased using the pill for health reasons. Without any fuss she told her mother as soon as she suspected it and when it was confirmed, both of them together then mentioned it to Lucy's grandmother, Enid, when she was visiting.

Certainly, this story is by no means typical of girls' experience in the 1980s with sex, abortion and parental guardianship and the relation between them. Nevertheless, I would suggest that it is indicative of a marked shift over the last few decades: abortion and the reality of female sexual desire has, as it were, come 'out of the closet'. The movements for sexual and women's liberation and the liberalisation of abortion have virtually shattered the taboo against pre-marital sex for females (with the important proviso that it is part of a 'steady' relationship; 'promiscuity' still incurs negative redefinition) and parents generally, whether they like it or not, are being forced to tolerate their daughters' sexuality. Peer and wider social influences have bestowed on it a certain legitimacy which, internalised with the development of feminine sexual identity, affords a degree of defence against the sense of self invasiveness hitherto occasioned by parental surveillance. This does not mean, however, that the link between power and sex has been severed, but rather that the way it operates differs with wider historical, material and ideological changes. This small example of a wider transition should also serve to remind us that the analytic question is not one of 'freeing' sex from power, that its operation is by no means necessarily repressive, that resistance is always 'within' power, and that its deployment can be experienced in multiple and diverse ways and with different degrees of pain and pleasure both historically and personally.

I shall leave the final say to Enid, whose experiences with abortion, in one way or another, span some five decades:

Looking back on it now, it was such an awful thing: the pain, the secrecy, and the hiding it from family. I realise now that they [her parents and grandmother] must have known all about those things and probably went through it themselves when they were younger. The other awful thing was that it happened to my own daughter and hers was even worse - a real backyard job - and she couldn't tell me either. It wasn't until much later - she got involved with the Women's Movement and used to talk to me about it and, in fact, it rubbed off on me - so then she told me about it. It happened to so many of us women in my time and we all knew it but we hid it. And so our own daughters ended up having to go through the same sort of thing. So, when my granddaughter got pregnant when she was about nineteen, we all three - Lucy, Suzie and myself - went together to a proper clinic. By then it was all above board and, well, I suppose you could say it was a bit like a ceremony, with her going openly and the two of us going along with her - three generations of women - and it all being done properly. There was no need to hide it any more. That was the sad part about it really, that we mothers knew all about it but never thought of it happening to our daughters. Curious that, that we didn't realise, but really so very sad!

CHAPTER SIX

1965 - 1973

THE POLITICS OF LIBERALISATION

Picnic hampers on rugs, the sun shining, a candy striped marquee selling coffee and sandwiches, Helen Reddy singing “I am Woman”, tour buses pulling in from Newcastle, Wagga and Sydney.

Two thousand people sitting, standing or sprawling on the lawns in front of Parliament House and only the signs and banners to ruin the jolly picnic atmosphere.

“Every child should be wanted”, said those of the abortion law reformers, “Home Rule not Rome Rule”, “The Rich Get Abortions and the Poor get Butchered”.

But they were far, far outnumbered by the Right to Lifers who had flown in from as far away as Tasmania, Perth and Townsville.

“Support Life Don’t Destroy”, said their biggest banner. Hundreds of others said “Save the Babies, Don’t make the Womb a Tomb”, “Hendy Cares”, “to be or not to be”, “Diamond Valley wants no abortion”, “Kill the Bill” “Hi Fellow Overgrown Foetus”.

... in the pro-abortionists’ little blue and orange tent which had been standing for ten days, they told the story of the grey-haired woman who had leapt from a bus and started pulling out the tent pegs shouting “Murderers, Murderers”....

Soon after 10, the Right to Lifers set off on a one and a half mile walk to St Christopher’s Roman Catholic Cathedral for a special ecumenical service conducted by the Archbishops of Melbourne and Sydney, Cardinal Knox and Cardinal Freeman.

The church service had been going 20 minutes and Lutheran Pastor Daniel Overduin was speaking about how Jeremiah, John the Baptist and St Paul all knew that the development of life begins with the moment of conception when Bishop Cahill, Archbishop of Canberra and Goulbourn, interrupted to announce a bomb scare and would everyone please leave the Cathedral immediately....

Police circled a small suitcase which was believed to contain the bomb. It had been removed from the cathedral but after 10 minutes was discovered to belong to Mrs Jo Moonen of Wallsend, Newcastle. It contained her salad sandwiches which she had forgotten about in the excitement.

Back to the lawns of Parliament House for a speech by Dame Enid Lyons [widow of a Prime Minister, the first women ever elected to the Australian Parliament and “mother of 11”] and then the broadcast of the resumed debate from the House. It was one of the busiest days inside the House ever. (Nicklin, 1973: 1,2.)

The House of Representatives was that day debating and voting upon the Medical Practice Clarification Bill, a private member’s bill moved and seconded by two Government Labor backbenchers. The Bill basically proposed the legalisation of abortion up to sixteen weeks of pregnancy as a woman’s right, and up to twenty weeks for social or economic reasons if the consent of two medical practitioners was obtained.

The lead-up to the introduction of the Bill and the debate over it mark a turning point in the politics of the abortion struggle. It was the most radical, and the last, attempt to secure law reform in any Australian parliament. Simultaneously, it was the moment when opponents galvanised their disparate efforts into a unified, cohesive and concerted - and as it turned out, successful - campaign against legal reform. As such, it signals the genesis of an organised backlash against liberalised abortion. For pro-abortionists, struggle was to be transferred henceforth from the arena of formal politics and law to the terrain of everyday practice. Stretching to the limit recent interpretations in case law in NSW and Victoria, they were to turn to enacting these in ways which would create a situation of *de-facto* abortion on demand, thus achieving in practice what was still denied to women by statute law.

Under the leadership of Gough Whitlam, the Labor party had won government the previous December after twenty-three years in opposition and after a campaign in which abortion had emerged as a major issue. A crippled Liberal/Country Party Coalition, lacking effective leadership and bereft of electoral appeal, had fought to identify Labor as the ‘party of permissiveness’ because of its leader’s own stated sympathy towards abortion reform and his professed belief that the State should have “no place in peoples’ bedrooms”.

In the space of less than a decade, then, the subject of abortion had thrown off its mask of silence and secrecy and moved to centre-stage in national politics, to emerge as one of the two most important issues of a decisive Federal election (Johns, 1972: 6).¹³³ And within another six months it became the subject of a Parliamentary Bill and debate, exciting an inordinate degree of public attention and mobilisation. Whereas in 1966 Henry Mayer was arguing that “the most important thing to be done in Australia is to break ... this barrier of silence” (*SMH*, 6.11.66: 30), by 1973 abortion was in the process of becoming readily accessible to all women in Sydney and Melbourne, a degree of change quite beyond the anticipation of the early reformers in the mid-to-late 1960s.

Donald Horne called the years between 1966 and 1972 the *Time of Hope* in his book of that name (1980) and indeed they were for proponents of abortion reform. In contrast, the period was the ‘era of permissiveness’ for those struggling anxiously to retain the status quo while the ground shifted precipitously beneath their feet. Spawned out of a complex historical conjuncture of affluence and consumerism, anti-war protest, the extension of education and the movement of vast numbers of women into the workforce, a variety of social movements dedicated to human ‘liberation’ emerged and prospered. The momentum they developed heralded, depending on one’s perspective, an age of freedom or one of moral decline. A new emphasis on consciousness, individual freedom and the rights of hitherto marginalised or ostracized groups made the orthodox politics of both left and right increasingly irrelevant. A kaleidoscope of social changes marked the period out as a watershed of transition. In this, liberalisation of abortion law and practice was both a spearhead and a symbol for change: more, possibly than any other issue, it represented a shift in political struggle to the domain of the personal, and a rejection of the right of institutionalised authorities to intervene in and regulate people’s personal and sexual lives.

The purpose of this chapter is not to explain why this happened: rather it is to identify and trace the discursive and political parameters within which it happened with respect to abortion. It will demonstrate also, that the outcomes of the struggle over abortion can be seen to be as much the unintended consequences of action as they are the result of deliberate activity. The discourses marshalled by proponents and opponents of liberalisation from their initial articulations in the mid-to-late 1960s will be traced through to their deployment in the pitched electoral and Parliamentary battles of 1972 and 1973. It will be made apparent that many of the propositions presented, and the assumptions underlying them, were embedded in philosophies and knowledges specific to the modern era, or in wider discourses borrowed from ‘universal truths’ concerning the nature of society and humankind (and particularly ‘woman’) and more implicitly, the nature of sexuality and its relation to society.

Power and Discourse

Whilst the state and its institutions are important in social structuring, the ways in which rules and laws are interpreted in practice, used, acted upon, even flouted, or mobilised towards ends unrelated to their formal rationale, are equally influential in shaping structure and subsequent practice. Strategies of power can utilise internally inconsistent discourses or several contradictory ones simultaneously, while elements of the same discourse can be marshalled by opponents in a power struggle, towards the achievement of contrary ends. There are not different discourses for antagonistic parties to a struggle: for ‘left’ and ‘right’, for radicals and conservatives. Rather, elements are harnessed to different objects, utilised tactically towards opposed outcomes, and appropriated for multiple purposes:

It is this distribution that we must reconstruct ... with the variants and different effects - according to who is speaking, his [sic] position of power, the institutional context in which he [sic] happens to be situated - that it implies; and with the shifts and reutilizations of identical formulas for contrary objectives that it also includes. Discourses are not once and for all subservient to power or raised up against it, any more than silences are. We must make allowance for the complex and unstable process whereby discourse can be both an instrument and an effect of power but also a hindrance, a stumbling-block, a point of resistance and a starting point for a new strategy. Discourse transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it. (Foucault, 1980a: 100,1)

¹³³ The other was state-aid, that is, government funding of independent schools.

The struggle waged is often not, strictly speaking, a 'debate', in the sense that the questions are open to reasoned, step-by-step argument. The object is not resolution, but the imposition of a particular discursive formation; its consolidation as *the* framework of meaning via which abortion is understood. It is the establishment and installation of a paradigm, which, by operating as a phenomenological grid or lens, on the one hand, allows systematic conceptualisation, and, on the other, draws boundaries around possibilities, cancelling out alternative ways of thinking or signification. This aim is, of course, impossible to realise, in that all discourses are burdened internally with their own contradictions, and externally in relation to other discourses. New contradictions arise over time as social change produces incongruities between, on the one hand, social practice and the experience of reality, and, on the other, the discourses which make sense of people's lives; the everyday practice of social agents itself produces conflicts in meaning emerging out of relations of power and different sets of interests endemic in the structuring of social life. Nevertheless, what could be termed 'discursive hegemony', is the objective striven for in the deployment of discourse as an intimate component of the exercise of power.

This emerges with marked clarity in the centrepiece of the abortion struggle - the discourse from 'rights' - and in the 'truths' deriving out of it. Particular outcomes are argued for on the basis of the fundamental rights allegedly accruing to, on the one hand, women, and on the other, the foetus, by virtue of their human status. Above and beyond more immediate and tangible political objectives, the ultimate, if implicit, aim of protagonists is to secure a generalised acknowledgement and institutionalisation of their perspective that the relevant rights of women, or conversely, the foetus, are *a priori*; and that therefore, they automatically take precedence over any conflicting claims which would negate or minimise those rights.

These basic claims made by both pro- and anti-abortionists - their conceptualisation and articulation made possible by the philosophy of liberalism - have been facilitated by the proliferation of discourses of 'rights' into the mass cultures of post-war western societies. The idea of rights, with its concomitant values of justice and equity, was seized on by social reformers, and more latterly social movements, to legitimate their various claims. Derived originally from nineteenth century liberalism, the concepts of human, individual and group rights have percolated down from being the province of philosophers, intellectuals and political theorists, to permeate everyday knowledges about how society and institutions in it should be organised.

It was life [meaning particularly "quality" of life] ... which became the issue of political struggles, ... formulated through affirmations concerning rights. The "right" to life, to one's body, to health, to happiness, to the satisfaction of wants, and beyond all the oppressions or "alienations," the "right" to rediscover what one is and all that one can be, This "right" - which the classical juridical system was utterly incapable of comprehending - was the political response to all these new procedures of power.... (Foucault, 1980a: 145)

As Foucault indicates, the discourse of rights was, in the main, harnessed by the political theory and movements of opposition, and mobilised against the state, capital, and against oppressive conventions and institutions dictating conformity of expression and behaviour. Its 'natural' domain was the politics of liberation and the Left, so whilst classical conservatism recognised certain rights, they were subservient to 'duty' and social cohesion. Anti-abortionists, in proclaiming the *right* of the foetus as their fundamental *raison d'être* and discursive strategy, have colonised the doctrine of rights and effectively deployed it against their opponents.

Discourses are tactical elements or blocks operating in the field of force relations; there can exist different or even contradictory discourses within the same strategy; they can, on the contrary, circulate without changing their form from one strategy to another, opposing strategy. We must not expect the discourses on sex to tell us, above all, what strategy they derive from, or what moral divisions they accompany, or what ideology - dominant or dominated - they represent.... (Foucault, 1980a: 102)

Thus, the discourse of human and individual rights, whilst it emerged out of the philosophy of liberalism, can as easily be mobilised in the service of a conservative social ideology as it can in a liberal or reformist one. Elements, then, of both liberalism and conservatism can, in the actual practice of political struggle, be linked together in discursive alliance; and principles of liberalism be pitted against projects themselves steeped in liberalism.

The Foetus' Right to Life

It is within reader's correspondence to the editor of the *Herald* that we can most clearly see the development of pro- and anti-abortion arguments mobilising the discourse of rights to their respective causes. The first precise articulation in these terms emanated from an opponent of liberalisation in 1966 who protested that a woman's desire for "happiness", or other "trivial reasons", should not be allowed to overrule

... the right to life of an innocent human being enclosed in the protective haven of its mother's womb. (SMH, L.E., 21.10.66: 2)

Significantly, this claim is put in the same terminology and concepts enunciated by Popes Pius XI and XII in their respective definitive statements on abortion, *Casti Connubii* and the address to midwives. The particular phrase - the 'right to life' - which was to become the rallying cry for the anti-abortion cause when it coalesced into a movement in western countries, including Australia, in the early 1970s derives directly from Pius XII's 1951 directive. As we have seen, this was not a concept unearthed and resuscitated from past discursive struggles in Australia; it was strikingly absent from the rhetoric of the 1904 Commissioners and nor did it emerge in the report of the Medical Research Council. Rather, from this inaugural intervention it bears the unmistakable trademark of the Catholic Church.¹³⁴ Numerous other correspondents also expressed their opposition to abortion in terms and nuances similarly borrowed from the Papal statements:

Abortion is wrong because abortion is murder. It is the killing of the innocent. (SMH, L.E., 10.4.68: 2)

Never, under any circumstances, may the right to life be denied to an innocent person. This is not mine nor anyone else's personal opinion. It is a universal and irretractable principle. (SMH, L.E., 22.1.69: 2)

At no stage of a child's existence should parents have absolute rights over it. The law relating to abortion ... is not merely a law of moral prohibition. This is a law to protect the most basic human right, to life itself. (SMH, L.E., 1.10.70: 2)

Let it be known that Christian people oppose liberalisation for one reason: foetal life is human life that has the right to live. (SMH, L.E., 18.8.71: 2)

This pivotal contention - which has reverberated down to the present as the central one for anti-abortionists - is predicated on the premise that the foetus is a human person from the very moment of conception, or as Pius XII proclaimed, "the unborn child is a human being". This proposition was repeatedly and urgently avowed by opponents of abortion. Put forward as a given, they were then able to argue, as did Pius XI, that abortion was nothing less than "the direct killing of an innocent human being", or more emotively, that it was murder. Moreover, in line with the strict injunctions in *Casti Connubii*, there were no grounds or reasons of "necessity" which could justify the wanton destruction of the unborn "child". To indicate the pervasive influence of Catholic theology in the discourse of anti-abortionists it is worth quoting from a number of letters representing this position:

Those who would oppose any change in the law ... do not regard a foetus as potentially human, but most certainly actual human life - and this from its conception. Surely this is the crux of the whole debate? (SMH, L.E., Catholic Priest, 11.11.71: 2)

Human life must be protected by the fullest possible enforcement of the law - especially when it is most helpless and dependent.... This new life a woman shelters in her womb is not hers or part of her own body. From its beginning the foetus is its own person.... Killing this new person solves nothing in the long run. (SMH, L.E., 1.10.70: 2)

As an opponent of abortion on demand, I defend life - 'life' being the operative word.... Biologically, I have been me ever since conception ... a complete person. A baby is a whole person from conception. Acts of Parliament do not affect biological facts. (SMH, L.E., 11.11.71: 2)

¹³⁴ Whether the terminology derived directly from Catholic Church dogma in Australia or was imported from the rhetoric of anti-abortionists in the USA or the UK is beside the point; its precise use of the Papal terms makes its ultimate derivation unmistakably apparent. Of lesser significance but nevertheless suggestive of its Catholic origins is the Irish sounding names of many of the early correspondents employing these terms, for example, John Maguire, Patrick O'Sullivan.

The termination of a pregnancy is nothing less than the wilful destruction of a human being. (*SMH*, L.E., 14.3.69: 2)

... we have the strange phenomenon of a group of 'reformers' who want legalised abortion for all who desire it, tantamount to wholesale murder of the most innocent and helpless of human beings. (*SMH*, L.E., 30.7.69)

The law must *a priori* safeguard the foetus.... The criminal law of this State does not recognise necessity as a defence to homicide and it is therefore suggested that proper comparison be made with the position of the foetus before 'reform' of the criminal law is embarked upon. (*SMH*, L.E., 4.7.69: 2)

Since the very outset of the debate, then, the foetus' humanness and its right to life have been construed by anti-abortionists as the fundamental principle at stake in the struggle, and as one inherently impervious to resolution or compromise. Moreover, they have since been successful in achieving a virtual consensus amongst commentators that this is the perennial ethical core of the abortion issue. As the Reverend W.G. Coughlan, President of ALRA, confirmed, "The stiffest resistance to the whole idea of abortion stems from 'horror' at the taking of life - especially 'innocent' life. Many besides yourself [referring to a *Herald* editorial] appeal to the 'sanctity' of life." (*SMH*, L.E., 2.7.69: 2) Yet, outside of Catholic theology and canon legislation, the whole question has been historically, largely a *non-question* until very recently!¹³⁵ Located hitherto at the margins of society, this discourse has been able to imperialise everyday consciousness and become positioned as a pivotal dilemma, transforming abortion from a personal, economic, legal or medical question into a major ethical conundrum.

From its beginnings in the late 1960s opponents of abortion constituted a highly vocal front for resistance to the 'permissive' social changes of the time, and in the 1980s they emerged as the vanguard of the moral arm of the 'New' radical Right. Their continuing viability has derived, in no small part, from their success in galvanising attention on this very concept, the *rights* of the foetus, and thereby firmly securing a place on the public agenda. In this respect they put pro-abortionists on the defensive by forcing the latter to take on and contest the notion of the foetus as a human being.

In this context, one discursive tactic employed by reformists was to draw a distinction between, on the one hand, the foetus as a *potential* human being, and on the other, an *actual* human being, or a *person*:

There has never been any satisfactory agreement as to when the foetus can be said to represent 'life', but this is not wholly relevant for no one could deny that a foetus is a potential life. What is important at the time that an abortion is proposed is not so much this potential human being. It is rather a question of priorities: the destruction of potential life as against the crippling and possible destruction of existing life. (*SMH*, L.E., 29.6.69: 46)

The argument that a human life is being taken [in abortion] certainly has to be answered, but I believe there is a good answer. Our horror of taking human life stems from the all too common atrocity of maliciously or callously taking a life in full bloom, a life with a past and a future, and a conscious desire for its own continuance. Strangely enough, we condone even this in case of war or capital punishment while we quibble over taking a life which is not yet human, not yet conscious and not yet loved. The extension of our horror of murder to a rigid attitude to taking human life in any circumstances, no matter what the human situation may be, is surely unreasonable. (Dr Jim Woolnough, member of ALRA, *SMH*, L.E., 25.10.66: 2)

In reply to a correspondent who compared abortion to actual homicide, a future President of the Abortion Law Reform Association (ALRA), Joan Mason, retorted:

The difference between disposing of a person against his will and of a foetus against its will is that a foetus does not yet have a will; in other words, it is not yet a person.... Thousands of women who seek abortions feel that the foetus is so undeveloped, so far from being a person, that it should not weigh against the wellbeing of their existing children, or of those they hope to bear at a future time. (*SMH*, L.E., 8.7.69: 2)

¹³⁵ That is, at least in Australia. As already indicated, nineteenth century medical practitioners in the USA constructed the idea and harnessed it to their struggle for professionalisation and the exclusion of competitors. Even there, however, it was not phrased in terms of the discourse of rights; rather, its very claim to legitimacy depended on it being perceived as a *scientific* truth.

Women, Abortion and Maternalism

Despite these rejoinders, the focus on foetal rights afforded anti-abortionists their most powerful tactical defence and weapon against their opponents. By asserting the personhood of the foetus and its right to life as absolute and prior to any other considerations they were always able, when necessary, to sidestep their enemy's terms of debate by recourse to these first principles. Thus, from the very beginning they were equipped with an effective counter-claim to emergent arguments for women's right to abortion. It took several years, however, for the pro-abortion case to crystallize around the *rights* of women as its central discursive strategy. Even then, the still tenuous legitimacy of such a radical demand apparently made many reformers feel impelled to bolster it by numerous other, more pragmatic, arguments. As Women's Liberation developed - a movement fuelled by a sense of outrage - many abortion activists refused to plead for reform in these other subsidiary terms and instead demanded free access to abortion on the singular ground of a woman's right. We can see this discourse - and a critique of men's, the state's, and the churches' control over women - gradually unfolding in correspondence to the *Herald*, along with counter arguments mustered by anti-abortionists.

We are living in the C20th, everything has advanced with the times, but the plight of the woman seems to have remained the same. She still is supposed to be ... what she was 100 years ago, and it is indeed saddening that as the weaker sex she has been neglected in this most important part of her life. True, woman was created to bear and rear children, but times have changed and her job often includes many tasks nowadays, among others working for a living to support a family. Why not make it easier ... for herself and her family.... Those who for some strange reason do not want any [children] at all will find means anyway to prevent their being born. (*SMH*, L.E., 31.10.66: 2)

In this letter, one of the first to be written by a woman in support of abortion reform, we see the first glimmerings of a critique of women's subordination, but articulated still within dominant understandings of their nature and place. That their maternal destiny is non equivocally assumed as inherently given - indeed, a woman who charts her life otherwise is "strange" - enables the writer to request abortion access as a means of lightening women's 'natural' burden. Whilst the discourse of the maternal instinct would seem, then, to be more 'naturally' the domain of right-to-lifers, it was capable of being colonised and deployed in the pro-abortion cause. Similarly, another woman justified abortion in terms of the needs of proper mothering and childrearing:

There are times when this decision is unavoidable ... for the simple fact that the mother is not strong enough to cope with another baby. A baby requires a full-time worker - the mother. If she has already several children, how on earth can she devote the necessary time to an infant? (*SMH*, L.E., 10.4.68: 2)

But these sorts of arguments carried no weight with those against liberalisation; as far as they were concerned what was really at issue was a matter of life and death. For them, such justifications, and any others suggesting that abortion might be necessary for a woman's happiness or the welfare of her family, paled into trivial insignificance in comparison and could be decisively swept aside by simple recourse to 'first principles':

... It's just bad luck for the baby if, because of its mother's 'unhappiness' or 'welfare' of her family, the mite's life is extinguished by an 'enlightened' society. (*SMH*, L.E., 21.10.66: 2)

Further, given women's maternal instinct, it was doubtful anyway that they were really "choosing happiness" by aborting. Medical science indicated otherwise, claimed one correspondent, quoting from a report "unanimously adopted" by the Council of the Royal College of Obstetricians and Gynaecologists that year:

"There are few women, no matter how desperate they may be to find themselves with an unwanted pregnancy, who do not have regrets at losing it. This fundamental reaction, governed by maternal instinct, is mollified if the woman realises that abortion was essential to her life and health, but if the indication for the termination of pregnancy is flimsy and fleeting she may suffer from a sense of guilt for the rest of her life. The incidence of serious, permanent psychiatric sequelae is variously reported as being between 9 percent and 59 percent." (quoted in *SMH*, L.E., 10.10.66: 2)

This assumption of an inherent maternal instinct was employed very early, then, by both sides in the debate in one way or another. But as a tool for defining women, their nature, and their function for society and the species, it was especially potent as an element in anti-abortion discourse. Everyday 'knowledge' of its

tenacity provided a tactical wedge to argue that women were doing possibly irreversible damage to themselves by resorting to abortion as remedy for an immediate problem. Opponents of abortion seized on the plethora of 'scientific evidence' provided by psychiatry and medicine to prove that a large proportion of women who aborted suffered adverse and permanent psychological damage and pathological feelings of guilt.^{136,137} Additionally, the medical literature claimed there was a strong likelihood of physical morbidity - sterility figuring prominently in the latter - as well as an alleged risk of mortality from the operation. These assumptions and arguments we saw as basic to the thinking of the 1904 Commissioners, yet they were still being echoed six and seven decades later by a 'responsible' body of medical opinion. On the basis of this knowledge, it was argued that preventing a woman from aborting was in her own best interests in the long term. This sort of paternalism - integral to the discourse of classical conservatism - justifies certain state interventions on the grounds that people can act against their own welfare for short-term gains. Hence, prohibiting abortion saved women from making rash decisions they could regret for the rest of their lives.

The tactical deployment of the discourse of maternalism in the modern abortion debate put into operation sets of meanings and truths riven with internal inconsistencies and contradictions. For opponents of abortion it was unthinkable, however, that these cast doubt on the essential truth of the instinct. It served an important function in defining the basic nature and functions of women and as such, for many of them, in mapping an understanding of the world which made sense of their experiences and choices. Moreover, rather than questioning women's innate maternalism - that would have been counterproductive to their political strategy - they could harness it to their cause:

... [to] regard abortion as a cure for contraception failure utterly horrifies me.... [T]hink of the psychological damage done to the individual. (*SMH*, L.E., 16.10.67: 2)

A woman who has an abortion must feel guilty all her life.... Compare this with poverty, loss of character or anything else. All these things are easier to live with than guilt. (*SMH*, L.E., 16.10.67: 2)

Significantly, the guilt from which a woman was likely to suffer resulted not just from the killing of *an* unborn child, but the killing and loss of *her own* child. The matter of guilt was never raised in respect to any other person involved in an abortion decision, its arrangement or its commission, testifying to the fact that for right-to-lifers, it was the injury to a woman's sense of maternalism which gave rise to it.¹³⁸ As for the man

¹³⁶ In a later review of the then prevailing psychiatric knowledge of pathologies arising from abortion, Illsley & Hall noted that: "even a cursory glance at the literature reveals that under the terms "psychiatric indications or sequelae" are included categories as diverse as schizophrenia, depression, generalized states of anxiety, disturbance or stress, aspects of personality (e.g., vulnerable personality, psychiatric insufficiency, sadomasochism), feelings of distress that are not necessarily indicative of personality problems or of mental illness (e.g., regret, guilt), and behaviour variously capable of being treated as rational or as indicative of psychopathology (e.g., suicidal threat, marital conflict)". (1978: 13)

¹³⁷ In 1968 I was a nurse at a psychiatric hospital in Sydney. There was a woman who had been there for over thirty years (like many others). I was told that after having an abortion as a young woman she had a breakdown and her parents had certified her. This information was imparted in a matter-of-fact way and without any surprise, along with details of all the other patients in the ward. Subsequently I perused her case history along with others there. All were very brief with usually nothing added after the first few months of their incarceration, the great majority having had no psychiatric review since then. Until reforms to the Mental Health Act in the early 1960s she could not have been legally released without her parents' signatures. She obviously came from a very middle-class background, was well educated and had been a teacher prior to her admission. Whether she had ever been mentally ill was impossible to know, but certainly, after thirty years, she was institutionalised. Other than that she appeared perfectly rational in her behaviour and speech, but had a very assertive manner and was occasionally given to outbursts of anger. These were pointed out to me by the charge sister as confirmation of her psychiatric condition. Considering that in that era clitoridectomies and even lobotomies were being performed on women for sexual 'precociousness' or 'deviance' it could be conjectured that her sexual activity itself was seen as proof of mental instability and/or that she constituted a source of shame to her middle-class parents. Needless to say, if this were the case, in the context of three decades of incarceration occasional instances of aggressive behaviour would be exceedingly rational.

¹³⁸ A good example of this absence is the 'conversion' of Bernard Nathanson. Referred to as the "abortion King of America", Nathanson had, for many years, run one of the largest illegal abortion clinics in New York and, by his own account, performed countless thousands of terminations. In 1974 he 'recanted' and became a fervent and highly publicised opponent of, and activist against, abortion because he could no longer ignore the 'fact' that his work amounted to the killing of human babies. He authored a book recounting his experiences and made the film, *The Silent Scream*, the latter 'proving', by the use of intra-uterine cinematographic techniques, that the foetus was indeed a human being and that it suffered horribly in the process of being 'murdered' by abortion. He visited Australia twice on lecture tours as a guest of Foundation Genesis, a Sydney-based anti-abortion organisation run by Patricia Judge. In none of the extensive articles on Nathanson in the *Herald* (for example, 28.1.81: 9-10; 15.4.84:

involved, abortion enabled him to “get off scot-free” in the case of a single woman, and in that of a married one, it was a sign of an “emasculated husband”. (*SMH*, L.E., 10.4.68: 2)

The existence of an inherent maternalism in women remained unchallenged by reformers until the advent of the Women’s Movement. Whilst anti-abortionists put the ideology of an innate maternalism to good advantage, then, the points of resistance made possible by the contradictions between its assumptions and women’s desire for abortion were not capitalised on by their opponents. If the notion wasn’t sidestepped altogether, pro-abortionists were likely to imply that it wasn’t activated until quickening, or even until birth: as one expressed it, a woman could not “love a foetus” until it was born (7.10.68: 5). The scientific evidence alleging guilt, depression and other pathological consequences of abortion was dealt with merely by citing the few contradictory studies available (for example, *SMH*, L.E., 20.10.66: 6); the basic assumption underlying the dominant psychiatric knowledge remaining unqueried. Locked in, perhaps, by their own concurrence to the basic truths governing feminine nature, pro-abortionists were slow to recognise that the prevailing corpus of psychiatric opinion was “in general motivated and directed towards problems posed by ideological rather than scientific considerations” (Illsley & Hall, 1978: 28) and that this knowledge was, as Foucault suggests,

... in fact a science made up of evasions,... [I]t concerned itself primarily with aberrations, perversions, exceptional oddities, pathological abatements, and morbid aggravations. It was by the same token a science subordinated in the main to the imperatives of a morality whose divisions it reiterated under the guise of the medical norm. (Foucault, 1980a: 53)

The Selfish Woman

Somewhat ironically, if anti-abortionists were not warning women of the psychiatric dangers of acting contrary to their nature by aborting, they were likely to be berating them for what amounted to their lack of maternalism. Such women frivolously put their own selfish desires ahead of their duty: an obligation imposed on them by their biology, and essential to the continuity of society and the production of “future Australian citizens”. Claiming the high moral ground on behalf of ‘the innocent being hidden in its mother’s womb’ enabled right-to-lifers to juxtapose their cause against the “irresponsibility” and “laziness” of women wishing to rid themselves of an unwanted pregnancy (*SMH*, L.E., 16.10.67: 2), thus bringing into tactical play another discourse on abortion loudly proclaimed at the 1904 Royal Commission.

Some married women find it ‘inconvenient’ to have a baby at a certain period of their lives, and certainly most unmarried girls find it decidedly ‘inconvenient’ to have a baby at all, but in neither case do they have the moral right to get their unborn babies murdered. (*SMH*, L.E., 1.11.67: 2)

The State is obliged to protect human life ... from married women ... who are ‘unhappily pregnant just once too often’ and want to destroy their unborn child because, perhaps, a child is considered less desirable than a new car. (*SMH*, L.E., 3.12.68: 2)

Privacy and Intervention

Given that, strategically, the struggle revolved around the law, the question of the legitimacy of state intervention was a central one in the debate. At issue here was the tension between, on the one hand, individual rights and freedoms, and on the other, the community interest in regulating certain behaviours for the overall benefit of society, and the state’s duty to protect the lives and rights of its citizens. In other terms, at stake was whether abortion should rightly be construed as a private matter and therefore properly outside the governance of legal authority, or as a public matter over which the state was obliged to preside. For opponents of abortion the answer was straightforward. Because the foetus was a human being it was incumbent on the state to protect it from destruction by abortion. It was illegitimate, therefore, for women to claim freedom to terminate an unwanted pregnancy as that freedom transgressed the most fundamental human right: the right to life.

In modern society one’s individual freedom is necessarily curtailed for the benefit of all,... and [because] life begins at conception ... one should conclude that the question of abortion is one to be regulated not by an individual but by society as a whole, in a democracy, through its elected representatives. In other words the so-called ‘rule of law’ should apply to abortion. (*SMH*, L.E., 20.10.67: 2)

6), which included excerpts from his book on the reasons for his conversion, was there any reference to his feeling a sense of guilt or the need to expiate for all the ‘babies’ he admitted killing.

In contrast, more radical reformers held that abortion was a woman's private decision not rightfully the concern of any other person or institution. Beryl Holmes (who, several years later, was involved in setting up Children by Choice, a centre for referring Queensland women to Sydney for abortions) put it thus:

The fact that a woman emphatically does not want to carry a baby or give birth to it should be valid grounds for abortion. It is her body and so her decision. What right has society to sentence her, to overrule her on such a personal matter. (*SMH*, L.E., 20.3.69: 2)

This was vehemently contested by right-to-lifers. To them, it was manifestly outrageous that what amounted to murder could be claimed to be a private decision outside the province of the public interest:

We hear that what happens in one's own body is a very private matter ... and that a woman has the right to decide whether or not she bears a child.... [Is] it a 'private matter' to murder a more mature baby in the privacy of your own home?... [B]ut the basic fact of killing a baby varies only in time and manner. (*SMH*, L.E., 10.4.68: 2)

Whereas, then, the murder of the unborn was the crux of the whole issue for anti-abortionists, for their more radical opponents it was women's right to unilaterally make their own decisions about pregnancy: hence the slogan later coined by the Women's Movement, "Not the Church, Not the State; women shall decide their fate!" and the subsequent adoption of the "pro-choice" descriptor (instead of pro-abortion). For the latter, because there was no question of abortion involving the destruction of a human being in any meaningful sense, there was categorically no valid justification for the state to interfere in what was a woman's private decision concerning what she did with her body and the conduct of her life. Nor was it the legitimate business of the state in a secular society to translate into statute law moral rules derived basically from theological dogma.

Abortion should be the woman's decision, as the child is her responsibility, not that of legal and religious bodies and their adherents who appear to be more concerned with a person's future after death than with a child's life after birth. (*SMH*, L.E., 15.4.68)

This theme - that the prohibition against abortion constituted the imposition of a religious doctrine onto all women - was a salient one from very early in the debate. That this was so was very likely due - apart from a general recognition of the influence of Christian (and particularly Catholic) morality in the anti-abortion stance - to the interest taken by the Humanist Society in the issue, and to the fact that a number of individual Humanists were involved in ALRA from its initial formation so that many of the earlier pro-abortion activists were also Humanists.¹³⁹ The influence of Humanist thinking - which rejected the idea of a God-centred and religious perspective - within ALRA is encapsulated in the following statement by Julia Freebury who, by the late 1960s, was one of the most prominent figures in the latter organisation:

No State or religious groups should force their beliefs or opinions on individuals. By legalising abortion women would be free to make the only choice a responsible person can make.... What right has anybody or any group to inflict 'their will' on an individual, apart from the confounded impudence and self-righteousness that they reckon 'they' know what is best.... Surely, this is a question of civil liberties - freedom to choose one's own way of life and private behaviour. (*SMH*, L.E., 11.7.69: 2))

Similarly, from as early as 1966, it was pointed out by pro-abortionists that the statute law and the moral prohibitions it reflected were the product of, and imposed on women by, men: specifically male legislators and male clerics, who it was claimed, could have little understanding of the problems and the anguish an unwanted pregnancy could pose for a woman.

Could the position be reversed, and men had to bear the unwanted pregnancies, I suspect the abortion law would be reformed - pretty quick smart. (*SMH*, L.E., 24.10.66: 2)

The male sex, represented by priests, lawyers, and most doctors and fathers, can well afford to be most righteous and 'moral' in this matter since they are immune personally from the inconvenience and pain of

¹³⁹ Amongst others, Bridget Gillings, Julia Freebury and Dorothy Symons. The latter, at least, was still active in 1989, campaigning against proposed anti-abortion legislation in the NSW Parliament, although by then she must have been in her seventies. Speaking of England, Francome says that ALRA was actually an offshoot of the Humanist Society. (1984: 151)

an unwanted pregnancy.... The abortion laws affect the majority of adult females. (*SMH*, L.E., 19.10.67: 2)

... it is socially and emotionally a woman's problem. Women understandably challenge the right of politicians and celibate clerics to decree what a woman should be entitled to do with her own body. (*SMH*, L.E., 22.2.68: 2)

It was even argued that men should be excluded from any legislative decision about liberalisation and that the matter should be decided by a referendum amongst women. (for example, *SMH*, L.E., 27.2.68; 10.4.68: 2) The law against abortion and the failure of politicians to consider women's needs and wishes was pointed out as another instance of the latter's status as "second-class citizens". (*SMH*, L.E., 19.10.67: 2)

Prior, then, to the development of an organised women's movement there was already a consciousness of their subordination by men and of abortion as being one particular facet of this. It was, of course, this consciousness of social inequalities and power relations between the sexes which provided the possibilities and the impetus for the emergence of Women's Liberation. But this also suggests that the Women's Movement and the struggle for liberalised abortion both had their roots in similar sets of social and material conditions and processes; and moreover, that the latter possibilities contributed to, and facilitated, the development of the former. In turn, the fight for women's free access to abortion became one focal and unifying cause around which women mobilised. It helped to provide a sense of cohesion and a shared aim largely transcending other political differences. The transformation of the abortion struggle into a wider political issue about women's oppression is captured succinctly in a letter from Freebury:

The proper question is not, "How can we justify an abortion?" but, "How can we justify compulsory pregnancy?" ... The emancipation of women is not complete until women are free to avoid pregnancies they do not want. Ethical systems which deny women that freedom are the product of men, the residue of an ancient world. (*SMH*, L.E., 28.10.69: 2)¹⁴⁰

The 'Good' Woman and Abortion

What is apparent from much of the pro-abortion discourse is a projection of abortion-seeking women as married. Whether or not this was intended is unclear, but certainly, by portraying them thus - either directly or by inference - reformers were able to sidestep what at that time was in some ways a thornier 'moral' issue than abortion itself: that of female sexual 'promiscuity'. By so doing, they could more easily reject their opponents' moralism as an imposed sectarianism reflecting the theological dogma that a human being existed at conception, without being themselves accused of condoning sexual immorality. If one did not accept that abortion entailed murder, it was eminently reasonable to insist that pregnancy was a married woman's private concern and therefore that recourse to it should be a right. Hence, they could argue that the whole issue of abortion came down to a matter of civil liberties. Also, by concentrating on a well defined set of specific 'deserving' cases warranting the mercy of legal abortion - largely the same 'deserving' cases which the 'broad constructionists' in the USA claimed as justifying therapeutic abortion¹⁴¹ - they were more likely to engender support than if they openly argued that unmarried women or girls should be allowed abortions to escape their dilemma and the accompanying public shaming.¹⁴² The inference that the average abortion

¹⁴⁰ Nevertheless, Freebury's (and ALRA's) position, derived from a civil liberties framework and radical as it was in the late 1960s, came to be construed as more moderate by the early 1970s when compared to that of the by then emergent movement for Women's Liberation and its unequivocal call for 'abortion on demand'. The difference between these positions will be explored in more detail below.

¹⁴¹ It is apparent that these categories were derived from the USA either directly, or via the UK, but there was never any reference in the media in Australia to the early attempts at reform by the American medical profession.

¹⁴² Hence, there was a certain contradiction between ALRA's stated position that abortion "should be available to any woman or girl who feels it necessary" (quoted in *SMH*, 27.7.68: 6) and the specific circumstances in which they often claimed a woman should be allowed an abortion. These latter 'deserving cases' formed the basis of its proposal for law reform and, presumably, were a pragmatic reflection of what ALRA members considered politically feasible at the time, styled, as they were, on the recent changes in the U.K. Limiting reform to these cases, however, fell far short, technically, of granting abortion as a right *per se*. Nevertheless, ALRA would have been well aware that, in practice, the actual limits would have been determined by how medical practitioners interpreted the law. In fact, its spokespeople often hedged their claim that abortion should be a woman's right and the decision hers (that is, not one imposed by the state or the church) by adding that it should be undertaken in consultation with her medical practitioner, for example: "... a woman and her doctor must be allowed to decide - and they only." (Julia Freebury, ALRA, *SMH*,

candidate was a married woman with good reason for termination can also be seen as lending the reform movement more respectability than identification of its cause with unmarried or 'frivolous' women would have done.¹⁴³ This suggestion, that projecting a respectable public image was a deliberate tactic on ALRA's part, is further supported by the fact that at various times two Protestant ministers of religion were Presidents of the organisation. Likewise, ALRA always attempted to present women's abortion decisions as 'responsible' ones, taken gravely and even involving pain and sorrow, but as preferable to bringing into the world unwanted children. These sort of emphases directed the focus of public debate away from any conjunction with sex, especially any form of illicit or 'permissive' sex, which, excluding cases of rape or incest, was generally what unmarried female sex was deemed to be.

The Problem of Sex

The irony of this is that the modern abortion debate, when it burst on to the public agenda after decades of silence and whispers, concentrated on the same category of female as that with which the 1904 Royal Commissioners had been concerned: the married woman! And yet in the interim there seems little doubt that the stigma associated with abortion derived, in large part, from it becoming commonly perceived as the resort of desperate, pre-marital pregnant young women, even though, at another level, there was a discreetly guarded knowledge of its use by their married counterparts. In the 'publicisation' of abortion it was on this latter knowledge - its connotations 'desexed' because it was associated with legitimate married sex - that pro-abortion discursive struggle centred. The concentration on married women and civil rights, and conversely, on the humanness of the foetus and its right to live, all promoted a 'sanitised' debate on abortion: sanitised in that it studiously avoided raising the murky and still largely unmentionable subject of sex and desire. As one solitary correspondent pointed out:

Sex is a matter which affects every man and woman in this country.... [I]s it not time when these problems were honestly considered in the light of day? Many people feel reticent about discussing sex and/or abortion and this reticence hinders reform although under the surface most agree with it. Almost nobody wishes to do without sex. Then let us not pretend otherwise than that an unwanted pregnancy can be the result of each sex act. This situation affects every woman, wife and daughter of every family in the land. (*SMH*, L.E., 29.9.69: 2)

Her plea was disregarded precisely because, one could venture, the volatility of abortion as a topic of public debate sprang in large part from its unspoken conjunction with sex. To 'reveal' this connection could have disrupted the carefully negotiated discursive parameters which steered the debate well clear of this potentially dangerous territory and thus made it speakable.

Ironically, refusing to acknowledge the insidious presence of sex suited not only pro-abortionists; an under emphasis on it by their opponents dignified their position by allowing them to project a public image of almost exclusive concern with the sanctity of life. Whilst the occasional individual warned that easy access to abortion was an encouragement to immoral behaviour (for example, *SMH*, L.E., 3.5.72: 2) or, in the case of premarital pregnancy, the result of a lack of "self-control" or even "downright promiscuity" on the part of the girls concerned (*SMH*, L.E., 24.5.72: 2), anti-abortionists generally were able to escape identification as mere

L.E., 11.7.69). It was on this point that civil libertarians - represented by ALRA, the Humanists and to some extent, Women's Electoral Lobby (WEL) - later disagreed with Women's Liberation and its insistence on abortion as a woman's absolute right not regulated by the whims or prejudices of individual medical practitioners.

¹⁴³ An observation in a recent work by Allen supports this suggestion. She notes that reformers claimed the "average abortion candidate" to be married with two or three children and aged between thirty and thirty-four. Socialist pro-abortionists similarly maintained this portrayal, "perhaps because the overburdened married woman could be represented as respectable and worthy of sympathy". But, contrary to this public depiction and in line with what I have claimed, Allen says that by 1960 the "typical abortion 'candidate'" was young and not married, although historically, referring back to earlier in the century, it had been primarily married women. (1990: 210)

Quite apart from explicit statements to this effect, it was consistently inferred by use of the term 'woman' whereas on those occasions when the question of abortion for unmarried females was raised (in the correspondence columns or elsewhere) the word 'girl' was commonly used. This considerably predated the feminist rejection of the term 'girl' - as a somewhat belittling one connoting immaturity - and its insistence on the use of 'women'.

moralists in what Horne (1978: 47) refers to as the 'wowser' tradition of Australian culture.¹⁴⁴ Indeed, it was only when the question of foetal rights was firmly established as the nub of the abortion issue that anti-abortionists extended their discourse to more generally encompass arguments directly pertaining to sex. Arguably, this move was facilitated by what Weeks refers to as the growing disillusionment with the excesses of the permissive society.

Interestingly, amongst the several themes raised on those few occasions when individual correspondents did broach the subject of abortion for unmarried women was one echoing the radical suggestion made at the time of the Birth Rate Commission (the matter of unmarried women and birth control being similarly marginalised then): elimination of "the stigma of illegitimacy" enshrined in statute law and in social sanctions (*SMH*, L.E., 10.4.68: 2; 15.4.68: 2). It was this smear - "a black mark against society" (*SMH*, L.E., 2.4.68: 2) - as all correspondents alluding to it agreed, which was responsible for driving the single expectant mother to the abortionist. Its removal would allow her instead to have the baby and "love and care for ... [it] without shame [whereas] at present, the mother is treated as a moral leper and her child penalised for life" (*SMH*, L.E., 15.4.68: 2).

"The public attitude" and the disgrace associated with illegitimacy was also argued to be society's way of punishing girls for indulging in sex. Yet, it was pointed out, this actually had the consequence of promoting abortion:

If we do not consider a single female should be penalised for having engaged in premarital sex, by regarding her child as illegitimate, we must take positive steps to reform our laws to protect her and her child from this stigma. On the other hand, if we still consider that she must 'pay the penalty' then we must accept the responsibility for the destruction of these 'innocent Australians'. (*SMH*, L.E., 10.4.68: 2)

It is time to reject conclusively the puritanical opinion that bearing an illegitimate child is to be regarded as a kind of penalty for premarital sex. (*SMH*, L.E., 27.3.68: 2)

One correspondent, whilst condemning the attitude that "our so-called enlightened society make[s] both mother and child for ever 'pay their penalty'" by applying the legal and social opprobrium of illegitimacy, apparently felt the need to hedge his humane concern by asking

[h]ow can the law and the moralists justify refusing abortion to young girls who are perhaps mentally retarded, who are perhaps the victims of rape, or who are perhaps the victims of incest? (*SMH*, L.E., 15.4.68: 2)

The implication here is that the single girl's pregnancy and the sexual activity giving rise to it still needed to be excused as something for which she should not be held wholly responsible. To suggest that she might be pregnant from deliberately engaging in sex for what might be good reasons of her own was unlikely to win much sympathy nor be judged as sufficient warrant for abortion.¹⁴⁵ Defined as 'sluts', such young women were beyond the pale, and to suggest that abortion - controversial as it was even for 'deserving cases'¹⁴⁶ - be made available 'merely' to free them from the consequences of their actions was outside the boundaries of

¹⁴⁴ Arguably, the 'division of political labour' between Right to Life organisations and the Festival of Light in the 1970s and early 1980s stemmed partly from a strategic recognition of the need - in terms of public presentation - to keep abortion divorced from issues pertaining directly to sexuality and permissiveness, despite there being numerous links between the two in terms of cooperation and overlapping membership. Of course, the strong Catholic influence and presence in the former was also a factor, FOL's religious affiliations and constituency being mainly fundamentalist Protestant. Only in the later 1980s when the momentum of RTL activism has seemed to be on the wane, at least as judged from media coverage, has FOL taken up the issue of abortion as one of its primary concerns.

¹⁴⁵ This is not meant to suggest that all single girls engaging in sex did so of their own free volition and/or for pleasure. Presumably, some did, but we can assume that others were verbally coerced into it; did it to please boyfriends or in the hope of 'keeping' a relationship going; or expected or hoped to marry the man. Obviously, there would have been a multitude of reasons, and although many reflected power relations between the sexes - and particularly in so far as it was the girl who had to bear the brunt of any resultant pregnancy - paternalistically denying them responsibility negates the possibility of female desire and implies that young women were not actors capable of making decisions about their lives.

¹⁴⁶ Reformers argued that there were specific circumstances in which abortion should be made legal. The nature of these 'deserving cases' is dealt with in detail below.

what were being legitimated as acceptable discourses on abortion. An indication of the radical and virtually unthinkable nature of such a proposition at the level of public discourse, comes from the numerous opinion polls conducted on abortion from 1968 onwards; *none* ever asked respondents whether or not they approved of abortion simply on the ground that the woman was single.¹⁴⁷ Ironically, the position put several years earlier by a Protestant Minister of religion, Roberts-Thomson, that even “wilfull [sic], stupid or ignorant girls” should be permitted abortions, was still too radical to be voiced, let alone countenanced.

Wanted and Unwanted Babies

One other point to note which emerges as part of this theme is the supposition that “the need for many of these operations [that is, those involving single women] would be eliminated automatically” if the taint of illegitimacy were removed. Whilst I have argued that the shame associated with premarital sex and pregnancy made single women particularly desperate to secure an abortion, some correspondents maintained that, if they were freed from the dread of public disgrace and their child from the legal ignominy of bastardy, such women would be enabled to “keep and rear”, or “love and care for”, their babies. Assumed here is the idea that this is what pregnant girls, apparently ‘naturally’, ‘really’ wanted to do. Again, the ubiquitous maternal instinct reappears. Possibly, its implicit use here is as a device to castigate moralists for *causing* abortion, as well as a means of inferring that sexually active girls, being possessed of ‘normal’ maternalism, should not be condemned as ‘whores’ undeserving of sympathy. Alternatively, there may have been a genuine belief in the existence of a uniform desire on the part of young women to complete their pregnancies and lovingly rear the offspring. Whatever the case, mobilising the assumption of female maternalism demonstrates that it could be deployed as a counter weapon against anti-abortionists and sexual moralists.

Similarly, the sanctions against unwed mothers were blamed for forcing those girls who did not abort their pregnancies to adopt out their babies. Whilst there can be little doubt that this was the case in many instances - as argued in the previous chapter - those suggesting it assumed that young mothers only did so as a function of social duress; that ‘naturally’, they would keep their babies if public attitudes were different.

Conversely, anti-abortionists, although hasty to draw on the maternalist thesis when arguing the psychological damage women did to themselves by aborting, happily jettisoned the whole concept when it came to the matter of adoption. For them, it was the solution to unwanted pregnancies; after all, “despite the highly selective screening involved, there seems to be a large waiting list of suitable foster parents” (*SMH*, L.E., 27.3.68: 2). Moreover, at least some anti-abortionists saw adoption as a viable alternative not only for “unmarried girls” who did not want “any baby at all”, but also for “married women” who did not want the “inconvenience” of another. Because there were

... childless couples all over the country who are ready and eager to receive and care for babies there is no material need, in short, for any unborn babies to be murdered. (*SMH*, L.E., 1.11.67: 2)

The link between abortion and adoption was to become an increasingly salient theme in anti-abortion discourse in the late 1970s and 1980s due to the massive decrease in babies available for adoption. Whereas in the mid 1960s some ten thousand babies under one year old were adopted out in Australia, by 1983 this had fallen to a dribble of just less than one thousand. (ABS, 1984: 324) For right-to-lifers, not only does this

¹⁴⁷ The first mention of sizeable support for abortion for the unmarried can be seen in an Australian National Opinion Poll of 1972. Respondents were asked if they supported abortion on demand (twenty-five percent answered yes) under certain circumstances (sixty-one percent) or if they thought it always wrong (thirteen percent). The sixty-one percent were further asked in what circumstances, without choices being prompted, and sixteen percent volunteered support for abortion in cases where the woman was not married. (ANOP, 1972: 29) This equals twenty-six percent of the whole sample. Added to those expressing agreement with abortion on demand it can be seen that, in all, by 1972 just over half of respondents considered premarital pregnancy as justifying abortion. Whilst it would be safe to assume that the level of support was lower in the mid to late 1960s and that it increased over the four years or so preceding this poll - given the extraordinary amount of media coverage over that period - this suggests that there would always have been a sizeable minority agreeing with abortion for unmarried women; and, hence, that the discourse which was publicly ‘speakeable’, as represented in the media, steered away from expressing the full gamut of opinion on the subject, and specifically that which, unavoidably, raised the link between sex and abortion.

reflect a hideous increase in the number of abortions,¹⁴⁸ but also a selfish and cruel denial of adoptive babies for decent childless couples.

Other pro-abortionists, implicitly but clearly rejecting the notion of an inherent maternalism, proposed that much of the problem of parental neglect of, and even cruelty towards, children, stemmed from forcing women with unwanted pregnancies to give birth to and raise children they had never wanted and continued to reject (*SMH*, L.E., 8.7.69: 2). As president of ALRA, Julia Freebury castigated anti-reformists for the “amount of energy and attention [they] directed to defending the existing [abortion] law” and conversely, for the total lack of “energy and attention directed to the problem of the unwanted child” (*SMH*, L.E., 7.3.70: 2). Correspondents frequently pointed out that whereas anti-abortionists bewailed the “tragedy” of foetal destruction they ignored the “greatest tragedy of all”, the bringing “into the world of unwanted and unloved children”. Apart from the unhappiness this caused to both mother and child, this was also “the first step on the way to delinquency”. (*SMH*, L.E., 25.3.69: 2) Opponents simply refused to take issue with this charge. For those who acknowledged that a mother could indeed not want a baby born to her the answer was adoption; others maintained that the desire to be rid of an unwanted pregnancy was a temporary aberration, and once the child was born a woman’s natural maternalism conquered her earlier negative feelings. The decision to abort was often caused by the “state of fatigue, nausea and possibly depression” accompanying the early period of pregnancy.

Frequently, if helped by advice and medication at this stage and persuaded to carry on for a month or two, they experience a quite remarkable change of heart. From being unplanned and unwanted, the baby becomes unplanned, but very much wanted. (*SMH*, L.E., 25.3.69: 2)

This writer, a Protestant Minister, stated that this observation was not just a matter of opinion but rather one of fact, based on the experience of “many eminent physicians”.

A Slippery Slope

Whilst the overriding concern of anti-abortionists was with the murder of the unborn, they raised a number of other less salient arguments in justification of their cause. Thus, it was claimed that legalisation of abortion would constitute the first step of a ‘slippery slope’ towards a regime in which euthanasia of the “useless and unwanted” would be condoned by statute. A mentality which advocated “the extermination of a human being” under the guise of “compassion” would breed a “callous attitude towards other people’s lives and persons”. “By logical extension”, the rationale of abortion would be applied to the chronically sick aged and to the terminally ill, allegedly out of kindness or even more bluntly, as a matter of economic efficiency. (*SMH*, L.E., 4.7.69: 2) Similarly,

[i]f one condones abortion one may also condone the murder of the physically and mentally handicapped, the old, and even children in orphanages, because nobody wants them or because they are a burden on society. (*SMH*, L.E., 10.4.68: 2)

Moreover, sarcastically warned another critic of the ‘abortion mentality’, if through some oversight or a change of mind a woman failed to abort her pregnancy within the first few months,

... the baby could always be smothered at birth by attending medical staff if it was unwanted, for economical or environmental reasons. (*SMH*, L.E., 15.7.69: 2)

A number of other variants of the ‘slippery slope’ metaphor were also suggested. The push for liberalised abortion by “the avant garde” was symptomatic of, and its success would accelerate, the degeneration towards the “permissive society”. (*SMH*, L.E., 7.3.70: 2) The fall of once great ancient societies demonstrated that moral chaos precipitated the end of mighty civilisations; abortion law reform would constitute statutory disrespect for the “universal and irretractable principle” of the sanctity of life, and would signal a similar “downward moral trend of our civilisation”. (*SMH*, L.E., 22.2.69: 2) It exemplified the growing “cult of self-

¹⁴⁸ As well as the possibility of easier recourse to abortion after liberalisation, the decrease can also be attributed to a number of other interacting factors: increased knowledge of and access to contraception amongst young women; the introduction, under the Whitlam Government in 1974, of a Sole Parents Benefit making it economically possible for unmarried women to keep their babies; and a distinct - although by no means complete - amelioration of the shame surrounding pre-marital pregnancy and motherhood.

expression and self-gratification” which, if not restrained, would “eventually blunt our sensitivity to one another” and lead to a “*Brave New World*”, to “a new breed of the numb and the dumb”. (*SMH*, L.E., 15.7.69: 2) Such themes, whilst mere embellishments to that of the foetus’ right to life - the discursive linchpin of the anti-abortionist agenda - continued to reverberate through the rhetoric of the 1970s and, in fact, were to be given added impetus by the anti-permissive and anti-feminist New Right of the 1980s. But these diagnoses of the social dangers of abortion were not new inventions; as we have seen, their discursive antecedents figured prominently amongst the dire consequences of prevention and limitation discovered by the 1904 Royal Commissioners.

Similarly resuscitated, if marginally in comparison to the Commissioners’ preoccupation with it (and also averred, if less stridently, by the 1944 Inquiry) was a concern with population and the quality of the stock. Certainly, this theme was by no means dormant during the interim; the ‘Asian hordes’ with their ‘greedy’ eyes on Australia’s open spaces remained a nagging threat, as did concern that alien cultures, transposed by ‘inassimilable’ migrant groups, would adulterate the traditional Anglo-Celtic Australian way of life. But with the new abortion debate this discourse was ‘reattached’ to its turn-of-the century nexus with birth control - although euphemistically toned down in deference to the post World War II reconfiguration of racism and eugenics as abominations - and, later still, given a new lease of life in this context (and others) by the New Right. So, for example, one correspondent lamented “the 50,000 or more potential young Australians murdered each year ... when we spend millions yearly bringing out migrants”. Moreover, objecting to the confused national priorities of politicians, she complained that instead of them acting to stop “this tragic loss of future citizens ... [they] are wasting Federal Parliament’s time discussing just how much water was forced down a Viet Cong prisoner’s throat”.¹⁴⁹ (*SMH*, L.E., 27.3.68: 2)

Promoting Backyard Abortions

Whereas the main line of attack pursued by pro-abortionists was firmly grounded in the discourse of rights and civil liberties, it was supported by a second, but more pragmatic, set of arguments. Pro-abortionists constantly reiterated that abortions - some 50,000 to 100,000 per annum in Australia - were a fact, and thus it was apparent that the law, as it stood, was unenforced. Moreover, the prohibition against abortion failed in terms of the functions of criminal law; it did not operate to deter the commission of what it defined as a crime, and transgressions of it, with very few exceptions, remained undetected and unpunished. In short, it was an unenforceable law, and an unenforceable law was a bad law. As such, it brought the law as an institution into disrepute.

Moreover, the illegality of abortion, on the one hand, provided a fertile ground for extortion and for corruption of state officials and, on the other, because it was not regulated, made its practice potentially dangerous and even occasionally fatal. It also meant that abortion was very expensive and consequently, women with money and contacts were better able to secure a safe operation by a medical practitioner in an hygienic and even reasonable environment, but those without such means were driven to unqualified backyard operators with all the attendant dangers and ugliness. In fact, the law itself promoted an illegal industry wherein poorer women were particularly disadvantaged. In sum, women who wanted abortions would have them, so why condemn them to run an illegal, furtive and even dangerous gauntlet, and promote police corruption at the same time?

Every politician should spend a night in the casualty department and gynaecological wards of a large metropolitan public hospital to witness the many tragic results of unlawful abortions performed by untrained, ignorant, ‘backyard’ abortionists. Most of these women are critically ill, would die if not treated and are suffering needless pain and humiliation. It is easy to talk about morals; but the hard facts are, that these women are desperate and will obtain an abortion no matter what the law states. Why not make available to them a safe, sterile, 10 minute operation and half a day in hospital rather than an undignified ‘backyard’ affair followed by a week in hospital with operations, blood transfusions and antibiotics to fight the raging infections. (*SMH*, L.E., 18.8.71: 6)

¹⁴⁹ This was a reference to the uproar created by allegations that Australian soldiers in Vietnam were torturing their prisoners. The torture of Asian enemies was a trivial matter for this correspondent in comparison to the destruction of unborn Australians.

Furthermore, if it were possible for the law to be enforced “the result would be pandemonium”. As Joyce Duncan (President of ALRA) pointed out, if the estimate of ninety-thousand abortions per annum was anywhere near accurate, the successful prosecution of the woman, practitioner and a nurse would alone entail one quarter of a million people being sentenced to between five and ten years gaol each year, an absurd and impossible situation. (*SMH*, L.E., 14.2.69: 2)

Predictably, opponents of reform were not impressed with any of these arguments, maintaining that even if many women were prepared to break the abortion law - based as it was “on sound moral principles” - this hardly justified altering it just “to suit the lawbreakers”. According to this line of reasoning, claimed one, “the NSW Government might just as well legalise safe-breaking and bank robberies”. (*SMH*, L.E., 21.10.66: 2)

On a manifest level, the discourses on abortion revolved, then, around the central issue of foetal as opposed to women’s rights; the actual life of the foetus versus the quality of life of women; the question of who, if anyone, should justifiably have the power to deny these; and other subsidiary arguments bearing on the implications for others or for society as a ‘whole’. On another level, however, that of a Foucaultian analytics, it is possible to see all these discourses as concerned with social regulation: around how, in what ways, and under what conditions individuals live and perceive their reality, sex and sexuality, and ultimately, even their sense of self. Regardless of the emphasis on the life or death of the foetus, in these terms the issue is about the management and administration of life as an ongoing process. Conceptualised according to these parameters, the putting into discourse of abortion involved not merely the politics of law reform and a struggle over conflicting rights, but more fundamentally, the operation of power on people’s bodies and the social construction of sex, sexuality and sexual subjectivity.

Breaking the Silence

It was legitimisation of the issue as a topic for discussion in the United Kingdom which provided the catalyst activating public debate here. Under the headline “**Britain Tackles the Secret Shame: Abortion!**”, the *Herald* (28.11.65: 13) reported the first major parliamentary assault there on the abortion law: the launching of Lord Silkin’s Bill in the House of Lords.¹⁵⁰ Apart from detailing the provisions of the Bill, it dwelt on the conditions prevailing in England with respect to abortion, themes similar to those which were to permeate the debate in Australia: the extortionate fees paid to Harley Street specialists, the number of deaths each year from botched abortions, the racket in abortifacients, and the dangerous conditions of ‘backyard’ operations. Six weeks later another article reported on the ferment of debate in Britain, and on the probability that the Bill would not pass the Commons despite a national opinion poll showing seventy-two percent of the population favoured reform of the law (*SMH*, 12.2.66: 9).

Amongst the first to speak out in favour of reform were a number of Protestant churchmen. Their views were widely reported and, presumably, their support lent a particular respectability to the issue from the start. Prompted no doubt by events in Britain, a forum on abortion was held at Melbourne University in March 1966. In his address, the Anglican Bishop Coadjutor of Melbourne, the Rt Rev Arnott, argued that although the Church of England had no official policy on abortion it was often far too restrictive on such matters. In normal circumstances the life of a foetus should be protected, but he considered there were others where termination was advisable: where continued pregnancy posed a risk to the mother’s health; when there was a reasonable chance that a baby would be born deformed; and in cases of pregnancy arising from criminal acts. Furthermore, he suggested that a true Christian should take account of the implications of certain pregnancies for the whole family. (*SMH*, 31.3.66: 5) The grounds argued by the Bishop as justification for legal abortion were similar to those argued by the medical ‘broad constructionists’ in the USA and contained also in Lord Silkin’s Bill. They were to provide the basic premises for the reform position, in which the granting of a legal abortion would be dependent on the deliberations of (usually two) medical practitioners assessing eligibility according to specifically prescribed grounds.

Such a position, whilst seemingly a departure from the present law, would in one sense merely have put into statutory effect a situation which medical and legal authorities claimed to be already the case, based on

¹⁵⁰ As mentioned in the previous chapter, there had been previous attempts but, unlike Silken’s Bill, they had not been organised and concerted efforts.

interpretations of the precedent in the Bourne ruling (but, importantly, never legally tested here). Nevertheless, whilst some therapeutic terminations were performed in line with these criteria (a tiny proportion of all abortions), practitioners were generally very cautious and obtaining a legal abortion was highly dependent on their individual whims and prejudices. Further, the vast majority of people were simply unaware that there was any possibility of obtaining an abortion legally. (Saw, 1970: 12)¹⁵¹

Liberal as was the position articulated by the Bishop, the proposed reforms were still restrictive and paternalistic, and did not fundamentally question the right of the state to govern women's bodies and regulate reproduction. But it was reform in these terms which dominated any discussion of liberalisation in the first few years of the debate. Nevertheless, as previously indicated, from a strategic perspective a concentration on 'deserving cases' was likely to elicit sympathy and was arguably the only viable tactic to pursue in the early stages of the struggle. Even ALRA - formed later in 1966 - appears to have been circumspect about specifically suggesting more far-reaching legislative change, although its policy was that any women who needed an abortion should be able to obtain one.

The Discourse of Adequate Grounds

The first ground involved the legalisation of abortion in cases where continuation of the pregnancy to full term would endanger the physical or mental health of a women. It would seem that most therapeutic operations being performed in Australia were done so on the basis of the 'mental health' principle articulated by McNaughton. Its necessary vagueness allowed for a degree of discretion and latitude in interpretation which depended primarily on the disposition of the practitioner but also, often on the knowledge and assertiveness of the women (likely to be a matter of her class position and whether she was a public or private patient or could obtain a supportive opinion from a psychiatrist). Whereas the condition covering physical health was, more or less, straightforward - in fact applying to very few cases due to advances in the medical management of pregnancy - that of mental health was potentially much more fluid. Arguably, various advocates of reform were to have in mind very different possibilities as to how this could be negotiated in practice. One could assume, for instance, that the Bishop Coadjutor was presuming a conservative interpretation but that ALRA foresaw much more radical possibilities. Certainly, once the Steele Bill was enacted in England it rapidly became apparent that such a reform could allow for much freer access to abortion than many of its more moderate supporters had probably envisaged.

A risk of physical or mental deformity or handicap would apply, for example, where the mother had contracted rubella at a critical stage of the pregnancy, or had taken a drug such as Thalidomide, or where one of the parents had a serious disease likely to be inherited by offspring. The argument that abortion was justified for pregnancies arising from a criminal offence can also be traced back to the Bourne case. On this ground abortion would be made lawful if the pregnancy resulted from rape, incest, or carnal knowledge.

The Bishop Coadjutor's appeal that the circumstances of the whole family should be taken into account had a certain similarity to the 'social clause' in Silkin's bill, the one which prompted the most controversy in Britain. In drafting this clause - which provided for abortion in cases where the mother was judged to be of unsound mind or as 'unsuitable' to undertake the legal and moral responsibilities of childrearing - Silkin had in mind the case of a "working class char woman" with an already completed family. (Simms & Hindell, 1971: 135) It could also apply, however, to families in poverty, women married to alcoholics, criminals or drug addicts, or to women themselves with these problems. Eventually the clause was dropped from the Bill in the face of concerted opposition, firstly, because of the eugenic overtones regarding the 'suitability' of certain women to be mothers and, secondly, because it could have been used to open the floodgates to abortion. (Simms & Hindell, 1971: 135) Britain was not yet ready to condone a law change permitting abortion without 'legitimate' reason, although it was far ahead of Australia in debating the issue generally. In

¹⁵¹ As Daphne Colbourne, Matron of Heatherbrae Clinic, stated: "The majority of people in this state believed [prior to the Levine decision] that there were legal and illegal terminations and that generally legal terminations could be done in public hospitals alone, after the opinion of two doctors as to their necessity had been obtained. The legal terminations, on this view, were tiny in number, perhaps one in 10,000 of all the the terminations that actually took place" (Colbourne, 1973b: 1485). (In referring to this 'view', Colbourne was indicating [in line with Levine's ruling] that the vast majority of abortions previously construed as illegal had in fact been legal at the time.)

the future, most specific proposals for reform here were to exclude this ground, either, presumably, from genuine conservatism or as a matter of tactics.

A Liberal Cleric

The Bishop Coadjutor was not the only Protestant churchman to argue for reform in the early stages of the debate. At another forum on the topic organised by the Australian Lawyer's Christian Fellowship, a "prominent Sydney Theologian", the Presbyterian Minister for Turramurra Rev Dr Edward Roberts-Thomson called for a more "sympathetic" attitude to women with unwanted pregnancies; "...sympathetic because we are dealing here with the milk of human kindness, not the rigours of the law." Acknowledging that his opinions would differ from more traditional churchmen, he argued that Christianity needed to become more responsive to modern needs, and claimed that his views were supported by an increasing number of people concerned about the relevance of the Christian faith. In the case of an unmarried girl he took a quite radical position in stating his belief that "Our Lord's first concern" would be for her, whether she had become pregnant through wilfulness, stupidity, ignorance or rape; and likewise, in the case of a women whose marriage was threatened by "a careless, cruel or irresponsible husband". Roberts-Thomson proposed that panels be set-up to assist women and girls seeking abortions, and that they be composed of doctors, psychiatrists, psychologists, sociologists and Christian counsellors all sympathetic to the need for abortion. (*SMH*, 30.9.66: 6) He suggested that abortion could be morally permissible under any circumstances and in line with God's teaching if it was in the best interests of the girl or women concerned.

Roberts-Thomson's stand lent legitimacy to a very liberal perspective on abortion and had the effect of opening up the issue for sustained debate. Significantly, he had urged that abortion be permitted not only in obviously 'deserving' instances, but also for unmarried girls: those who would be redefined as 'common sluts' by public exposure of their pregnancy. Interestingly, this was the very category with which reformers were to appear most anxious to avoid identification. Conversely, it was the one which many anti-abortionists were to be most concerned to deny liberalisation: on the one hand in the belief that such girls should be punished, and on the other, lest easier access to abortion should encourage promiscuity.

In advocating very wide grounds for legal abortion, and giving recognition to social and economic indications, Roberts-Thomson was also denying to the medical profession the sole right to adjudicate in abortion decisions. By suggesting the inclusion of a Christian counsellor on a sympathetic panel of experts he was giving acknowledgement to the moral connotations attaching to abortion, but also, by including a psychologist, to the individual context, and by a sociologist, to the social dimensions. The idea that an abortion decision might be the sole preserve of the woman in question, however, was slow to emerge as a serious one in statements by prominent persons or organisations, although, as we have seen, it was frequently raised by ALRA and a number of correspondents to the Editor of the *Herald*. Thus, Dr I.S. Edwards, Chairman of the NSW Humanist Society, commended Roberts-Thomson's sympathetic approach, but argued that a women's decision whether or not to bear a child should be hers alone, and that she shouldn't have to beg from a panel, sympathetic or not. (*SMH*, 5.10.66: 2)¹⁵²

Notwithstanding this criticism, Protestant Churches generally steered a quite moderate course in the early days of the debate. Paradoxically, there is a discernible tendency for some to withdraw to a more conservative line over the same time as public opinion (as measured by opinion polls at least) relaxed its objections to abortion.¹⁵³ In fact, it was the liberal opinions espoused by prominent Protestant clerics which were to

¹⁵² Edwards also agreed with a judge speaking at the forum who had pointed out that the present law provided doctors with a wide degree of discretion to terminate a pregnancy on grounds of physical or mental health. Mr Justice McClellens' remark - which implicitly alluded to the Bourne judgement - confirmed that the medical profession had little in the way of the law to fear by performing therapeutic abortions. For Edwards, however, therapeutic abortions were not the main issue. He argued that a woman's happiness and the welfare of her family should also be valid lawful grounds.

¹⁵³ Whilst it is outside the ambit of this thesis to analyse the causes of this change, some possibilities can be suggested. The ecumenical movement prompted churches to seek common ground and avoid unnecessary divisions between each other, therefore it is not unlikely, given the Catholic Church's implacable opposition to abortion and the lack of any definitive doctrinal position on it in the Protestant churches, that the latter were disposed to moderate certain liberal elements in the interests of harmony. Of importance too, was the stranglehold held by a basically evangelical hierarchy over the Church of England in the Sydney Diocese, particularly from the early 1970s, when this was occupied by clergy with strong links with the recently formed Festival of Light. Also, it is possible

prompt the Catholic Church to enter the fray. In his presidential address to bishops and clergy at the convocation of Canterbury,¹⁵⁴ Dr Ramsay, the Archbishop of Canterbury, stated that the “absolutist” position held on abortion by Christians could no longer be maintained. Arguing in favour of the clauses permitting termination in the British abortion reform bill, he also advocated legal abortion in cases where the rearing of a child was beyond the mother’s ability.¹⁵⁵ More importantly, he attacked, as no longer tenable, the historical legacy within Christianity which equated abortion with murder;¹⁵⁶ foetal life was not the same as human life, he said, rather it was a prelude to it, and there were cases where its destruction could be justified. (*SMH*, 19.1.67: 7)

In Sydney, Dr Roberts-Thomson welcomed the Archbishop’s statement but argued that the views expressed were still too moderate. In particular, he stated that:

We are still inclined to regard a woman as a ‘thing’ about which we can make decisions, rather than a person who has the right to speak for herself. She has rights which must not be violated. It is wiser for the matter of abortion to be discussed in the light of her feelings and second thoughts. (*SMH*, 19.1.67: 7)

This was almost tantamount to asserting that women, in fact, had a ‘naturally’ given right to choose when it came to decisions about abortion, and that that right was being infringed. Again, Roberts-Thomson suggested that concern for the woman should be the paramount consideration. Because “she may have become pregnant stupidly or wilfully” her feelings or regrets needed to be taken into account. What is very clear is, firstly, his assumption - which he appeared to presume others shared - that most abortions involved single girls or women and, secondly, his rejection of a position which wanted to limit terminations to the ‘deserving cases’ - to those who were not the ‘creators of their own misfortune’ - so that he believed abortion could be condoned even in cases where pregnancy was the result of ignorance or even deliberate promiscuity.

Several other high-ranking clergy also voiced their support for Dr Ramsay’s sentiments although none were prepared to go as far as Roberts-Thomson: for example, the Anglican Bishop Housden took care to rule out the option of abortion as a solution to pre-marital pregnancy:

I do not think that in these cases abortion should be allowed.... There should not be legal abortion merely to relieve certain pressures resulting from sexual intercourse outside marriage. (*SMH*, 19.1.67: 7)

Ramsay’s liberalism was predictably and energetically condemned by a spokesman for the Catholic Church, who expressed his amazement at the Archbishop’s statement. Echoing papal pronouncements on the subject, the Rev Dr W.E. Murray said abortion was evil, and evil could never be justified, even when it would alleviate human suffering. The foetus was “*a human being*”; it was not “in the womb ... due to any fault of its own”, thus it was “*innocent*”, and could not, “in any way ... be regarded as an aggressor and under no circumstances can its *direct destruction* be morally justified.” To say that the foetus was merely a ‘prelude’ to life and therefore not a human being, as did Ramsay, was a “convenient distinction” which he deplored. (*SMH*, 21.1.67: 6, my emphasis) From this relatively subdued beginning, the Catholic Church would become increasingly and vehemently more outspoken in its opposition to abortion, building up to the outspoken condemnation by a number of bishops in 1972 against the election of Whitlam’s Labor Party on the grounds

that as the abortion debate gathered momentum, and it became apparent that reformist activists were seeking legal abortion for all women who wanted it - that is, not just the ‘deserving cases’ - that moderate churchmen perceived that the issue had, so to speak, ‘got out of hand’.

¹⁵⁴ This corresponds to the Synod in the Australian Church, thus the Archbishop was according considerable weight to his statement by giving it at this venue.

¹⁵⁵ As Lord Silkin’s Bill had appeared unlikely to succeed in its passage through the Commons, it had been withdrawn and another bill, sponsored by David Steele and drafted differently so as to win more support, had been introduced. It subsequently passed through both Houses of Parliament in 1967 and received the Royal Assent on 27 October. The new legislation came into operation on 27 April, 1968. (Marsh & Chambers, 1981: 14-7). The *Sydney Morning Herald* carried reports on the progress of the Bill, and shortly after it was introduced ran a full-page article detailing its provisions and referring to the move as resulting in “one of the most bitter and emotional social struggles of this century”. (*SMH*, 18.2.67: 18)

¹⁵⁶ This derived from the pre-Reformation (Catholic) Church and, as previously noted, referred to abortions after quickening. It had never been specifically codified within the Church of England.

of the latter's supposed pro-abortion stance and to a vitriolic campaign by the Church against the 1973 Medical Clarification Bill .

In the News

A number of minor events occurred around this time to help keep abortion in the news. In Federal Parliament a NSW Labor MP alleged that about ten abortions were performed each day at the Heatherbrae Clinic, in Curlew Street, Bondi. He named Matron Colbourne as "an abortionist" and said that two medical practitioners, Drs Wall and Wald, operated at the clinic regularly, and that all were under observation by the Crime Investigation Bureau. (*SMH*, 14.10.67: 12) In response to the allegations, the NSW Minister for Health said that as the clinic was not registered as a private hospital, regulation of its activities did not fall within the jurisdiction of his Department and that it was a matter for the police. Similarly, the NSW President of the AMA said that the Association had no statutory power to inquire into the claims. (*SMH*, 14.10.67: 4) Significantly, nothing more was to be heard of police investigations of Heatherbrae until it was raided and became the subject of prosecutions in 1970. Years later, after the Heatherbrae trial, Daphne Colbourne confirmed that the clinic had been visited on a number of occasions by officers from the Criminal Investigation Bureau (CIB) but that the purpose of their enquiries was to solicit bribes, a situation which they made clear was the 'normal' procedure for 'businesses' such as hers. She claimed that she adamantly and consistently refused to pay protection money to the police. (Colbourne, 1973a: 1450)

A particularly gruesome abortion on a twenty-year old single woman was the focus of a trial in 1967, the details of which graphically illustrated the potential dangers involved in the abortion black market.¹⁵⁷ A Newcastle medical practitioner, Dr Phillips, pleaded not guilty to charges of unlawfully using an instrument with intent to procure a miscarriage and with causing grievous bodily harm by negligent medical treatment. (*SMH*, 17.5.67: 14) The prosecution alleged that he performed an abortion on the 'girl' and, by mistake, punctured the wall of the uterus and pulled down a piece of her small bowel; that four days later, when the woman returned to his surgery vomiting and screaming with pain, he had, "without anaesthetic, assistance or permission" removed twelve feet of bowel. Phillips maintained that she had come to him complaining about a problem with her sinus but, because she was obviously suffering severe abdominal pain, he had examined her and cut off the bowel in order to save her life. He said "it looked like a crowbar had been in there, I put what I cut off in a plastic bag and sent it ... with the ambulance. (*SMH*, 17.5.67: 14) Surgeons who subsequently operated on her testified that only eighteen inches of the woman's bowel was left whereas a normal bowel would be between twelve and sixteen feet. It remained to be seen whether she would be able to survive; certainly, she would suffer from malnutrition and her life expectancy was seriously affected. (*SMH*, 18.5.67: 7) The jury cleared Phillips of the abortion charge but found him guilty of causing grievous bodily harm.¹⁵⁸ (*SMH*, 24.5.67: 11) The *Herald* reported the proceedings of every day of the trial in considerable detail, showing again a marked change from the generally euphemistic and brief manner in which it had dealt with abortion cases only several years previously.

The next year four youths and a girl were charged with murder for assisting a seventeen-year old girl in an attempt to procure her own miscarriage. The girl had died from a heat stroke after a 'mustard bath': a very hot

¹⁵⁷ In all of the articles reporting this case the woman was in fact referred to as "the girl", confirming a point previously made, that the term connoted 'young unmarried female'. In other examples, married females of a similar age were consistently referred to as 'women'.

¹⁵⁸ The case highlights the difficulty involved in securing a conviction against a medical practitioner for performing an abortion. Whilst Phillips was found not guilty, the circumstances of the case would certainly lead one to wonder why he had not called an ambulance immediately. The judge's comments, that his negligence amounted to recklessness, and that he "had removed living bowel by pulling it from the girl's body in a manner wholly unknown to medical practice" (*SMH* 25.5.67: 5) would suggest that if the girl had been sent straight to hospital it may have been possible to draw the bowel back into the abdomen through surgery (given that it was still connected and "living"). Certainly, the evidence of the surgeons implied that the loss of the bowel was Phillips' fault. If he had nothing to hide it seems reasonable to question why he performed what the surgeons and he himself agreed was an extraordinary procedure, despite his claim that he believed he was saving the woman's life. Finally, as a comment on the treatment of medical practitioners by the law (at least in abortion cases) it is worth noting that Phillips was sentenced to only two years gaol with a six months non-parole period, despite the fact that through his actions the woman's life would continue to be at risk and its quality was considerably impaired. No reference was made to any action being contemplated by the Medical Tribunal Board in regards to his license to practice medicine.

bath with mustard, pepper and curry powder added. She had also drunk a quantity of brandy and claret whilst lying in it. The four had attempted to talk her out of it, but once she made her determination clear they had agreed to stay and help her. Apparently, the girl had previously had an abortion by a doctor at Maroubra for \$145, but was unable to return there as she had no money. Prior to deciding on the bath she had borrowed twenty dollars to buy some “little black pills” but had been unable to get them. She had passed out in the bath and vomited when she came to. Just as her friends got her out they said she had a fit and their attempts to revive her failed. The murder charges were dismissed but they were charged with attempting to procure a miscarriage (*SMH*, 5.6.68: 12) and were subsequently found guilty but released on good behaviour bonds. (*SMH*, 11.3.69: 14)

In September, 1967 the fifth World Congress of Gynaecology and Obstetrics was held in Sydney. Included was a special section on abortion, the issue being on the public agenda in most western countries. Unlike Australia, the medical profession was deeply involved elsewhere, as Henry Mayer had recently pointed out: “I just can’t understand why the Australian doctors ... are silent on the subject, when their colleagues in England and America are engaged in such heated debate”. (*SMH*, 6.11.66: 30) The *Herald* reported conference papers given by three women gynaecologists from different countries who, it said “were discussing abortion on strictly medical grounds - the moral considerations they leave to the individual conscience”. All dwelt, however, on the physical and/or psychological damage which abortion allegedly entailed. One claimed that forty percent of women who had an abortion never again became pregnant, affected as they were by “the attitudes of their family, of society in general, of the people they know, and the shame of having known a man that abandoned them”. These women, she said, “became frightened of a new pregnancy and scared of sex”. All speakers agreed that abortions, whether legal or illegal, could be physically harmful. (*SMH*, 28.9.67: 6) Speaking prior to the Congress, a professor of medicine (described as a “Protestant” by the *Herald*, indicating its understanding of the issue as a moral and religious one) and “one of the world’s leading childbirth experts”, stated that human life began at the moment of conception. Because “a new individual existed” within twenty-four to forty-eight hours after intercourse, any post-intercourse contraceptive which might be developed in the future would be, in fact, an abortive device, Professor Watteville maintained. He himself drew no moral from these “scientific facts”, he said, but remarked that “all manner of moral, philosophical and psychological implications stemmed from them”. He hoped that the Congress could agree on “a neutral, dispassionate position, after all”, he declared, “we represent the authority of medical morality in this field”. (*SMH*, 21.9.67: 9)

The solution offered by all speakers was better family planning facilities and access to contraception to negate the demand for abortion. (*SMH*, 28.9.67: 6) The President of the Australian Council of the Royal College of Obstetricians and Gynaecologists, Dr Meares, advocated that advice bureaux should be set up in each Australian state, staffed by a doctor, a social worker and a religious advisor, to persuade women *not* to have abortions. He said that although it was a matter for the “individual conscience”, a discussion with “sympathetic advisors” can *clarify* the mind of a woman seeking abortion”. (*SMH*, 30.9.67: 9, my emphasis) Meares’ comments elicited a concerted protest from readers against his anti-abortion views but, interestingly, none of the published letters drew attention to his assumption that if a woman’s mind was ‘clarified’ she would (naturally?) decide against abortion.

The Sydney Morning Herald as Actor

Prompted, no doubt, by the Congress, the *Sydney Morning Herald* ran an editorial linking abortion and homosexuality.¹⁵⁹ Significantly, this implies that the editor perceived them as both sexual and as private matters. Interestingly, the outspoken liberalism expressed towards homosexuality - a tabooed and despised ‘vice’ far removed from the experience of most people - contrasts with the more cautious approach taken towards abortion, an event which touched the lives of so many at some time or another. Although implying

¹⁵⁹ On homosexuality, the Herald referred to a previous editorial in which it had advocated “humanitarian” legalisation of sexual acts between consenting males, with the “safeguard” of tougher penalties for offences against adolescents and children (a rider based on the myth, prevalent even today, that homosexual males, pederasts and paedophiles are synonymous). It had urged an end to further procrastination and called for prompt action to remove the legal stigma from homosexuality. We can safely assume that this position was based on and legitimated by the findings of the Wolfenden Committee in the U.K. and legal changes subsequent to that.

that some reform of the law on abortion was necessary, given that poorer women were denied the safe operations available to “women of means”, the editorial stopped short of actually stating this, contenting itself with advising of the need for a close examination of the “ethical and moral issues involved”. It was mildly critical, however, of Dr Meares’ suggested ‘advice’ bureaux, pointing out that this was certainly no solution to the problem. Curiously, the editorial also stated that the existing abortion trade (which it claimed allowed women access to safe abortions), coupled with the availability of reliable contraception, “had dampened public demand for abortion law reform”. Apart from being a serious misjudgement of the state of the abortion industry (as some of the interviews in the previous chapters make clear) and of the impetus which the reform movement was gathering, this latter statement foreshadows the dominant line which *Herald* editorials were to take over the next few years. The solution it was to consistently offer for the problem of abortion was improved education about, and access to, contraception. (*SMH*, 2.10.67: 2)

In fact, over the next half dozen or so years the *Herald* ran numerous editorials on abortion, and whereas they were to become increasingly less circumspect than this first one, all steered a moderate line between what it referred to as the two extremes: on the one hand, maintenance of the status quo and even increased vigilance in policing, and on the other, abortion ‘on demand’. This ‘sitting on the fence’ gives some indication of just how contentious the *Herald* editors considered abortion to be, especially when one takes into account their liberal stand on that ‘vile crime of sodomy’. As one would expect, however, the tenor of editorials changed as public support for reform grew. By the time the law had been changed in South Australia the *Herald* was prepared to call for reform elsewhere, but only as a “last resort” and on “the most pressing indications” (6.12.69: 2) The Victorian exposure of police corruption prompted it to go even further, acknowledging that in attempting to regulate private morality, use of the law was futile and resulted in corruption. The criminal law, it said, does not embody “an immutable set of principles” and what is considered a crime in one era may not be so in another, implying that abortion (“like homosexuality, fornication, or the propagation of contraceptive measures”) was no longer regarded as such by the weight of public opinion. If abortion couldn’t be stamped out - and there was no doubt that there was a “deep-seated and irrepressible demand” for it - the proper alternative was to legalise it “on those grounds for which there is a demonstrated consensus of approval”, it concluded, whilst shying away from stating just what those grounds should be. (2.3.70: 2) Interestingly, one constant theme in the editorials concerned what the *Herald* referred to as the “injustice” and “inequity” of a situation where a wealthier woman could acquire a safe abortion “while a poorer woman with a big family often cannot” (11.3.69: 2).¹⁶⁰

Of course, the *Herald* was not merely a ‘mirror’ of events and processes in the struggle over abortion; it was also an active participant in that it intervened, provoked and fuelled the debate. For instance, an analysis of the newspaper’s total coverage of the issue from late 1967 through 1968 - a period when little of substance was occurring with regard to abortion but when it seems consistently to be in the news - reveals that the majority of the abortion articles consisted in ‘beating up’ stories, seeking comments from experts (such as Henry Mayer), and reporting any reference to abortion contained elsewhere, for example, in several letters published in the *MJA*. It ran feature stories, series of long articles and detailed reports of any abortion-related events (such as Phillips’ trial and the medical Congress) and published numerous letters on the issue as well as weighing in frequently with comments in by-lined columns and regular editorials. The editorial page, in particular, became a site for the discursive struggle over abortion. Time and again a *Herald* item on the issue would prompt correspondents to respond. In turn, other letters would follow, either supporting or taking issue with a previous writer.

The Abortion Law Reform Association

Towards the end of 1967 an article appeared on Mrs Joyce Duncan who, for the previous year, had been organising support for abortion law change. She declared candidly that in 1950, already with three sons and in the process of starting a business venture, she “deliberately broke the law - and had an abortion”. She said she

¹⁶⁰ Note, again, the assumption that woman wanting abortions were married and that it was those with large families who would be more likely to resort to the backyarder. Yet, evidence from criminal trials and coronial inquests and from my interviews would suggest that, in fact, it was often younger unmarried women - lacking financial assistance from the man, on low rates of female pay and/or without knowledge of other alternatives - who were the main clientele for the unqualified operator.

had never suffered any feelings of guilt, indeed she considered her decision a wise one. Having the abortion illegally, however, did bother her; she thought the secrecy surrounding abortion and the illegality of the operation could themselves induce a sense of guilt in some women. Stating her own belief that the law should permit termination of pregnancy for any reason, Duncan announced a public meeting to found the Abortion Law Reform Association. (*SMH*, 8.11.67: 6) This would appear to be the first time in Australia that a woman publicly declared through the media that she had had an illegal abortion and it must have had considerable shock value. Marian Simms, executive member of the English ALRA described herself as “appalled” when another activist with whom she worked closely, Diane Munday, told her *privately* in the early 1960s of having had an abortion as she had never met anyone previously who actually admitted to one. (Francome, 1984: 82) Later, in the early 1970s, Women’s Liberationists were to consciously use this ‘confessional’ tactic to challenge the law by, for instance, inserting ads in newspapers carrying statements signed by numerous women proclaiming they had had abortions.

Within several months ALRA had a membership of about forty people, two-thirds of them, to Duncan’s surprise, being men. As women were most directly concerned she had expected that most of the membership would have been women. Possibly, at this early stage, the issue attracted male civil libertarians and humanists but many women may have been reluctant to publicly associate themselves with a cause so closely linked to sex. As policy, ALRA made the following claims:

- The present law on abortion is not being enforced and any unenforced law is bad law.
- The present law doesn’t stop abortion, it merely discriminates. Illegality means high fees so that only those with at least \$100 can afford a trained doctor’s abortion.
- Abortion is not preferable to contraception, but should be available to any woman or girl who feels it necessary. (*SMH*, 27.2.68: 6)

A Public Issue

In early 1968 there was a definite air of expectancy of law reform pervading the *Herald’s* treatment of the issue, an expectancy apparently shared by a number of interested parties, both pro- and anti-abortion. In March, the Victorian State Council of the Liberal Party passed a motion that abortion should be legalised “to preserve the life, or mental health or physical health of a woman”. This position thus became official Party policy. Responding to the move, “a leading Melbourne gynaecologist” agreed that for some time there had been a feeling that a certain amount of liberalisation was necessary, despite the fact that the issue was “fraught with moral problems”. But the secretary of the AMA commented that the motion only reinforced what the AMA understood to be the present common law situation (based on the McNaughton decision): “It will merely put present practice on the Statute book”. (*SMH*, 1.3.68: 5)¹⁶¹

¹⁶¹ As I indicated previously, most people were unaware that therapeutic abortions were performed or assumed they were only done for the most pressing medical reasons. The fact that they were occasionally done and that many women seeking illegal abortions may have qualified for a legal termination was hardly ever mentioned publicly, certainly not by medical practitioners who may have feared an avalanche of requests from women. Larkin’s statement was actually ambiguous and indicates how very fluid the notion of ‘a threat to a woman’s health’ was. If a woman was seeking an abortion in a public hospital the indications would have needed to be very severe and clear. If she approached her own practitioner and he/she was sympathetic and liberal in attitude to abortion she may have only needed to show distress which could generously be construed as indicative of mental trauma. Other practitioners may have refused an abortion under virtually any circumstances, for example, in 1970 a man was fined one hundred dollars for helping a girl for whom he felt sorry find an abortionist in Macquarie Street. He thought she was a medical practitioner but in fact she was not qualified. The girl’s own doctor had told her it was very unlikely she would carry the pregnancy beyond five months and if the baby were to be born, it would be deformed. He had not, however, arranged an abortion for her even under those circumstances. (*DT*, 5.9.70: 5) The Heatherbrae doctors claimed that all abortions they did were necessary for the women’s physical or mental health and this was upheld by Levine. Conversely, the meaning intended by Larkin was very narrow and would have only covered a very small number of abortions actually performed.

A 1970 article by journalist Ron Saw in the Daily Telegraph makes patent the public ignorance about therapeutic abortions and the fact that, despite all the discussion over the preceding years, people were no wiser about the possibility of obtaining an abortion legally. It is worth quoting from at length to demonstrate this (as well, incidentally, as the degree of breathtakingly offensive sexism apparently acceptable at the time). Saw is addressing a hypothetical woman finding herself pregnant: “You’re pregnant love? You’re quite sure about it, now, and you’re worried to hell because you don’t want to have it.... You’re sure all right, and you’re sure that you’ve got to break the law by having an abortion. Do you know, you stupid creature, have you the faintest idea - and I know you haven’t because it’s not your nature to pursue calm, rational lines of thought - do you know that you can have a perfectly legal and

At the same time the Australian Law Council - a body consisting of representatives of the law societies of each State and the Commonwealth - was reviewing Australian criminal laws, including those relating to abortion, and was due to make its recommendations soon. On this basis the *Herald* announced on its front page that “abortion in special circumstances ... could become legal in NSW” and went on to say “it is believed” that Mr McCaw, the NSW Attorney-General, favoured reform and would suggest it to Cabinet if the Law Council recommended it. (*SMH*, 2.3.68: 1)

So imminent did statutory change seem that a leading article in the *MJA* - in its first reference to the abortion issue - argued that legislation, if it were to be amended, should be made uniform across all States of the Commonwealth. It questioned, however, “whether or not *we* would be better off for having the position defined by legislation”. (in *SMH*, 2.3.68: 5, my emphasis)¹⁶² Acknowledging the profession’s reluctance to get involved in what was a ‘moral issue’ it warned that, nevertheless, change would occur soon or later and the results could be unsatisfactory, with possibly a wide divergence of laws between States. Therefore, it argued, there was a need for the profession to think seriously about the matter.

Two weeks later the *MJA* published letters from two practitioners - written, presumably, in response to the article - pleading for liberalisation of the abortion laws. One was from Jim Woolnough, one of the few doctors to identify with the pro-abortion cause and to belong to ALRA. He argued that medical practitioners regularly saw the results of unwanted pregnancies and the hardship and misery which resulted from the illegality of abortion. Compassion for girls or women in serious trouble made some practitioners want liberalisation so as to enable them to “apply the simple remedy”. As to the argument that abortion was murder, he countered that society was willing to condone killing in cases of war or capital punishment and “yet quibbles over taking a life which is not yet human, not yet conscious and not yet loved”. A woman GP similarly expressed the hope that the law would be changed so that the “conscientious practitioner” could give aid to girls and women for whom pregnancy constituted a personal disaster. Further, she insisted, the profession had to confront the fact “that those in the know, with a few hundred dollars to spare, are already circumventing the absence of such legislation”; the illegal abortion business was “an appalling blight on our profession” and only law reform would curtail it and prevent “honest women from having to seek dishonest means of solving their dilemma”. (*SMH*, 16.3.68: 7)

The editorial in the following week’s *MJA*, however, displays a marked reluctance to get involved in the issue - deliberately or otherwise distancing itself from the letters in the previous edition - and contenting itself with laying out the two extreme positions on abortion: on the one hand, that contained in Pope Pius XII’s 1951 Encyclical from which it quotes and, on the other, that which advocates “the unqualified right of a woman to decide for herself” and which “apparently sees no difference from a moral point of view between the removal from the body of the products of conception and, for example, appendectomy”. It condemns as “beneath contempt” the financially exploitative abortionist, but adds that it is always wrong to approach the subject of abortion lightly in any circumstances. Apparently cautious not to offend, it comments, somewhat cryptically,

comparatively *cheap* abortion? If you’ve reached into the matter of illegal abortion you’ll know that it will cost you - or the poor shudderer who did it to you - anything from \$100 to \$300. For \$300 you’ll get a perfectly handled job by a medical practitioner in a well-appointed abortion mill. For \$100 ... you’ll get a venal crone hauling you into a bathroom and wiping a Wettex over a knitting needle. Either way you’ll be breaking the law, creeping wretchedly to unsavoury and clandestine illegality, tearing your body and your mind because you believe that the only abortion available is illegal abortion. Pig’s armpit it is! Abortion in this state is perfectly legal.... All you need is medical opinion that says your pregnancy should be terminated because it is likely to affect your physical or mental health; or that the child, if you have it, would be likely to have a serious mental or physical defect.”

Saw then goes on to detail the steps a woman should take to get her unwanted pregnancy terminated legally, in a public hospital and at nominal cost after medical benefit insurance. He adds that it is not necessarily easy, but that if a woman is persistent it is perfectly possible. (*Saw*, 1970: 12)

Incidentally, Saw’s claim that a legal abortion was relatively easier to get was disputed by Joyce Duncan in a letter the following day. She said that recently she helped a young woman arrange to go to New York for an abortion because she found it impossible to obtain one here. (*DT*, 11.9.70: 17)

¹⁶² If practitioners followed the procedures for therapeutic abortion as laid down by the AMA they could be confident that their actions would never be subject to legal question under the present law. Decisions regarding terminations remained fully a matter of medical judgement to be decided between peers. A more specific law, strictly applied, may have held the danger that the profession’s application of the law would become more open to outside, non-medical, regulation. Note too, that the concern was with the interests of the profession, not those of the patient.

that doctors should not allow their personal attitudes to “interfere with mutual respect for colleagues’ sincerely held convictions and consequent responsible actions”. Neatly absolving the profession from any responsibility in the present debate, it says that it would be presumptuous to adjudicate between the two positions, but adds that “we must uphold the doctor’s duty to respect life at every stage”. (*SMH*, 23.3.68: 12)

All of this was reported in detail in the *Herald* which followed it several days later with a series of three feature articles by Brian Johns, the journalist whose by-line appeared under many of its abortion stories (*SMH*, 21,22,23.3.68). These contained frank and revealing disclosures of the illegal abortion trade, a detailed first-hand account of one women’s abortion experiences, and a clear summary of the law, how it operated in practice, and of the pressure building up for reform. Johns interviewed two (medically qualified) abortionists - one, ‘Dr X’, who did abortions full time and the other retired - and was told that in all, nine worked full time in abortion practices in Sydney with about another fifteen doing them regularly but not exclusively. Fees averaged about \$150 but could be as much as \$1000 by those who charged what they thought the market would bear. Most patients were referred by other medical practitioners and fee splitting was common.

The women who related the story of her two abortions had them done by one of the doctors interviewed. On the first occasion she had been referred by a North Shore GP to a Macquarie Street practitioner known as an abortionist but as he was retiring, he had charged her a consultation fee and referred her to Dr X. It was done in a spotless and attractive private hospital with general anaesthetic and very correct and efficient nursing sisters. She was kept there for three to four hours, was examined before she left and went back to Dr X later after contracting an infection from swimming too soon after the second abortion. Johns said the girl was “full of praise for Dr X”: “He is kind and you feel he is not merely doing it for money.... He could not do enough for me. He gave me contraceptive advice which the Macquarie Street doctor who did my check-ups after my first operation didn’t bother to do.”

By their ‘objective’ and non-judgemental tone and sympathetic treatment of the issue all the articles undoubtedly but implicitly conveyed a strong case for liberalisation. Whilst the *Herald*’s ‘official’ position, then, as presented in editorials, was measured and circumspect, the treatment afforded abortion by individual journalists consistently conveyed a message favouring reform, without ever actually stating this. Overall then, the *Herald* was an active player in spurring on the abortion debate and in actually fuelling the pressure for a review of the law.

Subsequently, the editorial pages were littered for weeks with letters about abortion, with one day (10.4.68:2), the entire letters section devoted to the subject. A number of writers praised the *Herald* for “its good factual coverage” and its “commendable summary”. Others attacked it, with one woman declaring:

I am ... physically sickened by Brian John’s recent dead-pan report on carriage-trade abortion. I may be odd - for nice, kind, ‘decent’ people chat away at suburban dinners and city lunches in defence of legalising the crime of abortion.... (*SMH*, 10.4.68: 2)

In reply, another challenged her “emotional pontification” and that she ‘deplored’ the fact that abortion was being discussed ‘in public’ by ‘decent’ people. She said that “it is about time that the whole subject was aired in public, and some of the spurious arguments [against abortion] swept away once and for all”.

Around the same time an article appeared based on views obviously solicited from Henry Mayer and commenting on “suggestions that abortion could become legal” (*SMH*, 3.3.68: 36). In it, the *Herald* writer summarised all those reports the newspaper had carried recently (as did John’s feature), lending weight to the impression to which it was itself contributing (if not creating) that liberalisation was imminent. The report on the Law Council, for instance, had carried nothing substantive within it to give support to the *Herald*’s contention that it was likely to recommend liberalisation of the law (and, indeed, nothing further was ever reported on the Council’s findings with regard to abortion, leading one to assume that it never made any). Similarly, in reporting the motion passed by the Victorian Liberal Party State Council, the *Herald* did not mention the fact that within the Liberal Party, unlike the ALP, deliberations of the wider Party were not binding on the Parliamentary wing of the Party, and this despite the fact that in one paragraph buried in the article, the Attorney-General was reported as objecting to the motion on the grounds that it would increase the number of abortions “by leading to a rush of abortions by people at present who did not intend to have them”.

Again, the newspaper seized on the article and letters in the *MJA* - which can themselves be seen as responding to the expectations of reform being built up - as further 'proof' of impending liberalisation, and gave them prominent coverage. In sum, no particular events occurred to indicate any intention on the part of any State Government, or pressure within any Government, to move towards legislative change. Rather, the expectations being built up - at least in so far as they were apparent in the *Herald* - were, to some extent, media constructions deriving from the manner with which the issue was being dealt, and indeed promoted, in the newspaper. Needless to say, this does not mean that these expectations were 'empty' or 'mere' media fabrications; at the same time as they were being reported, they were being constructed as real in their potential effectivity; in the impetus and momentum they added to pressure for reform.

Bertram Wainer's Campaign

This momentum was soon to be eclipsed, however, by a series of events and processes, first in Victoria and then in NSW, which occurred in response to the public unmasking of abortion, and particularly of the clandestine abortion industry and the accompanying police complicity in its operation. As a result, the site of conflict over abortion was to shift to the formal political arena and eventually - after police crackdowns on abortionists in Victoria and NSW and a judicial inquiry in the former - to the law courts. Ultimately, it was at this level that the parameters of abortion practice for the post-1973 period were to be established. Although pro-abortionists (and the media) certainly created the climate for reform, and one crusading medical practitioner forced the hand of law enforcement agencies and politicians, ironically, the form which change eventually assumed was an unintended consequence of the actions of some of the most vehement opponents of change - the Democratic Labor Party (DLP), a political party with strong links with the Roman Catholic Church - because of its influence on conservative party State governments through the preferential voting system.

Presumably in reaction against the mounting publicity about abortion and revelations of the illegal trade in it, Victorian police authorities initiated a clamp-down by the Homicide Squad on illegal abortion. Beginning in the latter part of 1967 and continuing through into 1969, numerous abortionists' premises were raided and charges laid against medical practitioners and nurses as well as unqualified persons. Eventually, it became virtually impossible to obtain an abortion in Victoria and women were forced to travel interstate (*SMH*, 8.7.68: 4). As was to become apparent, the police had their own agenda to pursue with regard to abortion; numerous officers responsible for its policing were, in fact, deeply involved in a long-standing and extensive web of bribery and protection rackets.¹⁶³ Nevertheless, despite the repression, reformists remained optimistic that the Liberal Party government would eventually move to reform the law, given the newly proclaimed party policy.¹⁶⁴ Contrary to these hopes, however, in July, 1968, the Premier, Henry Bolte, announced there would be no review of the abortion law (*SMH*, 2.7.68: 12).

Events in Victoria between 1968 and 1970 were particularly significant for the abortion struggle because of a sustained campaign mounted by an individual 'renegade' medical practitioner, Bertram Wainer. This sparked off a whole series of incidents and processes which ultimately contributed to liberalisation in that State and in NSW. Wainer was no member of the medical establishment. Brought up in the slums of Glasgow, he left school at thirteen and migrated to Australia in 1949. He finished his schooling here at night, won a Commonwealth Scholarship and worked his way through Medicine to graduate in 1958. After several years at Melbourne's Royal Prince Henry Hospital he joined the army and, as a Lieutenant-Colonel, was in charge of a military hospital treating Australian soldiers injured in the Vietnam war. After six years he resigned and set up in general practice. In his book dealing with his campaign for abortion reform (Wainer, 1972) he recounts how the gruelling poverty of Glasgow, the bloody horrors he witnessed during the blitz there and then the experience of seeing men senselessly slaughtered and maimed by war left indelible marks on him. Two other events he details as crystallizing his revulsion at human suffering and the needless loss of life caused by the arrogance of what he saw as morally-bankrupt politicians and officials. One morning in January, 1967, he

¹⁶³ Whether or not this action was taken independently of the political arm of the State remains unknown. Certainly in NSW this wasn't so, the corruption in which the police were involved there reaching up to include persons in the highest levels of the Government.

¹⁶⁴ Following that, the Victorian Branch of the ALP also declared itself in favour of reform at its Conference in June.

joined others protesting outside Pentridge Gaol at the hanging of Ronald Ryan taking place inside that morning. Premier Bolte had refused all pleas for clemency and Wainer was appalled at what he saw as an outrageous misuse of power in the face of public dissent. Then, in 1968, one of his patients arrived at his surgery haemorrhaging severely from a bad abortion and died suddenly. His horror at this led him to begin investigating the whole matter of illegal abortions.

Over the next year or so his inquiries led him to discover extensive police protection of the illicit abortion trade involving a system of graft and corruption implicating numerous high-ranking police officers. In fact, at least some of the abortionists prosecuted had been paying protection money to the same detectives who then arrested them during the clamp-down. Eventually, angered at being double crossed, several of these were to reveal to Wainer detailed information about their arrangements with police and sign affidavits to that effect. His repeated failures at getting politicians and officials to take notice of his allegations finally decided him to go public.

In May, 1969, he placed an advertisement in a morning paper headed: “**Abortion Abortion Abortion.**”, which alleged that police were using bullying tactics in their inquiries into abortion. It warned women who had attended a doctor for any reason that they might be questioned by police and advised them not to be intimidated, to give their name and address and nothing more, and requested any women who were approached about alleged abortions to telephone him. He was immediately summoned to appear before the ethics committee of the Victorian AMA to answer a charge of advertising and was warned. Then, in an attempt to provoke the authorities to take notice, he performed an abortion on a “deeply depressed girl” (actually, an unmarried *woman* of twenty-three) on the basis of consultations with three psychiatrists who agreed that the pregnancy constituted a grave risk to her mental health. He handed a signed confession to this effect to the chief of the Homicide Squad (Detective-Inspector Jack Ford, who was later to be sentenced to prison as a result of Wainer’s campaign), and notified the media.

Relying on the Bourne case, Wainer was confident that the police would not take action against him or that he would be acquitted if they did but, as intended, his challenge received a great deal of publicity. In fact, only the previous month, the first trial of one of the doctors charged the previous year ended with an acquittal and a landmark decision. (*SMH*, 19.6.69: 5) In the Supreme Court Mr Justice Menhennitt stated that the term ‘unlawful’ should be interpreted according to the doctrine of necessity. Hence, for an abortion to be lawful,

the accused must have honestly believed on reasonable grounds that the act done by him was:

- (a) necessary to preserve a woman from the serious danger to her life or her physical or mental health, not being the normal dangers of pregnancy and childbirth, which the continuance of the pregnancy would entail; and
- (b) in the circumstances not out of proportion to the danger to be averted. (*RCHR, Final Report, Vol. 3: 139*)

The decision was the first clarification of abortion law in any Australian State (although, importantly, it still left open to question what would constitute a serious danger to mental health). Given the Bourne judgement and this recent ruling, the Attorney-General confirmed that Wainer had acted within the law and that he would have been perfectly aware that this was so, implying that Wainer’s abortion of the woman and the confession was a stunt. He said that the Government would consider amending the statutes in line with the judgement but reiterated that it would not extend the grounds for abortion beyond that (*SMH*, 19.6.69: 5). He condemned the new English Act as a “bad thing [which] leaves the door open to abortion on demand”. The one point the Government was adamant about, he emphasised, was not allowing abortions to be performed on social and economic grounds. (*SMH*, 23.6.69: 1) Within days Wainer performed a second abortion, this time for economic reasons, on a forty-seven-year-old woman with nine children, and said he would perform another if the Government did not institute an inquiry into the abortion trade.

At a press conference Wainer said that the changes he was aiming for went much farther than those of the various abortion law reformers in Australia, who, he claimed, were too cautious. They were working to get legislation modelled on the English Act adopted here but he wanted nothing less than abolition of the law, so that a woman would have the right to ask for an abortion and an individual medical practitioner the right to agree or refuse. “Anything less”, he maintained, “is hypocritical and farcical” and would not stop qualified

abortionists performing operations for extortionate fees nor backyard operators endangering women's lives and health. Wainer added that he regretted the necessity for abortion and regarded it as "the lesser of two evils and" - comparing the rights of a potential human being with those of a conscious and already existing person - "the greater of two rights". (*SMH*, 3.7.69: 5)

He attempted to get the Victorian AMA involved and, taking advantage of a rule which allowed any member with the support of forty others to petition for a general meeting, he and his supporters took the executive and potential opposition within the profession by surprise, and pushed through a motion favouring reform. This prompted a bloc of Catholic members to organise and at another meeting the move was reversed. (*SMH*, 15.7.69: 14) Subsequently, Wainer was called before the AMA council on three charges of disreputable conduct pertaining to the methods he used in his campaign and for attracting personal publicity. He was found guilty but the council decided to take no action at that time. In response, Wainer resigned from the AMA, accusing the council of lacking the courage to expel him but, instead, of using intimidatory tactics in an attempt to silence him. (*SMH*, 27.7.69: 4)

He secured the help of the leader of the Opposition who put pressure on the Government for a Royal Commission (*SMH*, 10.7.69: 6). The Parliamentary Country Party supported the ALP in its call and several Liberal Party Branches announced that they planned to censure the Government at the next State Council meeting for ignoring the Council's new policy on reform. (*SMH*, 11.7.69: 6) A prominent Melbourne medical practitioner and member of the ALP State Executive, Moss Cass, said on a radio programme that he had broken the law on numerous occasions by sending pregnant women to other doctors for abortions and that most other doctors would have done similarly. Indeed, he commented, any practitioner who had never done so should have a heavy burden on his conscience because he must have many times denied help to women in great suffering. Moreover, he continued, whilst a resident he would have done many abortions by terminating the pregnancies of women who arrived at casualty bleeding, "perhaps bleeding to death", from what were obviously attempts to induce miscarriages: "There were so many of them that one just curetted them without stopping to go into details. They tell you all sorts of stories ... which you knew were just nonsense". He claimed that most doctors at large public hospitals would have done abortions in this way.

For God's sake, it goes on and everybody knows about it, the doctors know about it and the police know about it - so why doesn't somebody do something about it? (*SMH*, 23.6.69: 1,5)

Despite the mounting pressure the Government bluntly refused to hold any form of inquiry, nor to change the law, claiming that the Menhennitt judgement had confirmed and clarified the position. (*SMH*, 22.7.69: 8) Subsequently, Wainer performed another abortion on a sixteen-year old girl, not because she would suffer mentally or physically but "simply because she wanted it and I thought it would be a good idea". In announcing this, Wainer also publicly alleged that senior police officers were taking bribes from abortionists and that he had tape recordings and affidavits to substantiate this. The Government continued, however, to try to bluff out the media outcry at Wainer's revelations by blatant 'stonewalling' and by efforts to discredit him and, hence, his allegations.

Finally, in December, Wainer handed six affidavits to the Victorian Solicitor-General, which claimed, amongst other things, that one police officer had extorted \$156,000 since 1961 and that an abortionist was paying six hundred dollars each week for protection. Wainer told journalists that about thirty police had been involved in the racket over the last ten to fifteen years, that none were uniformed but rather, all were high-ranking members of the CIB. (*SMH*, 10.12.69: 12) He insisted that the Government establish a Royal Commission, saying that he had evidence from nine policemen which not only corroborated his claims about corruption over abortion but covered a wide field of graft throughout the police force. These witnesses, however, would only appear before a Royal Commission and then only if they were given indemnities and the protection of anonymity. (*SMH*, 11.12.69: 4) Instead, the Chief-Secretary, Sir Arthur Rylah, directed the Commissioner of Police to investigate the allegations. This tactic, of having the police investigate themselves and report confidentially to the Premier, failed; five of the six people who had sworn affidavits refused to be questioned by the police. "Once it might have been possible to sweep the allegations under the carpet, but not now. The public had the whiff of scandal in its nostrils. It wanted satisfaction." (Radic, 1971a: 8) In the end -

in what was obviously a last-ditch effort to minimise the damage by avoiding a Royal Commission - Bolte announced an open inquiry to be chaired by a Queen's Counsel.

By then, the turmoil around Wainer's activities had provided the media with a constant stream of material to fuel the coverage of abortion for twelve months, and, as we shall see below, helped provoke the NSW Government into action. He had been shot at, stabbed, and had numerous threats made on his life; his home had been ransacked and he had been forced into hiding for weeks at a time; he was nearly bankrupt through neglect of his practice; and had been variously labelled as a 'saint', a 'crusader', a 'zealot' and a 'cheap grandstander'.

The evidence and revelations at the Victorian inquiry were sensational: the extent and nature of the illicit abortion industry and the organised corruption hinging on it were publicly exposed in painstaking detail.

The number of doctors to testify would continually increase and the number of police interrogated would include all ranks from Assistant Chief Commissioner to Senior Constable. It would touch on illegal abortion; non-investigated murders; gelignite planted in motor vehicles; the receiving of stolen goods; starting price bookmaking; gangster-land shootings; disappearing police files; parties where senior police officials, a coroner, solicitors and criminals mixed freely. Unsolved murders and uninvestigated crimes would be mentioned again and again, as would the names of leading politicians from both political parties. (Wainer, 1972a: 120)¹⁶⁵

The inquiry began in January 1970 and sat for eighty days. When it finally ended the Melbourne Age commented:

For some, not directly involved in the Abortion Inquiry, it had begun to seem that perhaps it might not have an ending. The hearing has lodged itself in the public consciousness as a regular feature, an institution.

Newspapers reported the barrage of scandalous disclosures day after day, devoting pages to the allegations and counter-allegations. When in May it finally reported, Chief-Secretary Rylah announced that as four police officers were to be prosecuted, the findings would not be publicly revealed lest they prejudice the proceedings. Further, he claimed that because the matter was *subjudice*, nothing pertaining to it - including abortion - could be discussed. The Leader of the ALP opposition accused Rylah of a "ministerial ruse to put the real issue to one side": the report would go "into the limbo of lost files" and would not be seen for years, by which time the issue would be dead. (*SMH*, 16.9.70: 1) Nevertheless, the whole Wainer saga, lasting in all some two years (plus the later period of the trial where three of the four were convicted) meant that the abortion issue became front page news and was no longer confined mainly to the editorial pages and feature articles. Moreover, the prosecutions of abortionists had resulted in the Menhennitt interpretation of the law which was to eventually become the basis for unhindered access to abortion in Victoria.

During this time, with very little fuss or resistance, the South Australian Parliament had introduced and passed amendments to its abortion Statute along the lines of the English legislation. There can be little doubt that if the Victorian Government had acted similarly it would have been able to avert "the most serious charges of graft ever made against the Victorian police" and "the most remarkable inquiry involving police since the 1881 Royal Commission into the Ned Kelly affair" (*Bulletin*, 7.2.70: 18). Why, instead, it chose to pursue a course of action apparently so much more damaging will be explored in detail below.

The NSW Crackdown

In Melbourne, because pressure on the Government had focused on the corruption arising from abortion, the push for liberalisation had eased somewhat whilst those events were played out. In Sydney, it remained

¹⁶⁵ Wainer continues: "Through all of this, Mr Kaye [the Q.C.] picked his way fastidiously, ... limiting himself to ... evidence of corruption in the police force *only* where it pertained to illegal abortion". By defining the terms of reference narrowly, Rylah and/or Bolte effectively prevented the inquiry from pursuing any matter not directly related to corruption over abortion. Also, because the inquiry did not have the powers of a Royal Commission, it could not give indemnities nor protect the identity of witnesses and thus the nine police officers who had voluntarily contacted Wainer with additional damaging evidence would not appear. Wainer viewed the four quite highly ranked police who were charged as a result of the inquiry - although they were deeply implicated - as "scapegoats" for a number of even more highly placed men (Wainer, 1972b: 15).

centred on legislative reform, and thus increasingly on the Liberal-Country Party Government, which eventually moved to displace the burden of the issue onto the legal system and the judiciary (as in fact had been attempted in Victoria earlier, through the police crackdown). Initially, the mounting pressure had prompted the Premier, Robert Askin, to claim in 1968 that the matter was properly one for deliberation by the medical profession and that he would consider any recommendations it might put to him. The AMA, however, as always in Australia being loath to confront the issue, refused to be drawn, insisting instead that it was a legislative matter. Continued media coverage and consistent pressure from ALRA, along with a NSW Liberal Party resolution adopting reform as policy, encouraged optimism amongst reformers. There were also the strong indications that McCaw, the Attorney-General, was favourably inclined towards liberalisation. Somewhat unexpectedly, however, Askin crushed the immediate hopes of pro-abortionists when he vehemently denounced any possibility of “tinkering with the law”. Instead, in May 1970, and simultaneously with a police raid on Heatherbrae private clinic, he announced an energetic crack-down and the formation of an ‘abortion squad’ of thirty-one detectives to hunt down and prosecute abortionists.

This announcement followed the televising of an ABC programme showing a girl allegedly entering an Edgecliff abortionist’s premises for an operation, and an interview with a thirty-six-year-old mother of four children who claimed to have had two abortions, one by a gynaecologist for \$180. Also, a journalist quizzed the Police-Commissioner, Norman Allan, about the existence of the illegal abortion industry in Sydney and handed him an envelope, which he said was given to him by Bertram Wainer, allegedly containing details of five Sydney abortionists. Wainer had previously flown to Sydney in July, 1969, having arranged an interview with Allan by telephone. He intended to name several Sydney abortionists but when he arrived, Allan refused to see him in the presence of witnesses as Wainer stipulated, so the meeting did not eventuate. (*SMH*, 11.6.69: 7). Given that (in the 1980s, after both Askin’s and Allan’s deaths) it was revealed that many forms of corruption including protection of illegal abortion were endemic in the police force under the Askin government, and that the Premier himself and Allan were deeply involved, it is reasonable to suggest that Askin initiated the anti-abortion campaign to head off speculation about corruption (the furore over which was by then mounting in Victoria)¹⁶⁶ but also, for political reasons which will be canvassed below, to deflect the attention of reformers and the media from the campaign for legal change.

The abortion squad was truly relentless in the pursuit of its duties, launching some 180 prosecutions over the next two years or so, and granting indemnities to over one thousand witnesses. (Walsh, 1971: 1450). Apart from medical practitioners and those working with them, others charged included nurses, beauticians, chemists and an eighty-year-old woman. The prosecutions in both NSW and Victoria made it “near to impossible” to obtain an abortion, especially one from a medical practitioner, in either state (*Nation*, 27.6.70: 13). It was estimated that during this period there were only three or four medically qualified and experienced abortionists operating under suitable conditions in Sydney; most had closed down (whether they had been prosecuted or not) and a number of them left the country. Of the abortions still being done, most were by “medical thugs”, by chemists, hairdressers, and the backyarders (Harcourt, 1971: 39). Even though the new South Australian law was by then in operation, a two months residential clause prevented interstate women from going there for the operation. Presumably, many women who would have aborted unwanted pregnancies during that period were left with no alternative other than carrying them to full term. This gave rise to constant references by pro-abortionists to “Askin’s babies”.

¹⁶⁶ One journalist, for instance, implied as much: “The Abortion Squad probably owes its existence to the Victorian inquiry. In the weeks immediately preceding the Squad’s establishment, the Sydney Press was full of reports of the inquiry’s proceedings and there was much speculation about the extent of corruption in New South Wales.” (Harcourt, 1971: 39) It should also be noted that although the crackdown did not begin until May, police gave evidence at the Heatherbrae trial that they first began their observations of and investigations about the clinic in February, several weeks after the Victorian inquiry began. Moreover, the latter was immediately adjourned for ten days, so virtually as soon as the evidence of large-scale corruption began to come out, Heatherbrae was targeted.

The Heatherbrae Trial

The first prosecutions to go before the courts were of those charged in connection with Heatherbrae.¹⁶⁷ The committal hearing began in September 1970 and lasted nine weeks. As a result, three medical practitioners, Louis Wald, Thomas Wall, George Morris, the clinic's owner and matron, Daphne Colbourne, and Robert Colbourne were sent to trial, on various charges related to abortion. The proceedings of the hearing were reported in detail in the *Herald*, as were those of the trial, which lasted six weeks from 21 September, 1971 and was heard before Judge Levine in the District Court.

The evidence left no doubt about the professional standards and hygiene at the clinic and the high quality of medical skill and patient care. Surgical, anaesthetic and nursing procedures were all agreed to be carried out properly; the prosecution admitting that in these respects there could be no complaint with the clinic or doctors. Conversely, the behaviour of the police during and after the raid cast them in a very poor light. After bursting in they had insisted on entering the operating theatre even though they were told an operation was in progress. On the table lay an anaesthetised woman who, over the protests of the surgeon and anaesthetist, they had removed by ambulance to hospital, still unconscious, and interrogated on waking. All patients, including a woman driving away from the clinic with her husband, were taken either to the police station or to hospitals and most - in what amounted to sexual assault - were subjected to vaginal examinations against their wishes.

Under threat of prosecution, the women gave evidence at the trial. Not only did the circumstances of their individual cases confound stereotypes of abortion-seeking women as single and promiscuous or married and selfish and frivolous but, importantly, they gave weight to the defence case that the terminations were necessary and therefore legal. They included a young woman, pregnant to her fiancé whom she was not prepared to marry at the time as he had been sent to Vietnam and she was uncertain whether he would return. The clinic was raided before she was aborted and by the time of the trial she had married and had the baby. Another was a migrant with one child whose husband was threatening to leave her and the country. He subsequently did desert her and she was living with her mother and supporting her child alone. A third was an older woman who was deputy matron at a home for illegitimate children. She could not marry the man to whom she was pregnant because he was already married. She said she had been frightened at the prospect of her employers finding out about her pregnancy, about losing her job and about the fate of the baby if she did have it, as it would have had to be adopted out and she was all too familiar with the fate of some illegitimate children. Another was a married woman with three children aged five, three and seven months who, despite having had a loop inserted, had become pregnant again. She had previously tried five different sorts of oral contraceptives but could persevere with none because of the side effects. After her youngest child she had miscarried and with the last pregnancy was suffering from an infection due to the loop. She was worried

¹⁶⁷ For several reasons it would seem surprising that the police chose to prosecute the Heatherbrae case first. Given that charges had been laid against so many medical practitioners, it would seem wiser - *if the purpose of the exercise was to secure a conviction* - to have proceeded in the first instance with a case most likely to result in a guilty verdict. For example, amongst those charged was George Smart, notorious for having killed a number of abortion patients and even publicly linked in coronial inquiries with several deaths. Conversely, even the prosecution agreed that the conditions at Heatherbrae could not be faulted. In fact, Smart was actually charged in October of 1969 for performing an abortion (*SMH*, 24.10.69: 6, seven months before the police crackdown, after which he was charged on several more occasions for a total of fifty-four offences (*SMH*, 26.5.70: 6; 11.4.72: 11. By the time he did come to trial he was able to cite the Heatherbrae judgement in his defence (see below). Colbourne maintains that none of the Heatherbrae five charged or the name of the clinic was amongst Wainer's list of names given to Allan. Yet it would be reasonable to assume that these would have been the first to be targeted. Perhaps the answer lies in the fact that the Heatherbrae defendants consistently refused to pay bribes to the police, as they believed they would be found to be operating within the law if it were ever tested (Colbourne, 1973a: 1451. None of the police officers who had in the past approached any of the Heatherbrae defendants trying to extort protection money were involved in the raid or the case, thus the possibility of corruption arising as an issue in the trial was minimised. Perhaps by testing the law in a case where no extortion was involved certain high-ranking police (and politicians?) were avoiding the sort of scandal which erupted in Victoria. Certainly, the decision to raid Heatherbrae was not made independently by the abortion squad; the detective-sergeant in charge of the operation specifically stated that he was acting on instructions from Police Commissioner Allan (Colbourne, 1973b: 1484. Possibly too, the 'ethics' of police protection required that abortionists who were paying bribes were not targeted first and were given some time to close down and, as some did, leave the country. These suggestions are supported by a comment in *Fact* (the newspaper of the federal ALP); it conjectured that some - if not all - of Sydney's medical practitioners specialising in abortion had suspended operations on the advice of their police contacts and stated that the corruption issue would not arise in Sydney because abortionists there (unlike in Melbourne) had not lost their police protection. (24.7.70: 2). Whatever the motivation (or it may have simply been a case of poor judgement), by proceeding initially against an abortion practice of such high professional standards, an unintentional outcome of that choice was liberalisation of abortion practice.

about the physical and emotional effects of another child and about the effects of the loop and the infection on the foetus. Wald was categorical that there was no doubt about what had to be done: the loop had to be removed and she needed to be curetted. One woman had been so mentally disturbed when pregnant that her doctor had assured her she could be legally aborted and had referred her to a psychiatrist at Sydney Hospital. Because she was about to start a new job and, anyway, wanted it over quickly, she had instead gone to Dr Wald and then to Heatherbrae. Another married woman had two children, one three and a baby of six months with respiratory and feeding problems. The household was in financial strife and as well, she was worried that her health might break down if she had another baby. A woman of twenty-two who already had a four-year-old illegitimate child and whose boyfriend would not marry her was in such a bad way mentally when she first saw Dr Morris that he had counselled her against suicide.

Perhaps the most poignant case was that of the thirty-one-year-old woman taken off the operating table still anaesthetised. Her father had died only several weeks before and her mother, whom she supported financially, had had a nervous breakdown. She awoke in the ambulance still pregnant and, under the circumstances, had no alternative but to continue with it to confinement. She then adopted out the baby. When she gave her evidence there was little doubt that she was traumatised by all that had happened to her, let alone by the final indignity of having to voice it all in court. In his final address, one of the defence barristers said:

She was 31. It may have been the only child she will ever have. She obviously bore the scars of that experience; and when she left the witness box all of you on the jury ... watched her walk down in pain, showing some compassion for her.... [I]f there is anything criminal, in the popular sense, in these proceedings, it is that her abortion was stopped. (quoted in *The Review*, 20-26.11.71: 180)

The Levine Ruling

The outcome of the trial hinged on definitions and interpretations of the law. Section 83 Of the NSW Crimes Act states:

Whosoever unlawfully administers to, or causes to be taken by, any woman, whether with child or not, any drug or noxious thing, or unlawfully uses an instrument or other means, with intent in any such case to procure her miscarriage, shall be liable to penal servitude of 10 years.¹⁶⁸

The critical word is 'unlawfully'. In his summing up to the jury Judge Levine stated that the inclusion of this word implied that there were instances where such acts could be lawful, and for this to be the case:

the accused must have had an honest belief on reasonable grounds that what they did was necessary to preserve the women involved from serious danger to their life, or physical or mental health, which the continuance of the pregnancy would entail, not merely the normal dangers of pregnancy and childbirth, and that in the circumstances the danger of the operation was not out of proportion to the danger intended to be averted. The Crown of course bears the onus of establishing that the operations were unlawful.

Levine also held that for an abortion to be legal, it was not necessary that it be performed in a public hospital nor did it require the opinions of two medical practitioners, these being the conditions laid down by the AMA for a therapeutic abortion and generally accepted in legal circles. Further, he directed the jury:

to consider whether the danger to the mental health [of the women] arose from not only mental disease, or disease of the mind, but from the effects of economic or social stresses that may be pertaining at the time,

thus allowing for a very broad definition of mental health which took account of economic and social factors.

The jury subsequently acquitted the defendants. The landmark decision provided a legal precedent for the reform of abortion practice even though statute law remained unchanged. A very liberal interpretation of Levine's summing up allowed for a situation of virtual abortion on demand to be put into operation over the next few years.

"Virtually limitless," is how medical opinion sees the future for abortion in New South Wales following the acquittal.... Technically, the abortions ... performed [by medical practitioners] may be illegal. But

¹⁶⁸ Sections 82 and 84 include also as liable the woman herself, and anyone supplying an abortifacient or instruments, or procuring an abortion.

under the new interpretation it will be so difficult (almost impossible) for police to prove that the doctor was dishonest in deciding that the abortion was in the best interests of the woman involved that it will be virtually legal. (Smith, 1971: 9)

In Victoria, the decision drew attention to the 1969 Menhennitt judgement, the implications of which were not widely recognised, or at least acted upon, at the time. Levine had drawn on Judge Menhennitt's Supreme Court interpretation, which in turn had referred to the English Bourne case of 1938 (where the judge had found that abortion was lawful if continued pregnancy would make the woman 'a physical or mental wreck' [RCHR, *Final Report*, Vol. 3, 1977: 135]). Unlike Levine in his summing up two years later, however, Menhennitt made no reference to social or economic stress as a factor in the evaluation of a woman's state of mental health. It is not unlikely that Levine took account of this as a result of the arguments being pressed by pro-abortionists and the consequent shift in public opinion.¹⁶⁹

In contrast to Victoria and NSW, in South Australia reform was the result of legislation initiated by the Government in 1968. The Premier himself introduced the Bill there, and an amendment to the statutes similar to the English legislation was passed in 1970.¹⁷⁰ By defining the grounds for legal abortion quite narrowly and technically, the Government was able to be seen as having dealt with the issue, and as being 'progressive'¹⁷¹ without being 'permissive'. Thus the campaign for reform, and the pressure it generated on the Government, was rapidly defused and what resistance was organised against the legislation had no effect.¹⁷² That the South Australian Government so directly confronted and dealt with the issue, whereas other State governments of the same political persuasion would not or could not and instead got themselves embroiled in scandal and controversy, merits consideration.

The Party Politics of Abortion

This brings us to the crucial role of Roman Catholicism in the parliamentary arena, and its influence both within the Australian Labor Party and on Liberal or Liberal/Country Party governments. Although Catholics comprise only twenty-eight percent of the very secularised Australian population, with, in many if not most cases, association with the Church being only nominal, from 1968 onwards throughout the rest of this period under study, the Catholic Church was the most prominent and vociferous opponent of abortion, with the views of clergy consistently dominating media reporting of opposition to it. But the influence of Catholicism in the abortion struggle was not confined to the Church's public utterances. To understand this and how it came about we must look at the post-war history of the Labor Party.

¹⁶⁹ Also, Levine had in the past had occasion to preside over at least one abortion case involving a young woman's death. (SMH, 10.11.62: 6). There, he expressed his sadness and concern that fear of exposure and shame could drive girls to the abortionist, a statement indicative of a sympathetic attitude on his part. On trial was the boyfriend of a dead woman who was charged with being an accessory to the procuring of an illegal operation. Her parents had refused to allow the couple to marry so when she became pregnant they had gone to an abortionist. There is no record of the abortionist being charged. Levine put the young man on a one hundred pounds bond to be of good behaviour. Cases such as this could have influenced how Levine interpreted the law. The judge died soon after the Heatherbrae case, and in a conversation I had with his daughter-in-law in 1985 she said that his family had always believed since that it was the stress of that particular case which caused his death; he was fully aware that the future of abortion in NSW and the fate of countless women rested on his shoulders. Nor, one could speculate, could he have been untouched by the seemingly endless parade of women shepherded into the witness box by the prosecution and compelled to reveal their private lives and shame to an open court.

¹⁷⁰ The long period of time left between introduction of the Bill and its passage through Parliament was to allow discussion of it. Apart from a clause stipulating that the woman must have been a resident of the State for at least two months (to prevent South Australia becoming the 'abortion State') little of substance was changed. (Millhouse, 1972: 87)

¹⁷¹ The intention of the legislation, according to Robin Millhouse, then Attorney-General with responsibility for drafting the Bill, was to give statutory effect to the McNaughton judgement in the 1939 Bourne case. Within two years of its coming into operation, however, Millhouse (by then in Opposition) was concerned that it allowed for too liberal abortion practice (Millhouse, 1972: 90).

¹⁷² Certainly, anti-abortionists did attempt to thwart the legislation. For example, car-bumper stickers reading: "Welcome to South Australia - the abortion State", were widely distributed; the Catholic Archbishop of Adelaide proclaimed a day of prayer on the Feast of the Holy Innocents "in atonement and sorrow for the unborn who have died as a result of abortion". And there was opposition in Parliament. A *Bulletin* journalist noted how one MP cried out in an "impassioned speech" in the November, 1969 debate: "I seriously put it to every Honourable gentleman that they wouldn't be here if this Bill was passed 50 years ago." (Harcourt, 1971: 40) Crucially, however, neither the Government nor the Opposition had any covert political agenda complementing the aims of the anti-reformers; rather, the leadership of both had an investment in their liberal credentials.

Historically, the ALP was founded as the parliamentary arm of the union movement, representing a working class with a large component of Irish-Catholics. Sectarianism between Protestant and Catholic Churches had a long and bitter history in Australia, with the hierarchy of the Catholic Church (overwhelmingly Irish until well into the twentieth century) allying the Church with the ALP against the Protestant establishment, up until the 1960s. Thus, there was always a strong affiliation between Party and Church at both the level of rank and file and amongst the leadership (see Hogan, 1987). Before and during the war the Communist Party became influential in many trade unions with Communists winning a number of key leadership positions. This development was anathema to the Catholic hierarchy, and also, of course to most Labor Party leaders, the ALP's strength being built squarely on the trade unions. To fight the Communist influence, the ALP in 1945 enlisted the aid of an anti-Communist Catholic lay organisation formed several years previously and led by B.A. Santamaria. (Hogan, 1987: 244) The Industrial Groups movement, as it came to be called, successfully warded off the Communist challenge. It became so powerful that, with the encouragement of Catholic bishops and particularly Archbishop Mannix of Melbourne, by the 1950s it began to successfully challenge ALP leaders in the unions, claiming that the Party itself was too left-wing. The parliamentary leadership of the Party, led by Dr H.V. Evatt, turned on the Industrial Groups movement and, in the bitter disputes which followed, the ALP split, with many pro-movement, vehemently right-wing members forming the Democratic Labor Party (DLP), whose *raison d'être* was defeat of the Labor Party.¹⁷³ (Rydon, 1967: 154)

To this end, the DLP, always a minor party, supported the non-Labor parties, particularly at the federal level and in Victoria, Queensland and Western Australia.¹⁷⁴ The actual split was provoked by Federal Executive intervention in the Victorian State branch, where seven Federal and seven State Parliamentarians allied themselves with the splinter party. Thereafter, the Labor vote was split between the ALP and the DLP with the latter securing up to seventeen percent of the total vote. Its highly disciplined allocation of preferences (eighty to eighty-five percent) was the decisive factor in Victorian elections after that and effectively ensured victory for the Liberals for the next twenty years. Many Catholics, however, remained in the ALP and formed a right-wing core that centred on NSW (where no State parliamentarians had defected to the DLP) and by the 1980s this group and its successors (not all Catholic) were to achieve a virtual right-wing stranglehold over power in the Party, eclipsing the previous dominance of the left.

The Catholic influence pervaded Australian politics for the next two decades, both through the power of DLP preferences and through its still strong presence within the ALP. Whilst the ALP has traditionally been progressive in terms of workers, their interests and welfare, it had tended to have a conservative approach to 'moral' questions (Walsh, 1970: 5). This was generally true also of the Left wing (with some notable, more 'progressive' exceptions), the difference between it and the Right being the former's sympathy with Communism and its preparedness to cooperate with Communists in union politics. In this light, Whitlam's Government, which came into power federally in 1972 enthused with the new "middle-class radicalism" of the times (Walsh, 1970: 5), was genuinely 'progressive' and, as the only ALP government to show support for abortion law reform, was an historical aberration.

Labor was the traditional party of government in NSW, having been uninterruptedly in power since 1941.¹⁷⁵ In 1965, however, Askin's Liberal-Country Party coalition narrowly defeated the ALP by two seats in an election where preferences decided seven seats in all. DLP support, therefore, was decisive in that victory. Even though Askin was re-elected in 1968 without the need for DLP preferences, it was clearly evident that in any close contest it was imperative that he be able to count on the DLP. He could not, therefore, afford to alienate their support, and abortion - as became apparent in Victoria and Western Australia - was one of the few issues which could do that. In June 1970, several weeks after the Heatherbrae raid, the DLP reaffirmed its

¹⁷³ It later changed its name to this. Initially, it went under a variety of different names in different States, for example, in Victoria it was the Australian Labor Party (Anti-Communist), and in South Australia the Anti-Communist Labor Party.

¹⁷⁴ Australia has a system of compulsory preferential voting at the Federal level and in most States and the DLP consistently directed its preferences to the conservatives, thus ensuring virtual dominance by them of much of Australian politics - particularly of the Commonwealth Government - until the 1970s.

¹⁷⁵ The DLP never achieved the influence in NSW that its Victorian counterparts did because even though a branch was formed there, the state ALP had not itself split, being more to the right of the Party anyhow.

own stand against abortion at a Party conference (*DT*, 14.6.70: 3). Immediately after, it publicly warned the Premier that if he attempted to change the abortion laws, the Party would oppose the Liberals at the next election (*SMH*, 18.6.70: 5). No doubt, Askin was already well aware of this, the consequence of which was to close off the otherwise easiest avenue for defusing the momentum building up over the issue: legislative reform. The extent of this pressure was covertly referred to in a later attack on the Government's refusal to amend the law by a Country Party member, W.G. Keighley.¹⁷⁶ He claimed that it was "common knowledge" that "certain ecclesiastical pressure" was applied to the NSW Government to ensure it did not change the law. Speaking in the Legislative Council, he said there was:

a consequent conspiracy of silence on this subject ... [which amounts to] the imposition on the untheological many of the theological few. (*NSW Parliamentary Debates, Council*, 11.8.71)

Similarly, a *Bulletin* journalist claimed in 1971 that "the present NSW State Government's dependence on DLP support at elections will ensure that existing laws remain unchanged for a few years". (Harcourt, 1971: 40)

In the one state where liberalisation was achieved by legislative reform,¹⁷⁷ South Australia, the Government of the time was Liberal.¹⁷⁸ Moreover, for historical reasons, the number of Catholics in the South Australian population was smaller than in other states, and the DLP had virtually no political influence.¹⁷⁹ The Liberals maintained a (somewhat muted) 'small l' liberal commitment on certain principles, such as civil liberties and 'social' issues.¹⁸⁰ For example, it was a Liberal government which eventually reformed Australia's draconian censorship laws in 1971, agreed then to be the most stringent in the western world (with the exception of Ireland). Thus, for those Liberals who defined abortion as a matter of civil liberties rather than as murder of the unborn, laws against abortion constituted an illegitimate intrusion by the state into the private affairs of individuals.

On the other hand, in Victoria, where the DLP was crucial to electoral success, the Liberals dared not initiate reform, despite party policy favouring it. For the Victorian Premier Bolte, reform would have been the quickest and politically least damaging way to quell both the mounting pressure for liberalisation and the damaging allegations of corruption. Electorally, the taint of corruption would have been a much more hazardous liability than the charge of being pro-abortion, especially given fairly widespread support for change. But the DLP - its position transformed, with the demise of a communist threat, into a shrill "sectarian and sexual hysteria" (Colebatch, 1970: 63) - warned the Liberals that it would be prepared to direct its

¹⁷⁶ On several occasions Keighley mounted sustained and very well informed and argued attacks on the abortion law, on the Government's refusal to reform it, and on Askin's 'abortion squad' of thirty-one detectives (which operated for several years and about which the Government always behaved as if loathe to give information). Indeed, along with George Petersen, a left-wing ALP member of the Assembly, he was one of the two most vocal advocates of reform in the NSW Parliament. When Preterm abortion clinic opened, Keighley was appointed as a foundation member of the board. What is curious about this is that he was a Country Party member, a party distinguished for its conservatism on 'social' issues. This shows, yet again, the ambiguous nature of abortion as a party political issue, and the inadequacy of any attempt to understand it along the lines of traditional electoral politics.

¹⁷⁷ Several years later, in 1974, when abortion was available virtually 'on demand' in most States, the Northern Territory amended its legislation to allow terminations up to fourteen weeks where continuation would entail greater risk to the life or physical or mental health of the woman or where there was a substantial risk that the child would suffer from such physical or mental abnormalities as to be seriously handicapped. In addition, two medical opinions are required and the termination has to be performed by an obstetrician or gynaecologist. Terminations immediately necessary to prevent grave injury to a woman's mental or physical health are allowed up to twenty-three weeks. (*RCHR, Final Report, Vol. 3*: 142)

¹⁷⁸ It was officially called the Liberal and Country League. Whereas in other states (excluding Victoria) and at the federal level the Liberal and Country Parties were in coalition, with the former the senior member (apart from Queensland), in South Australia the parties had merged in 1932.

¹⁷⁹ South Australia was not founded as a penal colony. A high proportion of convicts were Irish. Also, amongst the migrants who settled there were a large number of German Lutherans.

¹⁸⁰ More accurately, it contained amongst its ranks members with a liberal political orientation. The Premier of South Australia, Raymond Steele-Hall, exemplified this trend, and has continued to do so in the Federal parliament to which he moved. The Party as a whole has moved more to the right in the 1980s, trying to capitalise on the formula for electoral success of New Right politics in Britain and the USA. Federally, any remaining 'small l' liberals have been designated as 'wets' and consigned to the backbench, if not to political oblivion.

preferences to its traditional enemy, the ALP, rather than allow abortion law reform. The *Herald*, commenting on this threat, said that earlier moves within the Liberal Parliamentary Party to reform the law - which had made pro-abortion activists so optimistic about legislative change in 1968 - “dissolved” once the DLP issued its warning (*SMH*, 18.6.70: 5).

The situation was similar in NSW. Despite the threat of disclosures over corruption, Askin could not afford a bitter rift with the DLP, a certain outcome of any attempt at legislative reform.

With the option of reform foreclosed, both Premiers, presumably not wishing to be seen either as tolerating illegal abortions or as associated with corruption, would have been virtually forced to take a firm stand against both. The prosecutions of medical practitioners meant that the responsibility for deciding the legality or otherwise of abortion was displaced to the courts (as too was the focus of media attention). Subsequently, both Governments confirmed their respective agreements with Menhennitt’s and Levine’s judicial interpretations, but indicated that although neither had any intention of enacting legislation in line with them, nor were they proposing to reverse the decisions by tightening the law. This further suggests that what was at issue was not the merits or otherwise of abortion, but the electoral politics embedded in it. Commenting on the Levine interpretation of the law, one journalist stated:

The court decision was followed by a sigh of relief from the NSW Government, which had been under strong pressure from reform quarters to amend the law relating to abortion. It means the Government will not have to offend a large body of voters (Catholics, mostly) by changing the law. Equally it will not continue to frustrate the reformers - representing another large bloc of voters. (Smith, 1971: 9)

This interpretation of the processes ultimately leading to judicial reform is supported by the handling of the abortion issue in West Australia, which provides an even more patent example of the determinate role of the DLP as political keeper of the Catholic conscience and of the pervasiveness of Catholic influence in the ALP. A Liberal, Dr. G. Hislop, introduced three reform bills into the Council (the Upper House). The first, in 1966 (well before the issue became a matter for public debate elsewhere) lapsed, and the second, in 1968, passed the Council but was ruled out of order on a constitutional technicality in the Assembly (the Lower House). Meanwhile, anti-abortion forces had mobilised, so the third bill in 1970 was more moderate. Incidentally, one commentator who followed the events remarked that “the Catholic Church, either through the hierarchy or through lay organisations, left little undone to oppose reform”. He attended a rally organised as part of the campaign to defeat the Bill and noted that one of the main arguments advanced against it was the ‘fact’ that Australia needed a bigger population. (Colebatch, 1970: 64,5)

The Bill passed through Council with all Liberal-Country Party members of the Government (bar one) supporting it, but with all ALP members voting *against* it. The bill was defeated in the Assembly, however, with some Government members joining the ALP to vote against it and five Labor members supporting it. Those on both sides who opposed the bill did so in defiance of the rank and file of their parties, in that the State branches of each had passed reform motions (Colebatch, 1970: 67).

As to the tenor of the debates, according to Colebatch they were distinguished most by the lamentable calibre of speeches from those opposing the Bill; for example, from the one woman in the Council:

... I think this is an impertinence to women.... I am hoping that the Bill will be soundly defeated and that men will start to think with a little more reason and realize what they owe to their wives and families. They take wives and then come here and talk about abortion, which is merely the murder of an unborn child. I do not agree with it and I think that women who do not want children should not get married and should live a chaste life of their own. (quoted in Colebatch, 1970: 65)

And from a Labor member who declared that he “didn’t go around with [his] eyes shut”; he knew about the Permissive society” and that there were “houses of ill-fame all over Australia”, that “various types of medicines” and “certain preventatives” were “hawked around”, that people resorted to these rather than an interruption in their “normal marital relations” to prevent increases in family size:

My final word is this: ... I would say this Bill will ultimately reduce women to chattels.... [In] my opinion the woman in the community has a standing. There is an old saying that the hand that rocks the cradle rules the world. I believe there is a lot in that. I for one, do not want women to lose their standing in the

community. I sometimes wonder whether equal rights are in the best interests of women..." (quoted in Colebatch, 1970: 66)

But the matter did not end with defeat of the Bill. At the ALP's State conference in July, the Parliamentary Party was directed to take action seeking abortion reform *and* to vote for it; that is, members were denied a conscience vote. One Roman Catholic member resigned from the party, and for those remaining the issue became a conscience versus Party dilemma, or, a question of whether an MP was responsible to Church and Pope, or to electors (AFR, 19.8.70). The party position was encapsulated by Joe Chamberlain, a prominent ALP left-winger:

Roman Catholic members of Parliament do not disturb the law of their church by carrying out the decision of their party, but to refuse to do so can only mean the extension of the church law to all other sections of the community. (quoted in AFR, 19.8.70:20)

In defence of the 'right' of Catholic members to vote against the party position on abortion, the Roman Catholic Archbishop of Perth, Dr L.J. Goody, argued:

It is not a peculiarly 'Catholic' attitude to attempt to safeguard our Christian inheritance - it is a responsibility of every person who deplores the continual erosion of our accepted moral standards.... Mr Chamberlain and his supporters have the right to express their moral opinions. They have not the right to impose these opinions on others. (quoted in AFR: 19.8.70: 20)

In further defence of the Church's intervention he pointed out that Roman Catholic clergy were reproved for failing to speak out more loudly against Nazi massacres of Jews, yet were now under attack for defending other human lives (AFR, 19.8.70). Similarly, in an Easter sermon, he protested that:

Australian tragedies in Vietnam are in their hundreds, slaughter on our roads is in its thousands, innocent human lives destroyed by abortion are in their tens of thousands. It seems the greater the tragedy the more silent and muted the response. (quoted in Colebatch, 1970: 65)

When it appeared that the Government would reintroduce the Hislop Bill, the passage of which would be virtually assured as any Labor member voting against it stood to be expelled from the Party, the DLP launched its threat. The State Secretary of the Party warned:

[If the Government] re-introduces liberalised abortion laws ... this means minimising the right to life. We will be inclined to be vindictive about this. Let's lay it right on the line ... we will do everything in our power to bring down the Government at the next election. (AFR, 19.8.70: 20)

In the next six months leading up to the election, the Government (privately deciding not to call the DLP's bluff as a switch in preferences would mean certain defeat) revelled in the consternation caused within the ALP ranks by the prospect that they might be forced to vote. Catholic Labor members would have then been faced with a Party or conscience decision and in the ALP voting against the Party line meant certain expulsion.¹⁸¹ In the event Labor won the election but, despite the Party directive, refused to legislate for reform. Neither has there been any attempt since then, nor any case to test the law as it stands.

In NSW, Askin too used the abortion question to embarrass Labor. The Party there was in disarray over the issue with its strong right-wing Catholic parliamentary membership still intact, but with a vocal minority of left-wing members favouring liberalisation, and with one in particular, George Petersen, actively representing the interests of pro-abortionists. Askin repeatedly denounced Labor for its disunity over the issue (the ALP always being sensitive to the charge of disunity following the split) and (somewhat contradictorily) castigated it as the 'party of permissiveness' on the basis of Whitlam's support for reform.

These are the fundamental parameters defining abortion practice even today: a legacy forged largely out of a history of Catholic influence on electoral and party politics. Its power through the DLP made legislative

¹⁸¹ On the ALP's strict insistence on adherence to the Party position, Max Walsh remarked: "It is not a Labor tradition to be permissive about holding opinions different to party policy. This has been one of the party's endemic weaknesses, always presented as one of its strengths. The commitment to solidarity reaches its apogee in the caucus system where loyalty to the party line *is the one invariable criterion* demanded of a Labor man [sic]." (1970: 5, my emphasis)

reform impossible in Western Australia; its lack of it in South Australia made it possible. As I have argued, where liberalisation was achieved via judicial interpretation, ironically it occurred as an indirect result of DLP influence. Those judicial decisions, and the liberal abortion practices which they enabled were, of course, diametrically opposed to the Catholic position on abortion, and yet these outcomes were unintended consequences of DLP action. The DLP created a political situation in Victoria and NSW which made recourse to the courts inevitable.

In public and media debate the abortion struggle was waged in terms of ‘deserving’ cases (such as deformity, rape or incest); as a matter of civil liberties versus moral governance of sexuality; and as the rights of women versus those of the unborn. In contrast, for the major political parties, these concerns were simply *irrelevant* to the business of political and electoral power. Doubtless, Catholics in the ALP would have preferred to avoid the whole issue.¹⁸² This often prompted Liberals to raise it, thus provoking consternation within the ALP and causing it political embarrassment. Ironically, by preventing reform legislation in Western Australia, NSW and Victoria, and thereby causing the matter to be resolved by the courts in the latter two States, the Catholic Church, via the DLP, unwittingly opened up the possibility for abortion on demand in the most heavily populated areas of the country. If Victoria and NSW had introduced reform it is virtually certain that it would have been along the more restricted and technically defined lines of the South Australian legislation. This would have meant that nowhere in Australia would a woman be certain of obtaining an abortion if she wanted it.¹⁸³

What is apparent also is that not only was the campaign for reform in full swing, but also that the crucial decisions allowing liberalisation in two of the three states where it occurred (Victoria and South Australia) were also taken before a self-conscious and vocal Women’s Liberation movement was formed in 1970. In NSW, Levine relied in part on Menhennitt’s 1969 (pre-Women’s Movement) summing-up in arriving at his interpretation of the law. In addition, he did allow for social and economic factors, and he may well have been influenced by arguments put forward by feminists in this, but these justifications had already been put by ALRA, Humanists and others. And yet in ‘folklore’ there is a virtual consensus - subscribed to by both feminists and the anti-feminist New Right - that liberalised abortion was won *as a result of the efforts of Women’s Liberation*. Certainly, it was feminists - but along with others such as, for example, Bertram Wainer (who opened the first free-standing abortion clinic in Australia) and certain pre-liberalisation medical abortionists, for example, Geoffrey Davis - who, by their practice, stretched to the limit the Menhennitt and Levine interpretations and thus established *de facto* abortion on demand. But the freeing up of abortion came about as the result of a complex set of factors and the unintended consequences of actions, rather than as a *calculated* result of campaigning by Women’s Liberation.¹⁸⁴ Rather, it is probably more correct to argue that the same set of processes, circumstances and power relations which gave rise to the Women’s Movement also gave rise to the push for reform of abortion.

In neither of the two remaining States, Tasmania and Queensland, was there any attempt at the level of formal politics to change the law. The legislation in both is similar to other States with, like Western Australia, a clause allowing abortion where it is necessary to save the mother’s life, or in other ‘reasonable’ circumstances, but there have been no test cases to determine what is ‘reasonable’. In the late 1960s and early 1970s Tasmania was the only State in the country with a Labor government, its failure to broach abortion reform highlighting again the ambiguous nature of abortion as a party-political issue, and the conservatism of the ALP at that time towards ‘moral’ issues. In contrast, since 1957 Queensland had been ruled by a Country-

¹⁸² Referring to the entrenched conservatism of the ALP on ‘social’ issues, one journalist remarked: “Questions of homosexual and abortion law reform have been avoided at all costs. They were not condemned - simply never raised.” (Walsh, 1970: 5)

¹⁸³ In its report on abortion the Royal Commission on Human Relationships stated: “The reformed laws [in South Australia and the Northern Territory] impose greater restrictions than those applied in the New South Wales decision of *R. v. Wald*”. (RCHR, *Final Report*, Vol. 3: 143)

¹⁸⁴ Indeed, if any group or individual can be pinpointed as being most effective in terms of their explicit aim of liberalisation undoubtedly it is Bertram Wainer. Although the Menhennitt interpretation pre-dated his campaign, his exposure of corruption provoked the NSW authorities to act. Wainer had become perfectly aware that the courts were the best chance of securing more liberal abortion access, thus his challenges to the police to charge him. Each time they did not, they were in fact indicating that he was acting legally, and each abortion further stretched the law as it was presently interpreted.

Liberal party coalition and was the only State where the County Party was the senior partner in the coalition. A form of moralistic Protestantism dominated the Queensland Party under the leadership of Joh Bjelke-Petersen, Premier since 1968. The state is often referred to as the 'deep-north', to indicate a certain similarity with southern American style 'bible-bashing', fundamentalist puritanism coupled with a populist authoritarianism. In the 1980s Bjelke-Petersen was to become the Australian political figure most closely personifying the New Right, through the forging together of moral absolutism and the rhetoric of *laissez-faire* economics. Therefore, despite agitation for abortion reform there was little real hope of securing it in Queensland, and indeed, it was there, in 1970, that the first official Right to Life group was formed.

Prosecutions in NSW

Despite the Levine ruling, and Askin's endorsement of it, the abortion squad in NSW was not wound down immediately. Yet, despite so many outstanding prosecutions, the police were exceedingly slow to bring them to court.¹⁸⁵ Arguably, post Levine, the exercise was operating more as a form of harassment and as a signal (to the DLP?) of the Government's 'seriousness' about abortion than as a concerted effort to bring abortionists to 'justice'. Considering the extraordinary number of persons charged with abortion related offences during the police crackdown, after the Heatherbrae case only a very small number were brought before the courts.¹⁸⁶ In most cases concerning medical practitioners the prosecution employed the notorious charge of conspiracy, a 'catch-all' offence usually enabling an easy conviction. They included four different cases of unqualified women charged with unlawfully using an instrument to procure a miscarriage. According to reports in the *Herald*, two were found guilty, one was acquitted and the other's case was adjourned with no further mention of it in the newspaper. (*SMH*, 10.2.72: 20; 11.2.72: 3; 14.4.72: 3; 12.6.73: 9) Seventeen people - nine medical practitioners, four chemists and a beautician - were committed for trial on charges of conspiring to procure miscarriages. In addition, the beautician was charged with using an instrument to procure a miscarriage. (*SMH*, 30.11.71: 11; 29.7.72: 9)¹⁸⁷ There was no further mention of this case so presumably it never went to trial. Either the prosecution was dropped or it was no-billed along with all other outstanding abortion cases by the incoming Labor Attorney-General in 1975. In another case, two doctors were committed for trial; one, Albert Sadler, for using an instrument and the other for inciting and other related charges (*SMH*, 14.12.71: 10). Again, there was no further mention of this in the *Herald* so one can assume it ended in the same way as the previous case. Four men, including two doctors, were tried for conspiring to pervert the course of justice by attempting to corrupt police officers in order to establish an illegal abortion practice (*SMH*, 6.3.73: 8). All were subsequently acquitted. (*SMH*, 8.3.73: 8)

In December, 1972 a medical practitioner, Relee Skinner, was convicted of conspiring to unlawfully procure the miscarriages of two girls. It was alleged that he had referred them to an unqualified person, a businessman called Anderson, who was also charged with using an instrument. (*SMH*, 1.12.72: 22) Both were found guilty, Skinner being sentenced to weekend gaol for twelve months and Anderson to two and one-half years gaol. (*SMH*, 9.12.72: 3; 12.12.72: 8; 15.12.72: 11) Skinner's 1974 appeal against his removal from the Register

¹⁸⁵ Allen (1990: 209), without comment, cites "several sources [as] insist[ing] that no prosecutions for abortion were undertaken [in NSW] after 1971". This is clearly wrong, as the following demonstrates.

¹⁸⁶ A number were prosecuted and found guilty before Heatherbrae but none of them were medical practitioners. They included an *eighty year-old woman pensioner* (*SMH*, 4.5.70: 5) - a former vaudeville dancer described by the judge as a professional abortionist - who pleaded guilty (*Age*, 18.7.70: 11). She charged a twenty-two year-old woman twenty dollars for an abortion (performed successfully without any ill effects. Because of her age the judge said he would not send her to gaol; instead she was placed on a \$150 good behaviour bond for five years (*DT*, 5.9.70: 5)

¹⁸⁷ In evidence at the hearing the method used by O'Donnell (the beautician) was described as "a dangerous procedure", which very probably meant she used a Higginson's syringe, potentially one of the most dangerous methods of abortion, causing instant death if an air embolism enters the blood-stream. Medical practitioners would be fully aware of this, and it is curious that they would refer patients, firstly to a backyard operator, and secondly, to one using this method. As the charge for this type of abortion was usually only about fifty dollars there would hardly have been enough money involved to make any commissions financially worthwhile for the doctors. Nevertheless, the prosecution did not allege that the woman was guilty of causing harm or death so presumably she was competent. When charged, O'Donnell was already on bail for a previously alleged offence (*SMH*, 12.3.70: 12), which itself had been allegedly committed whilst she was already on bail on a first charge (*SMH*, 17.6.70: 11). Bail was refused after the third charge (*SMH*, 16.2.71: 11).

will be dealt with in the following chapter, the decision of the judges of the NSW Court of Appeal being of interest in terms of how the highest court in the State interpreted the abortion law post-Levine.

Significantly, in terms of implications for liberalisation, only one of all these prosecutions - that of Sadler - involved a medical practitioner charged with using an instrument to procure a miscarriage.¹⁸⁸ The Levine ruling could only be overturned by a conviction in such a case in a higher court or by confirmation of a District Court conviction on appeal to the Supreme Court. None of the other persons charged with using an instrument were qualified medical practitioners so guilty verdicts in those cases did not affect the Levine precedent. Nor did any of the other cases which involved doctors - charged as they were with conspiracy or other abortion-related offences but not with actually using an instrument - with one major exception.

The exception was perhaps the most concerted effort by the prosecution arising out of the abortion squad blitz, apart from the Heatherbrae case. It concerned George Smart, a medical practitioner already mentioned as associated with several abortion deaths (called a 'butcher' by George Petersen and actually accused in Parliament by him of being responsible for three deaths of which Petersen claimed knowledge). In 1972 Smart was sent to trial on fifty-four counts of unlawfully using an instrument to procure a miscarriage (*SMH*, 11.4.72: 11). The case was being heard by Judge Levine but the trial was aborted after the judge suffered a heart attack which was to prove fatal (*SMH*, 27.4.72: 3). When a new trial began in September the number of charges had been reduced to twenty-four of which one was dismissed during the trial (*SMH*, 26.9.70: 10; 12.10.72: 10). In his defence Smart's counsel relied on Levine's criteria of honest belief (*SMH*, 10.10.72: 3). He was acquitted on one charge (*SMH*, 12.10.72: 10) but remanded to a new trial on a further twenty-two when the jury could not agree (*SMH*, 13.10.72: 1).

Three months later Attorney-General McCaw ordered that the charges be dropped. In the context of the danger posed to abortion access, McCaw's decision was welcomed by ALRA and other reformers as a further move towards liberalisation despite the Attorney-General's denial that it represented any change in the Government's attitude. (*SMH*, 13.1.73: 3) According to McCaw, at this stage - January 1973 - there were six outstanding abortion cases and although he said he had directed that three of these should go to trial no further prosecutions arose from the activities of Askin's abortion squad. All outstanding charges were no-billed by the incoming Attorney-General when the Askin Government was defeated in 1976. Probably, the failure to obtain a conviction in the case of Smart - undoubtedly the most infamous NSW abortionist of the 1960s and 1970s - had convinced the Askin Government of the futility of pursuing any further prosecutions. To pro-abortionists it must have appeared that finally the practical, if not insurmountable, difficulty of securing a conviction against a medical practitioner according to the conditions laid down by Levine had put an end to threats to liberalisation in NSW under the existing statute. In fact, in the early 1980s Smart's continuing notoriety and outright medical negligence was to provoke one last, and this time successful, prosecution for illegally performing the operation, as we shall see in the next chapter.

The possibilities for liberal abortion inherent in the judgements of Menhennitt and Levine were relatively slow to be capitalised on. The implications of the former, in particular, seem not to have been as immediately or transparently apparent as was the case with Levine, but both depended on practical activity for their effective realisation. The first free-standing abortion clinic was opened by Bertram Wainer in Melbourne, and in Sydney a Women's Liberation referral service assisted women in finding abortions from reliable medical practitioners. In June, 1974 the first clinic in Sydney, Preterm, began operation followed by another run by Population Services International (PSI) (Snyder & Wall, 1976: 4). The introduction of Medibank by the federal Labor Government in July, 1974 made medical abortions cheap - all but eight dollars was refunded for the operation at Preterm (Snyder & Wall, 1976: 34) - and in so doing, decisively ended the backyard trade.

Whilst some activists were reasonably satisfied with this resolution, others were not. A certain division developed amongst them, particularly within Women's Movement groups, as to whether activity and energies should be directed to the 'normalisation' of *de facto* legal abortion through the provision of services, or to the continuation of the campaign for statutory reform. Advocates of the latter remained incensed that, despite

¹⁸⁸ As noted, we can assume that the case against Sadler did not go to trial. Certainly, given the potential ramifications of a trial of a doctor on that charge, the *Herald* would have reported on it.

liberalisation, ultimately abortion, and the control over women's bodies that it represented, still lay with legislators, the courts and doctors. The two judicial rulings were always vulnerable to possible reversal by higher courts as long as abortion remained on the statute books. Moreover, it was only in NSW and Victoria that free access had been gained, and then only in the capital cities. Activists were concerned that until clinic and hospital services were guaranteed and widely available, access remained limited (Allen, 1990: 214).

The Electoral Politics of Abortion

During most of the period covered by this chapter the Federal Parliamentary Labor Party was in a state of transition under its new leader, Gough Whitlam. Politicisation of many young people, caused by dissension over Australia's involvement in the Vietnam War, and the dominance of 'quality of life' issues created out of affluence and economic security, made the working class focus of the traditional ALP increasingly anachronistic. Whitlam's capacity to capture the spirit of the times, and to reinvigorate the Party by a realignment in direction and purpose in synch with emerging aspirations in the populace, made the ALP a threat to Liberal hegemony. Either unable or unwilling to themselves come to terms with the shift in social and political consciousness, Liberal leaders were more inclined to take the opposite tack, representing themselves as guardians of the order under siege, appealing to fears of social disruption and moral normlessness.

Having represented himself as taking the high moral ground by categorically ruling out statutory change (both before and after the Levine finding) Askin discovered in abortion a tactical weapon which could be profitably employed to assault the ALP. Although in NSW the Party remained largely anchored in its laborist right-wing (and Catholic) legacy, he attempted to use the transformations apparent at the Federal level to accuse it of promoting 'permissiveness' and to capitalise on consternation and divisions within it over abortion, the issue most exemplifying this. Any appearance of disunity within Labor was always potentially damaging to it and the issue of a conscience vote on abortion was a continuing cause of heartburn (as we saw in West Australia). In Victoria, due to the influence of the left (which was shifting with Whitlam to take account of 'social' issues) the option of a conscience vote was ruled out there too. The strong representation of Catholics in the NSW ALP, however, ensured the defeat of a motion in favour of a policy of liberalisation at the 1970 State Conference (*SMH*, 16.6.70: 7) despite a previous decision by the State Women's Conference that the Party should pursue reform (*SMH*, 2.3.70: 6). The ALP Youth Council not only opposed a free vote but called for a party policy opposing any liberalisation of abortion at all (*Catholic Weekly*, 2.7.70: 1). Two months later Whitlam told the Federal Labor Women's Conference at Brisbane that he was personally in favour of reform (*DT*, 1.9.70: 1) and recommended that it sponsor a resolution to the Federal conference that a free vote be permitted on the issue (Walsh, 1970: 5).

In NSW, despite the Party's position there, George Petersen, a stalwart supporter of pro-abortionists throughout this whole period, raised the matter in caucus twice in 1970, urging that the Parliamentary Party adopt a reformist position. With only four other members supporting him, however, he had no success. Certainly, the leadership was anxious to keep it off both the Party and Parliamentary agenda firstly, because of so many Catholic members, and secondly, in the belief that it was a 'no win' issue; in the case of a negative vote they risked alienating middle-class voters being increasingly drawn towards the Party by its new Federal image, and by an affirmative vote, drawing upon themselves the wrath of the churches.¹⁸⁹

But the differences in policies between State branches, and between the Federal Party (as exemplified by Whitlam's speech to the Women's Conference) and the NSW policy, along with the division in caucus made apparent by Petersen's motion, were all ammunition for Askin. He opened a by-election campaign that year by announcing abortion to be one of the major issues, attacking the leader of the Labor opposition, Pat Hills, for his silence consequent to Whitlam's statement, and for the disarray within his own caucus. This heralded the beginnings of a relentless campaign over the next two years against Labor's 'permissiveness', culminating

¹⁸⁹ This was more relevant in NSW because the Party had not split there, and it consequently still enjoyed a large degree of support from the Catholic Church and from Catholic voters; and because the hierarchy of the Sydney Diocese of the Anglican Church was the most conservative and evangelical of any in Australia

in the November, 1972 Federal election, and at the State level, over the party's confusion on the abortion issue.

Probably much to Askin's delight, Petersen continued to show his support for reform, despite efforts from Hills to silence him (*SMH*, 22.4.71: 16). He presented several petitions to the House and addressed demonstrators outside Parliament House. On one occasion he disobeyed Hills by insisting on presenting a petition after six women had gained entry to the public gallery and demonstrated for reform. They held up posters with slogans such as "Politicians, Clergy, lay off forcing pregnancies", "Askin babies are a Liberal disgrace" (referring to those pregnancies forced to full-term by the abortion crackdown) and "This is our Parliament, we demand our rights". Affronted by the display, the Government and most of the Opposition voted not to accept the petition, their refusal being the first such in the history of the Parliament. (*SMH*, 21.4.71: 2) The vote against the petition was, however, no indication of members' views on abortion. In fact, support for liberalisation was quietly growing amongst individual MPs on both sides of the House, but most were afraid to declare themselves publicly from fear of those voters who opposed abortion on religious grounds. (*SMH*, 22.4.71: 16)

Whilst Askin was using abortion to hammer Labor over its lack of unity, in the upper House Keighley was repeatedly raising the abortion question - in the process embarrassing the Government of which his own Party was coalition partner - and attacking Askin for his refusal to amend the law, for bowing to "ecclesiastical pressure", for misusing the resources of the police force in pursuit of abortionists, and for his refusal to publicly disclose details of the abortion squad's operations. Throughout 1971 and 1972 he articulated all the major arguments for abortion reform, rejecting the notion of the foetus as a human being as an "anachronistic theological" position. He claimed that nineteenth century anti-abortion law had its origins not in any concern for foetal life, but in a desire to protect the lives of women; not, however, for their own sakes, but for the sake of their husbands: "It might even be said that it was a law to protect the husband's property", he said. (*NSW Parliamentary Debates, Council*, 11.8.71) Two other members of the Council expressed their respect for Keighley's outspokenness and their support for his position: Anne Press (Liberal) and L.D. Serisier (Labor). When Press said that all women in the Council should "stand up and demand a change in the law" and an interjector asked if she would have the support of all women, she responded:

Any woman subjected to an unwanted pregnancy would be with me. Any women who has come into contact with another woman in this situation would be with me. Any women who has known a girl to be driven to the point of suicide would be with me. Any woman who has sat and watched her mother's hair turn grey because her daughter was about to have an illegitimate child would be with me. (*NSW Parliamentary Debates, Council*, 11.8.71)

Nevertheless, two of the six other women in the Council told the *Herald* that they were opposed to abortion, one saying that she was glad the Government hadn't changed its policy under pressure from the "unbalanced, hysterical and emotional people" wanting reform. The other, a Labor member, said she felt:

... that Australia is faced with an inflow of migrants culturally used to large families. If we Australians liberalise abortion, we could perhaps, ruin our national identity. (*SMH*, 14.8.71: 9)

When, after repeated demands by Keighley and Petersen, Askin submitted to Parliament the overdue Annual Police Report in 1972 (which, apparently due to their pressure, contained for the first time a record of the abortion squad and its activities) Keighley declared that it showed "an obsessive preoccupation with abortion", and asked whether there was "a religious bias determining the allocation of [police] detection" to abortion. (*SMH*, 19.9.72: 18) So, despite Askin's opposition to abortion and the ALP's aversion to the whole issue, the reform position was being consistently put in the NSW Parliament and the proceedings given prominent coverage in the press.

The Cameron Motion

But it wasn't until October, 1972 that a concerted attempt was made to assert an oppositional stance. A Liberal member of the Legislative Assembly, Jim Cameron (who in the 1980s was to become a strident campaigner for the fundamentalist New Right) put to the House a motion to the effect that:

This House dissociates itself from the action of those seeking to legitimise abortion on demand and affirms its belief that such actions are unnecessary and repugnant to human dignity, the existing law in New South Wales being sufficiently flexible to deal with exceptional cases while defending the human rights of the foetus. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1237)

The debate began on 3 October - less than two months prior to the federal election - and resumed on 31 October, taking about two- and one-half hours on each day. This was ample time to embarrass Hill's Opposition and, more importantly at this juncture, to mount a veiled attack on the federal ALP and its leader, Gough Whitlam. The ALP was in an invidious position with Petersen staunchly advocating the case for liberalisation and women's right to control their own reproduction, whilst other Labor speakers, mindful of both their own electors and the looming federal election, tried to steer a careful course between their own aversion to abortion on the one hand, and the interests of Federal Labor on the other. But for the Government the object was clear: to denounce abortion as an assault on human life, and in so doing, implicate the Labor Party, and particularly Whitlam, as advocates and enablers of 'infanticide'!

As the motion was ostensibly a private member's one, Cameron needed the cooperation of a majority of members to have it debated, and to have so much time devoted to it. This was readily forthcoming from the Government. There can be little doubt that the whole exercise was politically motivated as far as the latter was concerned, and in this respect Cameron's own animosity to abortion (and to any other 'humanist cause') made him a more than willing accomplice to the Government strategy.

The *Hansard* transcript of the debate is littered with pointed references by Liberal-Country party members to Whitlam's pro-abortion stance, and to allegations of covert support for reform on the part of State Labor Parliamentarians afraid to declare themselves openly. The federal ALP policy of a conscience vote was claimed to be a "Machiavellian" manoeuvre of Whitlam's to ensure liberalisation without frightening electors.

Certainly, the Opposition was adamant that the motion was a mere subterfuge designed to brand Labor as supporters of permissiveness, and thus attempt to influence the Federal election outcome.¹⁹⁰ For one thing, the motion could have no effect, in that it advocated *inaction*: that is, it called for *no* change in the law. Given that it was a *de facto* Government member's motion, wholeheartedly supported (at least in practice, if not in spirit) by all Liberal-Country members, and that the Government itself had vowed not to reform the law, there was no substantive rationale to it with regards abortion. Moreover, the Opposition itself was overwhelmingly anti-abortion; even if it were to attain government there was no possibility that it, as it was then constituted, would initiate reform. To the contrary, several Labor speakers castigated the Government for not legislating tougher amendments to the statute, in order to close off avenues for freer abortion opened up by Levine's judgement. Indicative too, of Askin's real intention, was the fact that he had refused to declare whether or not Government members had a conscience vote, although it was transparently clear that all were required to support it, including those who were privately known to favour reform.

Again, then, abortion was being dealt with at the formal political level not primarily in its own terms, but according to party electoral considerations. This being the basic rationale of the motion, the greater part of each speaker's time was devoted to attacks on the other side, with arguments about abortion relegated to second place. Media reports of the debate neglected this (primary) aspect and focused instead on that content concerning abortion itself. Similarly, pro-abortion activists construed the motion as an attack, *per se*, on women's right to abortion and on the more liberal access to it emerging consequent to Levine. They staged energetic demonstrations outside Parliament House and organised a float and a 'funeral procession' in

¹⁹⁰ For example:

"The Government hopes that it will be able to disunite the Australian Labor Party on the eve of a federal election so that it can say that the Labor Party is in favour of abortion on demand." (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1988)

"I must say at the beginning that, ... this motion has been inspired by political motives. It is designed to create dissension before the federal elections." (*Ibid*: 1244)

"the Government is attempting to make the issue a political football on the eve of the federal elections." (*Ibid*: 1216)

"When the honourable member brought the motion before the House he knew there was to be a federal general election ... and that there would be political repercussions as the result of any division on this issue within the Labor Party." (*Ibid*: 1980)

memory of those women who had died from illegal and unsafe abortions. (Wills, 1981: 27) This is not to suggest that, tactically, supporters of reform could afford to ignore the motion, but to demonstrate how the use of the abortion issue as a party-political tool was translated or converted into a moment in the abortion struggle itself, with effects in that latter domain.

In the process, discourses on abortion, by being mobilised to electoral ends, were reinforced or invigorated by their public utterance. Many of the themes canvassed above were brought into play in the debate, the primary emphasis, for most speakers, being put on the human status of the foetus, the right to life which allegedly flowed from that, and the claim that its wilful destruction entailed murder. For example:

... above all I put the issue of human personality and the sanctity of human life - the idea that each individual foetus is absolutely unique and absolutely irreplaceable ... The very people [sic] ... [destroyed by abortion] may be the Shakespeares and Schweitzers upon whom our civilization depends. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1243)

The question is one of human rights - of the rights of life.... The fundamental aspect is the right to life.... The foetus is a human being.... (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1246)

Today, humanists, academics and most of the fashionable forces in our society are linking arms and proclaiming a new liberty - the right to kill the unborn child at will. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1244)

I say that it is better to be ashamed of having a child out of wedlock than it is to be guilty of murder. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1981)

Appeals to emotionalism invested in the meaning of 'babies', the discursive strategy which was to become the trademark of the Right-to-Life movement, were employed by various speakers.

As a layman I would not use such terms as foetus. I would refer simply to the foetus as a baby, as that is what it is in fact. Foetus is no more than a technical term for use in text books and by the medical profession. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1255)

To illustrate what would happen if abortion were liberalised, Cameron referred to there being "one spectacular incident after another" in Great Britain following the 1967 Abortion Act. He quoted one example from a report by a Scottish gynaecologist which told of:

"An unmarried student ... aborted of a twenty-six week pregnancy. The foetus was placed in a bag and handed to the incinerator attendant who, half-an-hour later, heard a whimper. Asking the theatre attendant if he knew what the bag contained the latter said it was 'a kiddie', that he knew it was alive, and he agreed it was 'a bloody shame'. The child was then placed in an incubator but died some eight hours later.... [At the inquiry it was said] 'that because it was an abortion operation the people in charge just put the baby aside and did not bother with it'." (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1241)

Other themes are worth noting because they so transparently exemplify the means and goals of discipline and regulation with respect to women and population control. First, the responsibility women have towards their 'children' (even prior to birth):

The mother, as a human being, as a person, has unalienable [sic] rights over her body ... but once she chooses to utilize her human emotions and a pregnancy results, she has entered into a contractual relationship with another human being ... a realization of whose potential depends on her protecting and nourishing the developing foetus right up to ... the point of birth. This is a tremendous responsibility and obligation ... and one which ... is more binding than any manmade law of contract. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1247)

Another speaker argued that abortion was unnecessary as effective means to prevent pregnancy were available. Nevertheless, he was prepared to countenance abortion in those cases only where couples could prove that they had assiduously practised discipline in their approach to sexuality and reproduction:

... if there is evidence that for instance a husband and wife had conscientiously practised family planning over a period of several years and then because of the unexpected breakdown of a technique through no fault of their own a child were conceived, the law should be flexible enough to permit the aborting of a foetus in the very early stages of a pregnancy. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1252)

His main concern was not abortion but overpopulation and the categorical need for responsible family planning. Here the aim was “regulatory in nature, but it [has] to rely on the demand for individual disciplines and constraints”. (Foucault, 1980a: 147). Hence, only in those deserving cases where discipline and self-restraint had been exercised, but were foiled by accident, should abortion be granted. Presumably, the device of restricting access thus would operate as an ‘encouragement’ to responsible and “ethical sexual behaviour”, that is, to the consistent and careful employment of contraceptive measures. Failing that, couples would have to bear the consequences (which, one might assume, would ensure they were more ‘responsible’ in the future). Family planning was an imperative because:

... we know that our population will double by the year 2000. The new cry is “Populate and perish!”, and it is a true one ... Is man going to make love and procreate until the world’s population lives in degradation, poverty and disease undreamed of by this generation.... If our population explosion continues the country will not be able to supply sufficient doctors, teachers, housing or perhaps even sufficient gravediggers. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1254)

The solution to both abortion and overpopulation required a form of education - “a political socialization achieved through the ‘responsibilization’ of couples with regard to the social body as a whole” (Foucault, 1980a: 105) - that taught people (“Malthusian couples”) of the connections between their sexual behaviour and the well-being of society:

... [Most people] apply only a narrow technique of family planning, but a broad understanding of sex as related to social behaviour, the society in which they live and the environment, is beyond them. They fail to see how these aspects are integrated. Until these people are able to appreciate this picture and understand it, there will always be some confusion.... Some people will claim that they believe in abortion on demand, but as they do not understand some aspects of sexual behaviour, they are voicing a superficial, narrow point of view. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1252)

He complained that abortion on demand would obviate the need for people to learn self-control and restraint; it would encourage them “to make love carelessly and recklessly” in the knowledge that if the woman conceived she could have an abortion. But the advocates of abortion on demand saw the reproductive consequences of sexual behaviour only in individual terms and failed to grasp its implications for the wider society and population he lamented. Proper family planning education would ensure “an ethics of sexual behaviour” which promoted responsibility and took account of the impending “population explosion”. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1252)

Another speaker took an opposite view on population, arguing that “society’s vital interest in this matter” gave it, through the state, the right to legislate to regulate reproduction (and, by implication, the right to harness women’s bodies to national priorities).

For society to deny to the unborn the right to live would be suicide. To preserve itself, society outlaws homicide and genocide. To protect itself from suicide, from a death rate far outstripping the birthrate, society must protect the potentiality of life. To permit foeticide would ... place society in danger of self destruction.... The growth of our nation, and our ability to maintain and widen the vast interest we have in the future, depend on our ability to populate this country.... Even on economic grounds the arguments for zero population growth are complete lunacy. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1247,8)

All the speakers were men, there being not one woman in the Lower House. Many of the arguments and remarks were banal, but some about women in particular were little short of grotesque. The following statement by a Labor member went unchallenged by all bar Petersen:

If a woman does not want a child she has the responsibility of preventing herself becoming pregnant. However, some people do not face up to their responsibility. Some women claim they should have the right to demand abortion. *As a man*, I say that women have the responsibility. If they do not want children they should take action to ensure that they do not conceive. They should attack the problem before they have sexual intercourse, not after the female egg has been fertilized. (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1253, my emphasis)

According to another speaker, if they did fall pregnant and not want to bear a baby, the problem lay not with the unwanted pregnancy but with their abnormal feminine psychology:

... we should assist women who become pregnant to overcome any *mental* problems. If the woman is married we must help her through it. If she is unmarried, again we must help her through it.... Women will not have abortions if they are helped over the stile.... If the people are unmarried, they are ... easily won over. There are places where women can go to have their children ... there are thousands of people clamouring at welfare centres for adopted children. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1981, my emphasis)

Rather than abortion, another member suggested that married couples “who already have too many children and ... are trying to get a home of their own” should adopt out an unwanted baby. Moreover, he observed, this sensible option would also ease the demand for babies for adoption. Whilst advocating this, he nevertheless made it clear that he considered it cowardly for a family man to wriggle out of his responsibilities, and related the story of an Englishman

... who had come to this country very much wanting a home of his own. He had three children, but he said that if he had to choose, he would rather have his children than have a home. *He is a man*. He had a choice, *and he made it as a man*. He did not do anything contrary to the laws of nature, but accepted a challenge and sought to overcome a handicap. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1981, my emphasis)

He went on to claim that all the agitation about the abortion law was being misinterpreted; in fact, he insisted, people wanted “the loopholes in the existing laws” closed, rather than eased! In agreement, Cameron maintained that everyone, including “the women in this community ... take a basically conservative stance on this moralistic issue”:

It is not a women’s issue; it is laughable to present it as such. The women who associate themselves with the pro-abortion lobby are the most atypical women, the most unlikely women, the most unrepresentative of all the vast body of wonderful womanhood ... that one could ever imagine. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1995)

So, men, and normal women, he averred, were opposed to abortion. Its only advocates were a small minority of aberrant women, women presumably who were refusing their femininity and the social responsibilities embedded in it. But in apparent contradiction to his claim that the vast majority agreed with him, he conjured up the theme of ‘the decadent society and the end of civilization as we know it’.

... as the course of this kind of issue runs within our permissive society, people who take my position in relation to these debates get little comfort; we live in a permissive society that is slowly eroding, fragmenting and disintegrating. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1994)

Petersen, the only participant in the debate to argue against the motion and for law reform, dealt with all the main themes consistently put by pro-abortionists in an articulate and well researched speech. In particular, he stressed women’s right to control their reproduction, and linked that to his own socialist politics and vision of the better society.

I am arguing for freedom for women, and it is symptomatic that I am arguing for this in a House that contains not one woman. There is very little physical difference between men and women.... [But] what is important is how, throughout all history, men have used the physical disabilities from which women suffer - particularly the disabilities inherent in reproduction - to create a male dominated society. What is new is that today men and women no longer need to be slaves to sexuality.... With modern contraceptive methods, supplemented by abortion on request, society now possesses the technical facilities to ensure that no women shall suffer compulsory pregnancy. For the first time in history it is possible for women to be liberated from the shackles of their own biology. This prospect is terribly frightening to all reactionaries, who fear that the mass of people will obtain freedom.... But what they are fighting desperately to defeat is the libertarian, political concept that people should have completely free choice so far as contraception and abortion are concerned.... When that happens, some of the pre-conditions will exist for a socialist society in which liberated men and women will stand together as equals in a free society - neither exploiting the other, but instead making use of sexuality to bind themselves together in a mutual harmonious relationship, which today is barely conceivable. In such a society men and women will produce only wanted children. (*NSW Parliamentary Debates, Assembly*, 31.10.72: 1976,7)

The Government hoped to force a division so that each Labor member would be obliged to publicly declare his position in the knowledge, firstly, that there were at least some who might find it difficult to vote for the motion, and secondly, that a near-unanimous affirmative vote would display to the electorate the depth of disunity between the NSW Branch and Whitlam's Federal ALP. Fortunately for Labor, a division was avoided on a technicality.¹⁹¹

Judged by his interventions into the federal election campaign, Askin was convinced that abortion was one issue which could swing voters away from Labor. Following a vitriolic attack on the ALP over abortion by a Roman Catholic Bishop, Askin spoke up in support of his views and congratulated him on warning of "the moral dangers which would flow from any alterations to the ... [abortion law]". He reaffirmed his Government's (alleged) resolute opposition to abortion as well as his determination to "resist to the uttermost any attempts [by a Whitlam Government] to change policy" in NSW to "open the way for indiscriminate abortion ... [which] can only be regarded as legalised murder". (quoted in *SMH*, 21.11.72: 8) This was an outright attempt to confuse voters, given that Canberra had absolutely no jurisdiction over the States' laws on abortion. On another occasion he slammed the ALP for encouraging "social permissiveness" which would "greatly damage the fabric of our society". "Scholars", he said, "had concluded that the survival of nations depended on avoidance of internal moral decay", and yet this would be the inevitable result of Labor's policies on abortion, censorship and homosexuality. Society had to protect itself by legislating against permissiveness: this wasn't a matter of moral intervention against sin, he declared, it was a matter of society "defend[ing] its own survival". (in *SMH*, 27.11.72: 1) Voting for a pro-abortion candidate was "helping to sign the death warrants of thousands of Australians waiting to be born". (in *SMH*, 29.11.72: 8) "When people declare that their private lives are no concern of the government or of anyone else", said Askin:

... they are talking like a cancerous cell that no longer obeys the laws of the body.... Some say that even if sexual license does cause a nation to decay, personal freedom is so precious that we must stand by its free exercise, even if there are those who abuse it. The answer is to question the use of the word freedom.... Restraints are necessary to safeguard true human freedom and our very nation. (quoted in *SMH*, 27.11.72: 1)

Finally, Askin declared he would personally be working on the Liberal tables in Whitlam's own electorate to protest against the Labor leader's proposals for abortion on demand. (*SMH*, 30.11.72: 1) The point here is not the audacity of Askin's cynical hypocrisy (given his own involvement in abortion graft) but the way in which discourses can become attached to a diversity of means, objectives, and interests. In the process they are perpetuated and modified and have effects of power, both intended and otherwise.

The 1972 Federal Election

Whitlam's remark to the Federal Labor Women's Conference at Brisbane in 1970 that, whilst he was personally disposed towards more liberal abortion, if elected, he would like to see a Labor Government adopt an official position of "benevolent neutrality" towards any abortion reform measures put in front of the House and allow a conscience vote to members (*SMH*, 2.11.72: 10), was picked up in the rundown to the election. It was exaggerated, distorted, and magnified by political opponents and several anti-abortionist Catholic clerics, and used to paint Whitlam and his future Government as storm-troopers of sexual permissiveness and national moral decline. This was despite him stating repeatedly in the campaign that the Commonwealth had no power to change state abortion law, thus any legislation, even if it were to eventuate, would pertain only to the Australian Capital and Northern Territories. And, as he reiterated time and again, the ALP had no policy on abortion, regarding it as a question to be decided by individuals, rather than party collectivities. (for example, *SMH*, 3.11.72: 2; 27.11.72: 1) Further, as he pointed out, a number of federal Liberal Parliamentarians had expressed their pro-abortion sympathies at times in the past as, conversely, had many right-wingers of the ALP their opposition. (*SMH*, 13.11.72: 2) Nevertheless, Whitlam and the Labor Party were subjected to concerted and virulent assaults over abortion. Desperate in the face of looming defeat his opponents seized on the issue as a cudgel to frighten voters swinging towards Labor back into the safe retreat of a continuation of twenty-three years of conservative rule.

¹⁹¹ Only a member who has voted against the motion on the voices can call for a division. Only Petersen and one other Labor man had done so and they remained silent. Despite Cameron's protestations the Speaker ruled he could not force the division.

After so long in power the Liberal-Country Party Government looked tired and directionless, especially in comparison to the energy and vision projected by Whitlam. Impressed perhaps by Askin's example, the Prime Minister, William McMahon, put abortion to the forefront of his campaign strategy. Liberal Party press and television advertisements warned that a Labor Government would "relax the laws on abortion". (*SMH*, 13.11.72: 11) McMahon took every opportunity to assure voters that his Government would not relent in protecting traditional values and, hence, would never change the law.

... when moral actions impinge upon others they are likely to have adverse social effects, particularly if they are likely to corrupt the young, then it is the duty of government in democratic countries to intervene to protect the rights of others. Abortion is a case in point. (quoted in *SMH*, 27.11.72: 1)

But for the most part, his repeated attacks took the form of incessantly quoting the several remarks that Whitlam had made in the past about his personal views on abortion and asserting that, contrary to what Whitlam consistently maintained, the Labor Party would not allow a conscience vote. He alleged that if the ALP won, *the Party* would introduce legislation *and* that it would *force* all members to pass it, refusing to acknowledge that, on both counts, what he claimed was in direct contradiction to Labor policy. (for example, *SMH*, 21.11.72: 8; 27.11.72: 1; 30.11.72: 1) Whenever pressed on whether the Liberals would allow a free vote, he would merely launch into a diatribe about the impossibility of the ALP ever permitting a conscience vote, insisting that it was determined to legislate for abortion on demand.

An indication of the importance being attributed to the issue comes from an edited transcript of a press conference given by McMahon ten days before polling day (*SMH*, 21.11.72: 8).¹⁹² Of eleven questions put to the Prime Minister, *five* were on abortion. Even more telling was the coverage given abortion in the last four days prior to the election: on *three* of these, abortion was *the leading page one story* in the *Herald*! Pre-election headlines also indicate the centrality it had assumed, for example:

Askin repeats: No demand abortion (*SMH*, 21.11.72: 8)

Warning to Catholics on Abortion (*SMH*, 25.11.72: 8)

Labor attacked on moral attitudes (*SMH*, 27.11.72: 1)

Denial by Whitlam on abortion (*SMH*, 13.11.72: 11)

Moral issues and the election (*SMH*, 28.11.72: 1)

Theologian's doubt on Whitlam vote (*SMH*, 29.11.72: 8)

Reflecting on the election, a *Herald* journalist said it was abortion and state aid which were giving McMahon "most consolation" and about which Labor was most "angry and sensitive".¹⁹³

Basically, the DLP and the Government parties' tactics have been to give thrust to the "permissive" issue in this campaign, because there are voters who have a real suspicion of the humanist vein which has always existed in the ALP. For many it is no more than an instinctive suspicion. But for all that, it is not a small disagreement with the ALP, nor is it irrelevant. (Johns, 1972: 6)

Apart from being in itself an issue in the election, abortion served as a metaphor for a whole range of social and cultural changes and the unease and even bewilderment experienced by some people in response to them. These shifts - encapsulated under the rubric of 'permissiveness' - posed a challenge to what were taken as

¹⁹² The headline above the report on the press conference was "**Women's status: no inquiry into abortion**". Presumably in a last-ditch effort to win back women voters whom polls showed were being won over by Labor, McMahon had previously announced that if re-elected, he would set up a Royal Commission to investigate the status of women. At the press conference he said it would not inquire into abortion.

¹⁹³ State aid involved the provision of Commonwealth funding to private (non-state) schools. It was a matter of paramount concern to the Catholic Church with its huge network of parish schools, serving many poorer or even middle-income families unable to pay large school fees, and designed to ensure that the education of Catholic children was deeply imbued with Catholic principles. The history of the Church's battle to secure state aid went well back into the nineteenth century. It was finally granted under Liberal Prime Minister R.G.Menzies as part of his election promise package in 1963 - an "inspired piece of political expediency" (Hogan, 1987: 253) to win Catholic votes from Labor and the DLP (whilst still retaining the latter's preferences). The fear whipped up that Labor would abandon state aid was, like that around abortion, based on confusion about the Party's policy: Whitlam had succeeded in overcoming the anti-Catholicism of the left-wing of the Party and had instituted the principle of funding to private schools into ALP policy.

relatively fixed understandings of what was acceptable and nonacceptable or right and wrong in the order of sex and sexuality.

Mention of the DLP and state aid brings us to the influence of Catholicism and the high profile of several Right-wing members of the Church's hierarchy in the election campaign. Abortion and state aid were perhaps the two issues in the political domain most likely to elicit an automatic response from the Church and the DLP. With the ALP widely perceived as being opposed to state aid and in favour of abortion the prospect of a Labor federal government was anathema to a number of clergy, whilst the combination served to exacerbate the DLP's traditional hatred of Labor.

The latter campaigned hard on the abortion issue and, in an attempt to distance itself from its Catholic origins so as to widen its electoral appeal, claimed that abortion was not a religious question but one of fundamental human rights. Glossing over the fact that abortion legislation was a State matter it warned that the ALP, if elected, would "introduce abortion on demand by stealth". (*SMH*, 24.11.72: 8) The Party was accused of using "smear and diversionary tactics" by the ACTU President Bob Hawke and of conducting "the dirtiest election campaign in Australian history". (*SMH*, 23.11.72: 9) The ALP NSW Branch President charged it with basing its publicity on "unashamed lies" about Labor policy and intentions and "waging a campaign of filth, fear and fallacy". (*SMH*, 30.11.72: 8)

Intervention from some in the Catholic Church's hierarchy over the abortion question was foreshadowed at the conclusion of its Australian Episcopal Conference in January. More than thirty bishops had issued a statement condemning liberalisation, and declaring that Christians could not in conscience vote for any political party lacking in "respect for the lives of all Australian citizens, whether born or unborn". Governments with a "sense of national responsibility" were bound to prohibit abortion because it involved the "most defenceless human being". To counter the charge that the Church wanted its sectarian morality imposed on all, it claimed that legislation of moral obligations was legitimate when it fell into the category of laws instituted for the common good. The bishops called on all political parties to make explicit declarations condemning abortion liberalisation. (*SMH*, 22.1.72: 3) At their September Conference they released a similar statement, condemning abortion as an "unspeakable crime" and attacking "death pedlars and doom-sayers" who favoured relaxation of controls against it. They said responsible electors were duty bound to ask candidates' policies on abortion, and to demand that government uphold elementary moral values by protecting the defenceless. "We are for life, for the child, for a humane, civilised order and for God's law" they declared. (*SMH*, 2.9.72: 3)

Whilst the Church hierarchy as a whole - some of which was, in fact, pro-Labor - refrained from any comment, several Right-wing anti-Labor bishops made direct attacks on Whitlam and the ALP for their 'permissive' policies on abortion in particular, and on the other 'moral' issues of pornography and homosexuality. Dr T.J. Connolly, theologian and Professor of Moral Philosophy at the Roman Catholic Seminary - a vigorous and much publicised critic of the pressure for abortion reform over the last half dozen years - accused Labor leaders of using the "evasive tactic" of the 'free' vote to gradually implement "the program of permissive legislation which they have privately agreed upon", but to which they would not publicly commit themselves.

These issues cannot be dismissed as merely of interest to churchmen and churchgoers. They are issues affecting man as man. They pertain to the most deep-seated values on which our community operates. They are so fundamental as to become issues of public conscience. (quoted in *SMH*, 2.11.72: 10)

It is difficult to see how Roman Catholics in the Werriwa electorate [Whitlam's] could vote for Mr Whitlam.... [He] believes in abortion on request and has been widely quoted as saying he will work to ensure the enactment of permissive abortion law. (quoted in *SMH*, 29.11.72: 8)

The anti-Labor campaign was waged by these clergy at both the local parish and State level through sermons, statements, press releases and speeches. An indication of its intensity can be gauged from excerpts of just one report in the *Herald*, typical of its coverage of Churchmen's comments:

The Roman Catholic Bishop of Sandhurst (Bendigo), The Most Rev B.D. Stewart, attacked the Labor Party at the weekend over abortion. He said abortion was an issue in the election despite a massive campaign to convince the electorate it was not....

The Roman Catholic Archbishop of Melbourne, The Most Rev J.R. Knox, said ... he believed parliamentary candidates should be asked their views on abortion, ... this matter of life and death.

The Catholic Bishop of Sale, The Most Rev A.F. Fox, said yesterday: "Abortion is an election issue ... because of the statement by ... Mr Whitlam that he is in favour of abortion on request". (*SMH*, 21.11.72: 8)

In a front-page election coverage *The Catholic Weekly* (22.11.72) said that whilst it was not its purpose or role to endorse one particular party, as a church newspaper it had a duty to assess electoral policies in the light of morality and social justice, and to point out that the DLP was the only party explicitly opposed to abortion. Likewise, Catholics had a duty to question candidates as to their views on abortion, and were conscience-bound not to vote for those who favoured abortion on demand, or for any party which had abortion on demand as one of its objectives. The latter caveat was clearly a reference to Labor and also to a statement made by Whitlam at the last ALP Federal Conference, and frequently referred to in the election campaign by his opponents. At the Conference, he had headed off a move from the left of the Party to make abortion reform part of its policy by arguing that:¹⁹⁴

I believe in abortion on request, if you want a neat phrase, and on a sensitive issue like that, a free vote in Parliament is the way to get it. (quoted in *NSW Parliamentary Debates, Assembly*, 3.10.72: 1248)

The efforts of the bishops to direct the votes of Catholics away from the ALP provoked a group of twenty-five prominent Catholic laypersons from Melbourne to sign and send to all Victorian bishops and the media a petition strongly admonishing those clergy who were publicly attacking the Labor party. The group's leader accused the bishops of having "betrayed the sacred mission of the Church". (*SMH*, 27.11.72: 10) Opinion polls on abortion showed too, that Catholics were by no means unanimous in their attitudes to abortion.

Protestant clergy were divided on the issue and had been since it had become a matter of public debate in the late 1960s. Generally, the Presbyterian and Congregational Churches had taken a more liberal line, although not going so far as to support abortion on request. The Anglican Church had been divided in itself, with the staunchly evangelical Sydney Diocese supporting the Catholic position (and even cooperating with it in setting up a joint committee of investigation), while some other dioceses were much more lenient. In fact, two Protestant clergymen, The Rev Norman Webb, and The Rev Robert Coughlin, were executive members of ALRA.

Perturbed by the repeated attacks on the ALP by representatives of the Catholic hierarchy, fifteen leading Victorian clergymen placed a letter in Melbourne newspapers expressing deep concern about attempts by clerics to undermine the principle of a free vote in Parliament on abortion. They said that churchmen should recognise that it was possible for widely divergent views to be held, with integrity, on the topic of abortion, and they would have hoped for mutual respect between opposing positions. A free vote was more likely to ensure that any debate over legislation was responsible and informed and that the matter was decided according to conscience. In a veiled admonition of the Right-wing Catholic bishops, they concluded that "genuinely moral decisions cannot be made under coercion, however well meaning". (*SMH*, 28.11.72: 1)

The following day, and in apparent response to this, ten leading Sydney Protestant churchmen issued a joint statement - released, significantly, through the Liberal Minister for the Navy, Dr Mackay, an ordained Presbyterian Minister - claiming that the future of Australia depended on having national leaders who respected "traditional values in community and family life".¹⁹⁵ Echoing the 'end of civilisation' theme, they affirmed:

¹⁹⁴ Whitlam was obviously mindful that a categorical pro-abortion Party policy would be a tactical blunder, savagely damaging the Party by tearing it apart internally and handing a powerful weapon to its electoral opponents. Nevertheless, abortion activists (who, by the early 1970s were mainly feminists) grew increasingly angry at the Party's refusal to abandon its compromise policy in favour of outright support. As they were often to point out, the Party did not balk at affirming a position on a variety of contentious ('mainstream') issues.

¹⁹⁵ Mackay was a bitter opponent of abortion, being against it even in cases where the pregnancy would result in a deformed baby. Speaking at a church meeting in 1970 - picketed by Women's Liberation, ALRA and other pro-abortion groups - he condemned abortion in all cases other than when the woman's life was at stake or where the pregnancy was the result of rape. In the latter circumstance he maintained that the rapist should be charged with the murder of the foetus if it was aborted. (*SMH*, 24.6.70: 6)

... any lessening of these standards and increased moral permissiveness, especially in areas involving respect for human life, such as in abortion and in matters of homosexuality, can only lead Australia down the path of national decline. (quoted in *SMH*, 28.11.72: 10)¹⁹⁶

In the face of this furore Whitlam and the ALP remained staunch in their refusal to enter into debate on the question of abortion: repeating endlessly that it wasn't an issue in the election, that the Party had no policy on abortion, and that if it did arise in the Parliament all members would have a conscience vote. There is not one report of any Labor person commenting on or replying to the fusillade of attacks in terms of the substantive content of the abortion issue.¹⁹⁷ But several events occurred within the Party to cause it some dismay. The former leader, Arthur Calwell, issued a statement warning the ALP that it should "act with great circumspection" on abortion and "all the dreadful issues of the permissive society in which this country is now so deeply involved". (*SMH*, 7.11.72: 1) Listing "abortion on demand, black power [referring to Labor's progressive policy on Aborigines], and a multi-racial society [to its abrogation of the White Australia immigration policy]", he said that these "highly emotional issues" could cost Labor dearly at the ballot box. Calwell personified the old morally conservative (and racist) elements in the ALP which were being eclipsed by Whitlam's energetic and progressive image. Apart from the potential damage of the previous leader publicly cautioning the Party, Caldwell's statement is of interest in its coupling of abortion with the ideal of a racially and culturally homogeneous Australia. The other incident serving to highlight the latent tension within the Party over abortion was an announcement by Professor Arthur Burns, a political scientist and Presbyterian Minister - whose Labor Party credentials were described as "outstanding" - that he would stand for election against the sitting ACT ALP member who had publicly declared his support for abortion reform, despite the fact that this action made him liable to expulsion from the Party. (*SMH*, 2.11.72: 7)

On the whole, however, Labor maintained a singular discipline with regard to the abortion question, at least within the parliamentary Party and amongst election candidates. Nevertheless, the trenchant opposition mounted against it by the anti-ALP bishops was seriously endangering its chances of election. Polls taken of voting intentions showed that between August and November Catholic support for the ALP dropped from 49.5 percent to 47.6 percent, whereas during the same time general support overall for Labor went up from 43.4 percent to 44.6 percent. This meant that the election could turn on the Catholic vote, especially since normally Labor could count on a higher proportion of Catholic than non-Catholic votes. Then, a poll taken in the week before 18 November showed that the percentage of Catholics intending to vote ALP had jumped to 53.1 percent, a leap of nearly six percent, which put Catholic support well ahead of general support, which then stood at 46.1 percent. The dramatic change in favour of Labor was most marked in NSW. (Brenchley, 1973: 6) At the beginning of the week in which the poll was taken, Mick Young, a Labor Party strategist, visited Archbishop James Carroll, Senior Auxiliary Bishop in the Archdiocese of Sydney, to elicit his assistance against the campaign of innuendo and deliberate confusion being waged around Labor's position on abortion. On November 12, the Archbishop issued a statement assuring Catholics that they could, in good conscience, vote for the ALP. This cleared the way for Roman Catholics inclined to vote Labor, but concerned about the morality of doing so because of the abortion issue, to return their support to the ALP. Writing in the *National Times*, one commentator later referred to the Carroll statement as "one of the turning points of the 1972 campaign" (Brenchley, 1973: 6).

¹⁹⁶ One can only wonder what meaning was intended by classing homosexuality as an area involving 'disrespect for human life'. Perhaps the fact that it exemplifies sex for pleasure rather than procreation qualifies it as such. Once again, abortion and homosexuality are linked together in the same breath, indicating that the major concern about abortion is a moral one, rather than the alleged principle of the sanctity of human life.

¹⁹⁷ The closest incident to an exception to this was an article appearing in a newsletter produced by the Bennelong Electorate in October, in which Jim Staples, its campaign director, supported abortion reform. Expressions of "major concern" about its possible electoral impact came from Mr Whitlam's office and from candidates in adjoining electorates after excerpts were reprinted in a local newspaper. The matter was considered serious enough to warrant a special meeting of State Party officials who ordered that all future campaign material for Bennelong be approved by the State office of the Party. This gives an indication of how crucial the ALP viewed the abortion issue, and its potential for damage. Obviously, refusal to participate in any debate on it was a vital campaign tactic. Incidentally, Staples, a barrister, was defence council in the Heatherbrae case and drafted the 1973 federal abortion bill.

Archbishop Carroll's intervention has to be understood in the historical context of the 1955 split and its aftermath. As already mentioned, the ALP did not split in NSW and many of the Catholic hierarchy there continued to favour the Labor Party, unlike the Victorian Church under the late Archbishop Mannix. The former were concerned that opposition from within the Church could endanger the election of a Labor Government; in fact, they "stymied" the formation of Right to Life organisations in Sydney until after the election (*Bulletin*, 28.4.73: 3).

Over a period of eight years then, abortion was transformed from a subject virtually beyond the pale of decent public discourse, into an explosive issue relentlessly wielded as a political weapon with the potential to decide who should govern the Commonwealth of Australia. Whilst the campaign against the ALP on abortion was pursued vigorously by the Liberal, Country and DLP parties, there is no doubt that it received considerable stimulus from the Right wing Catholic bishops, who received a remarkable amount of press coverage.¹⁹⁸ It is notable that - apart from the group of Melbourne Protestant clergy and that of the lay Catholics - no opposition was publicly voiced against the role the Catholic clerics were taking in the campaign (as far as can be judged from the *Herald's* reporting). There was not even any journalistic commentary on the propriety of them directing votes (although they claimed they were not doing this). I suggest that their intervention was accepted as proper precisely because, despite the constant appeals to 'the sanctity of life', the issue was actually perceived as fundamentally a *moral* one. Indeed, the *Herald* referred frequently to it as a 'moral' issue and had always done so; 'moral' being a euphemism commonly employed by the media for 'pertaining to sexuality'. Thus, it was taken for granted that Church leaders, as traditional and legitimate guardians of morality (read 'sexual morality'), were perfectly justified in interfering.

Probably because Labor, having won the election, launched immediately into an energetic programme of policy implementation, coverage of which dominated political reporting, there was no analysis of the degree of effect, if any, that the abortion issue, or the bishop's campaign, had on the results as a whole. However, a political scientist at the Bendigo Institute of Technology, Graham Hudson, carefully followed the course of the campaign in the seat of Bendigo and particularly the input of Bishop Stewart, whose diocese covered the electorate. Although nationwide there had been a large swing to Labor, in that electorate the incumbent ALP member had been unseated. Hudson argued that although some commentators considered state aid to be the critical issue, analysis of the campaign demonstrated that it was abortion which was pivotal. For eight weeks prior to the election all Catholic churches offered prayers for the unborn and preached anti-abortion sermons, some of which explicitly attacked the ALP. Parish churches cooperated with the local Right to Life organisation, announcing their meetings and urging parishioners to attend. Bishop Stewart, a long-time and virulent opponent of abortion, gave out six reported press statements and was interviewed several times on television. Hudson quoted Stewart as saying publicly that he couldn't vote for a party whose leader was "in favour of abortion on demand"; that "our defenceless brothers and sisters of the womb are threatened by Herods who destroy, Pilates who want their heads, and Judases ever eager for thirty pieces of silver". "No Catholic", said Stewart, "can support a policy which advocates abortion, described by the Vatican Ecumenical Council as an unspeakable and infamous crime". (quoted in Brenchley, 1973: 6) To Catholics who attempted to defend Kennedy (the sitting MP) and the ALP he suggested they probe their consciences more deeply and find how they could cooperate in the killing of a child. In a letter to the *Herald* (21.12.72: 7) Hudson quoted Stewart as maintaining that:

... where candidates are committed in various ways on this issue, the one whose views would give greatest impetus to mass slaughter of the innocents *must* be placed lowest on the preference list. (my emphasis)

He claimed that in a small community this vehement barrage from institutionalised authority was the critical factor in the election result. Commenting on his defeat, Kennedy said that Stewart made abortion the major issue for Catholics; that he "worked on it week after week". (Brenchley, 1973: 6) If the efforts of one member of the Church hierarchy could be so significant in one seat - admittedly one where the campaign was

¹⁹⁸ The Women's Electoral Lobby was also involved in the campaign on the abortion issue, but from the opposite position, of course. They surveyed all candidates for their views on abortion (amongst others pertaining to women) ranking them on a scale of ten according to whether they were pro or anti-abortion. The *Herald* mentioned the WEL survey on a few occasions when discussing particular candidates, but it was at this level of the local electorate that it was considered to have been effective in the election.

particularly rabid and sustained - it is improbable that it (in combination with the conservative Parties' sustained attacks on the issue) was without effect elsewhere. That effect, however, could well have been masked by the flood of votes to Labor generally. Indeed, it was only because Hudson was himself living in Bendigo where it was so pronounced that the importance of abortion was recorded and analysed.

What is significant, too, in the putting into discourse of abortion and its deployment as a political weapon, is the stark absence, on the whole, of any substantive content. Apart from remarks about 'killing of the unborn' and 'national decline' and of relentless references to 'permissiveness', the terms 'abortion' and particularly 'abortion on demand' stand themselves as powerful signifiers, apparently so meaningful that they didn't need explication. Those mobilising the abortion issue against the ALP barely entered into arguments as to why it was wrong or immoral, but relied on meanings already understood by listeners, if not shared or accepted by them all. Those meanings had already been developed and anchored to abortion over the half dozen years or so since abortion entered the domain of public discourse. We can now examine them in their 'mature' form as expressed in the Parliamentary debate over the Medical Clarification Bill of May, 1973.

The Federal Abortion Bill

In February, the Minister for Territories, Kep Enderby, announced his intention to introduce a private member's bill to allow for abortion on request in the ACT and the territories. (*SMH*, 22.2.73: 6) But anti-reform Labor members opposed its introduction by a minister on the grounds that the Government would be perceived as too closely identified with it. Consequently, two backbenchers, Tony Lamb and David McKenzie, agreed to sponsor the bill.¹⁹⁹ (*SMH*, 4.3.73: 40) It provided for abortion to be lawful until twenty weeks of pregnancy if performed by a medical practitioner at the request of the woman. The doctor was obliged to exercise 'due professional care' and to acquaint the woman of services available to assist her to continue the pregnancy if she so wished and also, to give advice on contraception. After twenty-four weeks two practitioners would need to believe that continuation would be a greater threat to the woman's life or health or to her existing children than would be the dangers associated with a termination, or that the baby would be born with serious mental or physical handicap; after twenty-eight weeks a termination could only be performed to save a woman's life or prevent serious and permanent injury to her health. Doctors could refuse to perform abortions if they had a conscientious objection and swore an oath to that effect.²⁰⁰ (*Bulletin*, 3.3.73: 16) In attempts to defuse mounting opposition to the Bill, McKenzie and Lamb were to reduce the initial period from twenty to sixteen weeks and then to twelve, and the twenty-four week limit to twenty weeks.²⁰¹

If enacted, then, the Bill, even in its final version, would have allowed for, as a *Herald* editorial on the subject claimed, a situation of 'abortion on request' in the ACT.²⁰² It contained no qualifying clauses stating

¹⁹⁹ The bill had already been drafted by Jim Staples, the barrister who caused the one hiccup on the part of Labor in the election campaign by distributing pro-abortion material in Bennelong. (*SMH*, 22.2.73: 6) He based it on the United Kingdom, South Australian and recent American legislation in the states of New York, Alaska, Hawaii and Washington (all of the latter made redundant by the US Supreme Court decision earlier in the year). Staples drafted the bill for introduction in the ACT and Territories and for NSW and had the provisional agreement of a NSW MP to introduce it later that year in the state Parliament. (MacDonald, 1973: 16) Presumably, its resounding defeat at the federal level put an end to any plan to introduce it in NSW.

²⁰⁰ This provision stemmed from another variant of the discourse of 'rights' deployed by anti-abortionists. It was argued that liberalised abortion laws could contravene the rights of medical personnel to hold conscientious objections to abortion, and to act according to their conscience, by requiring them to perform terminations, or to participate in the performance of them. The English legislation required doctors to prove at law that they had a conscientious objection and this had become a source of continuing controversy. Lamb and Mackenzie's provision was styled on the Scottish legislation in this respect, in accepting as adequate a sworn oath. But neither in the UK nor in their Bill was there provision for nurses or any other persons, apart from doctors, to legitimately refuse to be involved in terminations. At various times some individual nurses and their professional associations had objected to law reform on these grounds.

²⁰¹ It was also redrafted to apply only to the ACT after a protest from the Legislative Council of the Northern Territory 'reminding' Canberra that the Commonwealth had delegated to the Territory full powers to legislate on non-Federal matters. Several other minor changes were also made. (*CT*, 4.5.73: 3)

²⁰² On the whole, I have deliberately avoided use of the terms 'abortion on request' and 'abortion on demand' because this research has made it apparent that their meanings were not anchored or fixed, but rather shifted according to who was using them and in what context. Similarly, the connotations attaching to them had very different resonances for different speakers. This will be addressed in detail later in this chapter.

conditions or circumstances needing to be present which would have limited women's access to abortion within the first trimester of pregnancy, and allowed for social and economic factors to be taken into account in assessing the danger to a woman's health up to sixteen weeks. It went well beyond the legislation by then prevailing in South Australia and that proposed in Western Australia. Its effect would have been more akin to that brought about in the USA as a result of the judgement in *Roe vs. Wade* several months before, wherein the Supreme Court ruled that any legislation prohibiting or restricting a woman's right to abortion during the first three months of pregnancy contravened her constitutional right to privacy (McCann, 1973: 28).

Contrary to some suggestions (for example, *SMH*, Editorial, 5.5.73: 6), I would argue that it was not the radical nature of the Bill which aroused the extraordinary opposition which followed announcement of its provisions and proposed introduction; that was merely grist to the mill! Analysis of the campaign against the Bill makes it clear that it was abortion *per se* which was being rejected, and that the Medical Clarification Bill was construed as symbolic of attempts which were likely to follow at the individual State level if it were to pass.

Opponents can be divided into several categories: Churches, but most particularly the Catholic Church as well as the Anglican but also some lesser denominations; the fledgling Right to Life Associations; individual Labor politicians; and the Liberal and Country Parliamentary Parties. Interestingly, the DLP decided to take a low profile in the campaign. Proved correct in its prediction that Labor would move to liberalise abortion law, it deliberately left the running against the Bill to the Catholic Church. Despite the individual attacks on the ALP by some bishops before the election, the Party was angry and bitter at the Church hierarchy for not organising a concerted and united stand against the Labor Party and using its influence with Catholics to sway votes away from it. Given the findings of polls taken before and after Archbishop Carroll's statement, the DLP believed it had good reason to suppose that had the Church actively opposed Labor over the abortion issue Whitlam would not have won the election. (Brenchley, 1973: 6)

Unhindered now by electoral considerations and the pro-Labor sympathies of some in the hierarchy, the Church did not hesitate to spearhead the attack on the Bill. Numerous prelates issued strongly worded statements opposing it, not only because abortion violated the sanctity of life, but frequently, because its legalisation would constitute the first step to other forms of 'genocide' and herald the corruption and downfall of civilisation. So, for example, the Archbishop of Sydney, Cardinal Freeman, warned that the Bill struck at the right to life of *all* human beings; if it were passed, he claimed, no person would have the right to live just because they existed as life would assume only a relative value. Once such a principle was established there seemed no reason to suppose that the law's protection of the lives of "the senile, the incurable, the badly incapacitated and the mentally defective" would not also be withdrawn. (*SMH*, 16.4.73: 1) Similar dire consequences were predicted by Archbishop Cahill of Canberra and Goulbourn; legalised "killing in the womb" opened the way for "the extermination of other human beings ... judged worthless, unwanted or burdensome". (*SMH*, 23.4.73: 1) Bishop Carroll of Wagga claimed that if the Bill were passed the emphasis of the law would be changed from the "protection of life" to the "protection of happiness". He seriously believed that the question of abortion "places us at the very crossroads of civilisation", he said. (*SMH*, 23.4.73: 1)

All archbishops throughout Australia prepared pastoral letters to be read at Sunday mass in all churches in their dioceses. (*SMH*, 18.4.73: 3) For Easter Sunday a special letter signed by all Archbishops in NSW and the ACT was issued to each parish with instructions that it be read at all masses in its entirety. (*SMH*, 23.4.73: 1) The complete May 3 edition of *The Catholic Weekly*, the official organ of the Church, was devoted to the abortion issue. The Church issued a *directive* "that Catholics as citizens should express their disapproval through their parliamentary representatives". Unprecedented volumes of letters flooded into Canberra and MP's local offices. McKenzie and Lamb, as well as others, received many written by classes of school children.²⁰³

²⁰³ For example, McKenzie received a batch of letters from sixth graders at one particular Catholic parish school. The following was typical of those: "Dear Sir, I truly believe that abortion is all together wrong because little babies have a right to live. One of the command ments are Thou shal not kill and that means dont kill unborn born babies as well as growing people. You can't say "Ive

Cardinal Freeman and the Archbishop of Melbourne, Cardinal Knox, were guests at the National Press Club in Canberra a week before the Bill was introduced. In his address Knox (ignoring the fact that it was a private member's Bill and that all major parties were allowing a conscience vote) declared:

Any Government that passes this or similar legislation would by that very fact, renounce its right to the obedience of the country's citizens. And so, come hell or high water, such legislation will not be obeyed.... Legislation that destroys innocent human life will not be obeyed. (quoted in *SMH*, 1.5.73: 2)

Questioned as to how he intended to disobey a law which proposed to give a woman the choice of whether or not to continue a pregnancy, the Cardinal, not the least deterred, proclaimed that he "would cross that bridge when [he] came to it"!

The Sydney Anglican Church also mounted a campaign, sending a letter outlining its opposition to all parishes in the diocese. At a meeting between Cardinal Freeman and Archbishop Loane, both the Catholic and Anglican Churches in Sydney decided to combine forces and coordinate their campaigns. In signing a document to that effect, they stated:

We wish to make it clear that we feel the issue is of the gravest significance, as Australia seeks to determine the principles on which our future society will rest. (quoted in *SMH*, 18.4.73: 1)

Linking the themes of sexual immorality and the corruption of civilisation, prominent Methodist clergyman, the Rev. Alan Walker, claimed that the Labor Party was in danger of being branded as "the morally permissive party" and alienating large sections of the community because of its attitude towards unrestricted abortion, easy divorce and the legalisation of prostitution. (*SMH*, 16.4.73: 14) Australia was in danger of "fashioning a shallow and brittle culture" because it was ignoring the spiritual dimension of life.

There are operating in Australia strong forces which are appealing only to the animal side of human nature. The body is being treated as a sensation machine, satisfying living supposedly coming through the senses. The real case against pornography is that it treats men and women as animals. Behind the cry for abortion on demand is the assumption that a developing child in the womb is merely a piece of bodily tissue, casually to be destroyed. (quoted in *SMH*, 19.4.73: 3)

Whilst (particularly Catholic) churchmen's statements were being headlined in newspapers and opposition orchestrated at the parish level, the Right To Life was organising a highly professional and effective campaign of resistance to the Bill. The Association had its genesis in small groups in Queensland and South Australia and a national body was formed in Victoria several years previously. But the NSW groups, which were primarily responsible for conducting the campaign, had been formed only after Enderby announced in February that the Bill was to be introduced. Within weeks the Sydney branch had seven hundred members, two organising secretaries and a city office. (Jones, 1973: 6) In all, around Australia, it had some two hundred branches and between fifty- and eighty-thousand members. (*Bulletin*, 28.4.73: 19)

The Association used all the tactics of pressure groups, and more, to great advantage: car stickers, posters, songs, slogans, debates on radio and television, public meetings, demonstrations, letters to the press and to MPs, petitions, bussing of demonstrators, recruitment of students and schoolchildren, paid advertising in the press and on radio. Its supporters were urged to visit their local MP, express their concern about the Bill and ask how he or she intended to vote but not to declare any (particularly Catholic) religious affiliation, in effect suggesting that opposition was widespread across the community. Posters were distributed representing the grisly product of abortion, clearly recognisable as a human foetus but torn to pieces. The Association's symbol showed a foetus with pigtails standing in its mother's womb. A radio advertisement had the sound of a foetal heartbeat reverberating in the background as a voice said: "Do you hear that? Well, that's my heartbeat and I've only been in my mummy's tummy for six weeks but I'm alive. Now my mummy doesn't want me and wants me killed but I don't want to be killed 'cause I want to live like you." The caption of a newspaper advertisement showed a sporting team with one member missing read: "David didn't make the team because 16 years ago his mother had an abortion." (*DT*, 8.5.73: 3) 100,000 copies of a pamphlet called "Curettes or Cradles" were distributed in NSW alone, mostly through letterboxes, which claimed that in a late

enough babies I don't want another one" and kill it. So I hope you can stopit from happening. Yours sincerely Greg O'Brien." (sic) (quoted in Summers, 1973: 25)

abortion “the abdomen and womb are cut open ... and the baby removed alive, killed or left to die”. (Summers, 1973: 26) The Victorian division of the RTL had a pop singer make a record, “Cry of the Innocent”, which it distributed to radio stations (*DT*, 8.5.73: 3). Publicity material attacking the proposed legislation was distributed to all individual churches. Letters were sent to every medical practitioner in the Commonwealth telling them that the Bill, if enacted, would make it compulsory for doctors and paramedical staff to perform abortions, even though the Bill had already been redrafted to include the conscience clause. (Summers, 1973: 25) According to the Speaker, 207 petitions - most opposing the Bill - were presented to the House of Representatives in the period preceding the debate, the largest number on any issue since Federation. (*SMH*, 10.5.73: 1) One petition organised by the RTL carried 150,000 signatures and another, presented to the Opposition leader, contained 8,000 from voters in his electorate. (*DT*, 8.5.73: 3) RTL rallies attracted large numbers, thus assuring them of media coverage; one meeting in the Sydney Town Hall was filled to overflowing with more than two thousand people (*SMH*, 30.4.73: 1); on 6 May large rallies were held in all capital cities, twenty-two thousand people marching against the Bill through Melbourne streets (*SMH*, 7.5.73: 3) Audiences were warned that if this trend towards attacks on the value of human life was not stopped there would be legislation for euthanasia within four years (*SMH*, 30.4.73: 1); that doctors would be forced to perform abortions against their will; that another “abhorrent provision” was the lack of any right for the father, whether he be the woman’s husband or not, to prevent the abortion (*SMH*, 13.4.73: 12).

It was apparent from the scale of the Right To Life campaign that it was generously funded. Commentators suggested that funds were being channelled to it from the Catholic Church but the organisation’s spokespeople denied this, claiming that all financial support came from donations from concerned individuals. (Jones, 1973: 6) The national director of the Association, Greg O’Dwyer, said that he was amazed at the degree of support and the “groundswell of activity” which had exceeded his most optimistic hopes. Initially, he had planned to create a “compact task force” of perhaps a dozen people in each electorate, but what were intended to be small meetings to organise these were, he claimed, “swamped” by up to four hundred supporters. (*Bulletin*, 28.4.73: 19) The *Canberra Times* said the Right to Life mounted the most intense lobbying campaign seen in the country in recent times. (15.5.73: 2) Other commentators agreed, pointing out how the effort the Association had been able to mobilise cowed many MPs to vote against the Bill for fear of electoral repercussions. (for example, MacDonald, 1973: 26; Aitken, 1973: 12; Jones, 1973: 6))

Not surprisingly, argument about the Bill, and the Parliamentary debate itself - coming only six months after the election and the acrimony engendered in that campaign over abortion - was still thoroughly tainted with the adversarial jousting of party politics, a factor working against the pro-abortion cause, quite apart from the extraordinary pressure being generated by the RTL and Churches. Thus, the Liberal-Country Party coalition - at pains to stress its own unity as opposed to the portrait it attempted to paint of a Labour Party in shambling disagreement under its ‘permissive’ leader - had its own agenda with regards to the Bill. Support for liberalisation from any conservative MP would subtract from the maximum impact to be gained by the spectre of a divided Government Party. Whereas, then, Liberal Leader Snedden eventually pledged that Opposition members would have a conscience vote on the issue, he simultaneously declared that all had individually expressed their intention to vote against it. (*SMH*, 3.5.73: 2) Opposition members who in the past had spoken out strongly in favour of relaxed abortion laws remained silent during the period of controversy preceding the Bill’s introduction and in the debate itself. Conversely, others grabbed the opportunity to demonstrate their own moral righteousness as opposed to the permissiveness of the Government.

The Leader of the Country Party, Doug Anthony, condemned the Bill and any attempt to liberalise abortion laws as part of a general lowering of standards and values, the same moral decline he claimed was evident in demands for homosexual law reform, easier divorce and the removal of prohibitions against pornography (omitting to mention that it was Don Chipp, the former Minister of Customs in the Conservative Government in which Anthony was Deputy Prime Minister, who had liberalised the censorship laws two years previously). He claimed that abortion was not a matter of women’s liberation; rather, legalised abortion was an “affront to womanhood and a denial of their rights” because it put all responsibility for avoiding pregnancy onto women. (*SMH*, 7.5.73: 3)

Phillip Lynch, the Deputy Leader of the Liberal Party, said that easier abortion laws were not the answer to the emotional, economic and social problems of expectant mothers, whether married or unmarried. What was really required was better health and welfare assistance to obviate women's perceived need for abortion. He warned that if the Bill were passed it would create the same sort of problems which were now becoming apparent in the UK as a consequence of its rush to change the laws. (*SMH*, 30.4.73: 3) Lynch was referring to evidence presented to the Lane Committee, an inquiry set up by the British Government to review the workings of the 1967 Abortion Act, which was receiving wide press coverage in Australia at the time.²⁰⁴ Aspects of the inquiry were frequently cited by anti-abortionists as proof that liberalising abortion led to abuse of the system, to much higher rates of morbidity and mortality than its proponents claimed and to women relying on it rather than using contraception.²⁰⁵

As well, a number of Labor MPs - most of them Catholic - publicly voiced their staunch opposition to the Bill and to abortion in general, making its defeat well-nigh certain even before the Parliamentary debate. Another factor was also at work clouding extra-federal Labor attitudes towards the Bill. An election had been called in Victoria and many in the ALP were angry that Lamb and McKenzie had precipitated controversy about an issue as sensitive for Labor as abortion at such a time. The Victorian Labor Opposition was thus forced to deal with it as a State electoral matter, a liability its leader made it quite plain it could have done without, especially as it was well known that many in the Left wing of the Victorian Party were strong advocates of law reform, the Branch having made abortion on request party policy the previous year (Solomon, 1972: 2). In a pastoral letter, Bishop Stewart of Sandhurst - who had successfully campaigned against the ALP over abortion in the federal election - advised Catholics in the marginal State seat of Bendigo not to vote Labor because there was no doubt, he claimed, that if elected, it would introduce abortion on demand in Victoria. (*SMH*, 7.5.73: 1)

Organised support for the Bill came from ALRA, WEL, Women's Liberation groups, the Humanists and other bodies such as the Council for Civil Liberties. Although much more practised in the tactics of pressure group politics they were no match for the combined effort of the Churches and the RTL, the latter having at their disposal the massive networks of parishes, schools and various other religiously linked associations. Moreover, these already-well established groupings were basically hierarchical in nature and comprised of individuals more or less motivated by religious observance and ideals, thus constituting a dependable army for letter-writing campaigns, petitions, letterbox drops and the like. Conversely, groups supporting reform lacked such widespread but tight organisation, even, as in the case of Women's Liberation, having deliberately eschewed it in favour of loosely-linked non-formal membership and executive. Cardinals and archbishops were well placed to grab front-page headlines with strongly worded statements, whereas those from pro-abortionist groups were, if reported at all, relegated to a paragraph. Nor could reformers match the level of funding their opponents committed to advertising, pamphlets and posters.

The other major problem for supporters of liberalisation was the way opposition to abortion leant itself so readily to emotive and inflammable rhetoric and imagery whilst their arguments had to rely more on reason and appeals for women's freedom; the former being apparently in short supply in the climate of sensationalism and hysteria being whipped up and the latter a fragile counter to representations of murdered babies and mutilated foetuses. Complaints by ALRA and others of flagrant misrepresentation in RTL advertising and publicity were drowned out by the symbolic value of an abruptly halted foetal heartbeat. In fact, such was the momentum of the anti-abortion campaign that rather than having the initiative, those supporting the Bill were primarily on the defensive, directing their activities to arguing against falsifications,

²⁰⁴ Submissions to the inquiry came from both supporters of the 1967 Act who were concerned about particular aspects of the practice of liberalised abortion and wanted action to remedy defects, and from opponents of abortion. Because submissions from both groups, albeit it from very different perspectives and with different ends in view, were critical of certain elements of the Act and/or its operation, they served as a valuable resource for those opposing liberalisation of abortion in Australia. Lynch, in particular, in the forthcoming federal debate, relied heavily on evidence contained in them to support his arguments, as we shall see. Some of the reports and surveys from anti-abortionists - for example, that by Drs M. and A. Wynn which contained devastating evidence against abortion (and which was seized on by Lynch to good effect) - were alleged to be, at the least, methodologically faulty and guilty of very serious distortion. (*SMH*, 21.4.73: 7)

²⁰⁵ See, for example, *SMH*, 21.4.73: 7; *CT*, 2.5.73: 2)

mustering (smaller) counter demonstrations at RTL rallies and meetings, organising 'walkouts' from Catholic cathedrals during anti-abortion sermons. When five thousand people marched in Brisbane in a "walk for life", a parallel demonstration organised by Queensland's Children by Choice managed to attract only one hundred and twenty supporters (*SMH*, 7.5.73: 3) At its annual convention the Council of Australian Humanist Societies issued a statement claiming that the "silent majority" of Australians were in favour of liberalised abortion, despite attempts to suggest the opposite by the "wild emotional sectarian campaign" being mounted against it. It said that the RTL, "which is both extraordinarily well-funded and maliciously directed, purports not to be religiously directed". But the fact that its supporters were being urged to lobby their MPs without declaring their religious affiliations, proved, it argued, "that, in fact, the campaign is clerically directed". (*SMH*, 23.4.73: 3) David McKenzie denounced the RTL and Church propaganda campaign which he said could almost make one think the legislation intended to make abortion compulsory. He condemned churchmen opposing it as being virtually in the position of supporting backyard abortions, and as hypocrites for supposing that failure to reform the law would stop women having abortions. (*SMH*, 8.5.73: 1)

The debate was scheduled for 10 May and from the beginning of the month Women's Liberation, WEL and ALRA set up a 'women's embassy' in an army tent on the lawn in front of Parliament House. Five hundred women were rostered so that at least three were always on duty to hand out pamphlets and answer questions. Four ministers - Bill Hayden, Moss Cass, Tom Uren and Kep Enderby - visited the embassy to congratulate the women on their stand and assure them that they would vote for the Bill. In Parliament, DLP Leader Vince Gair immediately demanded that the women and their tent be removed. (*SMH*, 2.5.73: 2) In reply to another question as to whether the Government intended to remove the embassy, Enderby said he had received only favourable comment about it. Moreover, he considered that it was "a significant statement ... [about] the pressure against women in this community". Women aware of such issues must, he felt sure, feel oppressed that the matter of abortion would be dealt with "in this House of men" (there being no women in the House of Representatives). He also pointed out that the previous tent embassy, set up by Aborigines to draw attention to their cause, had been brutally removed by the last government which, he had no doubt, would do the same thing to the women's embassy if it were still in power. (*SMH*, 4.5.73: 11)

At a meeting in Sydney, George Petersen told supporters of the Bill that abortion on request was already *de facto* law but that hospital boards were "playing God" by granting abortions to some women and refusing others. Appealing to Federal Parliamentarians to vote for the Bill, he insisted that the majority of Australians were in favour of law reform. He emphasised, however, that:

[t]he fight is not really over abortion. It is a fight for freedom for both sexes. There will be no freedom for either until women are no longer slaves to their reproductive organs. (quoted in *SMH*, 3.5.73: 2)

Petersen claimed there was evidence to suggest that Catholic women wanted abortions as much as others. Daphne Colbourne told the meeting she estimated that about sixty-five percent of women coming to Heatherbrae had been Catholics. Gordon Barton, the national convener of the Australia Party, the only political party to have a policy of abortion reform, pointed out that no reformer was in favour of abortion *per se*; it was a 'grotesque' and 'appalling' thing and "an onerous matter for women" but the need for it had to be recognised. NSW Liberal MLC Clyde Packer said it was "absolutely disgusting" that such an issue was to be decided "by a chamber of 126 males". Further, it was despicable that in a democratic society females were relegated to the role of breeder and that their mothering was seen as secondary to their 'duty' of maintaining the species. "Parliament is not a court of morals", Packer declared, "and it is not there to enforce the discipline of the Church if that discipline is collapsing". (quoted in *SMH*, 3.5.73: 2) Petersen and Packer and the Country Party MLC, Keighley, all issued public statements expressing their support for the ACT Bill. (Jones, 1973: 6)

With countless thousands of anti-abortion letters inundating politicians, WEL carried out a survey of over five thousand people in shopping centres in Sydney, Adelaide, Melbourne and Canberra in an attempt to demonstrate that opposition to abortion was confined to a small but vocal and active minority. A spokesperson said that the well-financed and organised anti-Bill campaign was distorting MP's perceptions of the electorate's attitude. WEL claimed that the survey showed that eighty percent of those polled thought a woman should have the right to an abortion if she wanted one, with only twenty percent believing that she

should not have this right. (*SMH*, 8.5.73: 3) A Gallup Poll published the next day found that two out of three people supported a woman's right to an abortion in all or most circumstances and nineteen percent only where her life was in serious danger. Thirteen percent were opposed to it in all circumstances. (*SMH*, 9.5.73: 9)²⁰⁶

The day before the debate supporters gathered around the women's embassy outside Parliament House for a rally addressed by Kep Enderby and Moss Cass. Both urged woman in favour of the Bill to agitate against all politicians, including Labor MPs, who voted against it and to continue the battle for liberalisation. Inside, the House was in uproar over the time allotted for the debate. The Government had previously set aside three and a half hours for the debate and vote (*SMH*, 3.5.73: 2) but the Opposition - wanting to extract as much political capital as possible from the issue - protested that every MP should be able to express his views and that the limit made a "total farce" of what was a matter of "tremendous importance" to many people. (*SMH*, 10.5.73: 1) With defeat of the Bill inevitable, a Labor member, Race Mathews, announced that he would move an amendment that a royal commission, to be chaired by a Supreme Court Judge, be set up to inquire into abortion in Australia and that a majority of its members be women. The amendment, as proposed, would replace the provisions allowing for legalised abortion.

The Debate

In the debate, apart from McKenzie and Lamb, only Enderby, Hayden and Mathews spoke in support of the proposed legislation. The latter's amendment was seconded by a Liberal, Mr Turner, who opposed the original provisions of the Bill because, as he said, it was "necessary to put some brake on abortion on request" (1986). Opposing both it and the amendment were the Leader and Deputy Leader of the Opposition, Bill Snedden and Phillip Lynch, the Leader of the Country Party, Doug Anthony, the Minister of Education, Kim Beazley, the Minister of Tourism and Recreation, Frank Stewart (both Catholics and fervent opponents of abortion) and two backbenchers, J. Corbett (Country Party) and A.W. Jarman (Liberal Party). Judging by their records, all those speaking in favour of the Bill had a strong personal commitment to liberalisation and the principle of women's right to abortion, all having been prepared to publicly and non-equivocally declare their position on various occasions. All displayed a knowledgeable grasp of the issue and relied on rational argument and documented evidence to present their case. This is not to deny the role of latent political considerations; one element in the ALP's electoral victory had been the support it had received from young, educated and politically aware middle class voters, particularly women and, no doubt, one impetus for the Bill was an acknowledgement by some in the Labor Party, including the Prime Minister, of the debt it owed to this constituency. Conversely, there can equally be no doubt that naked political opportunism was one factor in Liberal and Country Party opposition; that the Parties' leadership spearheaded the attack adds further weight to this contention, as did the silence - much remarked upon by the media - of certain 'small l' Liberals known to favour law reform, such as Don Chipp and Andrew Peacock. Whilst some argument against the Bill was reasoned and thoughtful, not absent was the emotive diatribe and moralistic fulmination so often characteristic of anti-abortion discourse and the political expediency which found it convenient to cloak itself in the vestments of anti-permissiveness.

McKenzie claimed that the major purpose of the Bill was to clarify the law to clear up confusion within the medical profession as to when an abortion was legal, particularly following Levine's judgement (which applied to the ACT). (1969)²⁰⁷ The legislation was also designed to put an end to backyard abortions, he argued, to decrease the number of abortions and acknowledge that the matter was the concern only of a woman and her doctor. (1972)

²⁰⁶ The big difference between the two sets of findings was presumably a function of the different designs of each. The WEL survey apparently gave respondents only two choices whereas the Gallup one gave five, plus a category for 'no opinion'. Also, the Gallup Poll was conducted in April although its results were not published until May. In the interim there had been an extraordinary level of media coverage of the issue.

²⁰⁷ In the following, numbers in brackets refer to page numbers in the Hansard for the second reading of the Medical Clarification Bill, 10 May, 1973. Names refer to the speaker when this is not otherwise made clear in the text.

But the basic rationale of the Bill had already been severely undermined by opposition from the medical profession. For instance, despite the clause explicitly permitting doctors to refuse a termination on conscientious or other grounds, the ACT branch of the AMA had announced that it objected to the Bill because it allowed abortion for any medico-social reason, denied to the practitioner the right to exercise professional judgement in the patient's interest, and deprived doctors of their freedom of choice as individuals. (Jones, 1973: 6) The Bill's Parliamentary opponents were quick to seize on the various statements by medical bodies as proof that the motive of 'clarification' was merely a subterfuge to introduce abortion on demand by stealth (Lynch: 1973; Anthony: 1981; Corbett: 1996). Its success in the ACT would be followed by similar legislation in any State where Labor was to govern, they warned, so Victoria could expect legalised abortion if the ALP won the forthcoming election there (Jarman: 1999). Several speakers suggested that the Bill was really the brainchild of the Prime Minister and quoted statements made by him expressing his support for the principle of abortion on request and his advice to pro-abortion elements in the Party that "on a sensitive issue like this, a free vote in Parliament is the way to get it" (Corbett: 1995). Attempts to pursue this course were quickly brought to order, however, members being told by the Speaker to confine their comments to the substance of the debate.²⁰⁸

Whereas in the mid 1960s, pro-abortionists judged it tactically necessary to emphasise 'deserving' cases as justification for law reform, by now, Kep Enderby could argue, without mitigation or euphemism, that the primary rationale for legalisation was the virtually unqualified *right* of any woman with an unwanted pregnancy to decide for herself whether or not to terminate it.

If a responsible woman ... wants to have a pregnancy terminated at an early stage why on earth should she not have it done? Is she not the best judge? Why on earth should she not be allowed to terminate the pregnancy at some reasonable time? Yet the level of debate that has been waged in the community is such that abortion on request, which should be the simplest, most honest, cleanest and best way to describe the situation, has been made into a dirty expression as though it were a crime. (1990)

Or, as McKenzie put it in rejecting the argument that abortion should be limited to women in particular circumstances,

I do not believe that women ought to have to go through a series of legal or medical gymnastics in order to obtain something they have chosen to obtain. (1965)

Significantly, no supporter of the Bill once raised the 'deserving cases' as justification for abortion. Their message was emphatic and non-equivocal; abortion should be a women's decision and her right! This constituted a considerable shift in the tenor of discourse over the period. What was formerly labelled by the *Sydney Morning Herald* as the permissive 'extreme' in the abortion dilemma and beyond the pale of reasonable consideration, had been normalised and transformed into the respectable pro-choice position.

In fact, it was opponents of the legislation who referred to the deserving cases. They cited Menhennitt, Levine and statements by the AMA to the effect that terminations were allowable in those instances, arguing that those were the only circumstances where it was warranted, that the medical profession had clear guidelines to define these and procedures laid down to protect its members and, thus, that the law needed no change. (for example, Corbett: 1995) Hence, whilst some - such as Beazley and Stewart - still articulated rejection of abortion in absolutist terms, echoing the Catholic and RTL positions, others - for instance, Lynch and Anthony - were attempting to draw the line at what were, less than a decade previously, the changes then argued for by reformers. Considering this, although the Bill was defeated, the debate indicates the discursive ground which had been won and the degree to which anti-abortionists were on the defensive by 1973.

For the Bill's proponents there was simply no question that the prevailing state of affairs, even though it afforded a liberalism in access to legal abortion almost unthinkable a decade or so before, went far enough. Fundamentally, they were proposing a situation of unqualified availability of abortion in the first twelve weeks of pregnancy, although to tone down the implied radicalism of their intent and in an effort to mollify

²⁰⁸ Whitlam did not speak in the debate as he was attending the annual conference with the Premiers, although he did return to the Chamber for the vote. It may well be that the Government deliberately scheduled the debate for an occasion when he had good reason for not speaking in it, thus minimising identification of the issue with him.

their medical critics they spoke of abortion as a decision to be made by a woman in consultation with her doctor and included the clauses requiring welfare and contraceptive advice and proper medical practice, etcetera. In practice, the Bill was designed to bring about the *abolition* of laws proscribing abortion in so far as it limited women's access to it, its sponsors recognising that the climate was such that *de jure* abolition, as achieved in the USA, would still be a forlorn cause. They were not, then, merely looking to reform, the frontiers of reform having been already breached by the Menhennitt and Levine decisions. From this basically abolitionist perspective any barrier to free and equal access to abortion needed to be addressed, particularly that which discriminated against certain classes of women. Thus,

[a] woman who is educated, who can gain access to good advice through a sympathetic doctor, coupled with financial means, who can shop around for the right doctor can have an abortion.... The poor woman who is not so well-informed and who does not have the money cannot do any of these things. (Enderby: 1990)

I believe this is discrimination of the worst type. (McKenzie: 1964)

The consequence was that although the situation had changed dramatically for some women, for others the judicial reforms had made no difference:

Women with money and connections can obtain an abortion from a competent ... doctor operating in a suburban clinic. However, the majority of women are forced to go to the unqualified 'backyarder' abortionist who profits on the law at the expense of women. (Lamb: 1969)

It is a notorious fact that women determined to have an abortion will not be deterred from their objective in spite of its illegality, after being refused by a doctor. They will risk legal penalty and even death to rid themselves of an unwanted pregnancy. (Lamb: 1969)

This theme - of the unregulated 'backyard butchers', and the fear and "untold misery" accompanying women's desperate search for an abortion and the "squalid dangerous surgery" they were often forced to endure - so salient in reformers' arguments when the struggle for liberalisation was first joined, was still echoed loudly and repeatedly. Indeed, it was the one terrain on which pro-abortionists could at least attempt to match the emotive imagery conjured up incessantly by their opponents.

In response, Phillip Lynch claimed that studies done in countries where abortion laws had been liberalised demonstrated that the assumption that legalisation would eliminate illegal abortions was a "myth". (1974)²⁰⁹ As there was no evidence that backyard abortions were a problem in Canberra, it was an irrelevant consideration anyway, Beazley insisted. Moreover, the argument was merely a device for disguising what was nothing less than a "malicious assault on human life" by cloaking it in the language of "humane sounds". (1977)

Citing the same studies, Lynch rejected as another "myth" what had developed over the period into a major argument for legal abortion: that it would eliminate the problem of unwanted and illegitimate children. This claim, a plank in the pro-abortionist position from early in the debate, had been given added impetus by evidence which had been accumulating for some years that, contrary to assumptions intrinsic to the maternal instinct thesis, many children born from an unwanted pregnancy remained unwanted and were treated by their mothers differently from wanted or planned children. The research findings, already incorporated into the pro-abortionist discursive armoury and forcefully deployed over the last few years, were reviewed by a research fellow at the NSW Institute of Psychiatry, Dr Beverley Raphael, in the April issue of *Mental Health in Australia*, and then formed the basis for a *Herald* article on the subject during the lead-up to the debate. Raphael reported that the literature showed that amongst the emotional and psychological indications for abortion, the risks of unwanted pregnancy included "the syndromes of the battered baby and child murder".

²⁰⁹ What he neglected to mention was that evidence from the countries he cited showed that this was a function of how the laws operated in practice. For example, in Scandinavia, the procedures for obtaining a legal operation were complicated and drawn out so that so that women often ran the risk of ending up so far pregnant that they had no option but to continue to a birth. As well, many were refused. In both cases, the only alternative was illegal termination. Similarly, in England, there was a high incidence of unsympathetic doctors refusing women. Denied an abortion on the National Health, but unable to afford one at the many but very expensive private clinics which had mushroomed, poorer women were forced into illegal abortions. (Green, 1973: 2)

The overwhelming majority of babies or older children injured or killed by their mother had been unwanted. One survey lasting from birth for twenty-one years compared one hundred and twenty children born after their mothers had been refused therapeutic abortions with a control group of wanted children. Those of the former group:

... had more insecurity in their family life, higher psychiatric service utilisation, showed more anti-social and criminal behaviour, needed more public assistance, were more frequently exempted from military service, were more frequently underachievers in educational levels and married earlier. (Raphael, quoted in *SMH*, 17.4.73: 2)

Unwanted children were also more likely to commit suicide, according to Raphael, to have greater “social and mental handicaps” and to show a higher infant mortality rate. Conversely, some mothers could experience a deep sense of guilt at their failure to want a child and compensate by developing a neurotic anxiety about its health and smothering it with overprotectiveness. (*SMH*, 17.4.73: 2)

On this basis Lamb contended that the moral slogan ‘every child has the right to life’, whilst being intuitively appealing, failed to confront the question of ‘quality’ of life. He suggested that a more appropriate slogan was one articulated by proponents of liberalisation: ‘every child has the right to be wanted’. Perhaps, he continued, the essence, of this matter was put best by John Stuart Mill when he said:

Anyone who causes a life to come into being without the means to guarantee it normal expectations of happiness commits an offence against that being. (quoted by Lamb: 1972)

Even if a woman failed to become reconciled to an unwanted pregnancy or to bond ‘naturally’ to the baby once born, this whole justification was simply a non-issue to the Bill’s opponents because

[t]here are no unwanted children; there are only unwanting parents. Even if the parents do not want them, there are thousands of childless couples crying out to adopt children in the hope of building a family. (Jarman: 2000)

Jarman regretted the fact that there were insufficient numbers of babies available “to meet the demands of parents who wanted to adopt them” and noted that the adoption lists in Victoria had recently been closed as a result of this shortage in supply. This option, suggested by anti-abortionists from the first emergence of the modern debate, continued to be offered as the solution to unwanted or illegitimate pregnancies. Due to the free availability of abortion and the increased incidence of unmarried women keeping their babies, by the early 1980s adoption of a normal, healthy, white baby was to become almost impossible to get. By then, right-to-lifers were to pursue this theme with an even more heightened sense of righteousness, venting their incensed rage and frustration at the selfish women who aborted babies rather than offer them for adoption to deserving childless couples.

The Bill’s supporters rejected the ‘solution’ of adoption outright; McKenzie referring to the psychological damage done to a woman by forcing her to have a baby and then adopt it out (1968); Lamb to the hypocrisy of a society which expected a woman to bear a baby against her will and then proffered adoption as her only viable option (1970). Enderby voiced outrage at the punishment those advocating birth and adoption would have inflicted on a woman. (1990)

As for Anthony, if a child would suffer because it was unwanted then the burden of responsibility, on those with “the power to set the life process in train”, to exercise control and ensure that conception did not occur was even further magnified. His answer, then, to the problem of unwanted pregnancies and the pain and hardship experienced by children borne of them was contraception: a solution somewhat akin to shutting the gate after the horse had bolted! He pursued this idea with some vigour and at considerable length, his language noticeably studded with the themes of personal restraint and obligations:

... there is a very heavy responsibility resting on those [involved] to take steps to prevent conception. (1981)

It seems to me to be an abrogation of our responsibility ... to claim that abortion ... is an acceptable and appropriate alternative to the exercise of the control which an acceptance of responsibility would suggest should be exercised. (1982)

... we should [not] look upon abortion as a substitute for lack of responsibility at an earlier stage. (1981)

The problem of abortion was thus translated into the problem of people's lack of self-discipline. Thus, several speakers seized on studies that showed that a very high proportion of women applying for abortions had not been using any form of contraception at the time of becoming pregnant. Legalised abortion, then, would provide an easy avenue for people who were the creators of their own dilemma to shirk the consequences of their neglect. Moreover, the knowledge that abortion was available would operate as a disincentive to responsible contraceptive use. In support of this latter claim opponents cited submissions to the Lane Committee which showed that the number of abortions per annum had increased steadily since the 1967 Act. Anticipating this objection, Lamb brushed it aside by pointing out that "the main increase in legal abortions result[ed] from the transfer to open and legal abortion from illegal abortions" (1970). McKenzie produced international comparisons to demonstrate that low abortion rates correlated not with a harsh degree of legal repression but rather, with the open availability of effective contraception. Nevertheless, he stressed, no form of contraception was one hundred percent reliable and therefore, it could not, as some opinion would like to insist, completely remove the need for abortion. (1967,8) But an adequate and coherent family planning policy could reduce the need for abortion, argued Lamb, and pointed out that the failure to introduce this in conjunction with liberalisation in the UK was one of the main shortcomings of that reform. (Lamb: 1970) (In belated recognition of this the British Government was introducing legislation to make contraceptives available to all under the National Health Service. [SMH, 21.4.73: 7]) Lamb reminded Parliament that the Bill before it provided that following termination it would be incumbent for a medical practitioner to advise the woman of the availability and use of contraception most appropriate for her. He criticised "anachronistic laws" which still restricted advertising of contraception and claimed that barriers to the knowledge and practice of effective birth control resulted in more than fifty percent of pregnancies being unplanned and many of these being unwanted. "The state has a responsibility to ensure that abortion is a last resort", maintained Lamb.

Governments which deny their responsibility by failing to provide efficient family planning programs and then prohibit abortion on request can only be described as architects of double standards. (1970)

This emphasis on birth control education and accessibility and on the obligation on the State to provide it - whilst always something with which pro-abortionists agreed - had not formerly been articulated so forcefully in the context of arguments for liberalisation. Formerly, it had been a line put by those counselling 'moderation', such as the *Herald* itself in editorials, or by some opponents of abortion as the solution to the problem, exemplified here by Anthony. Of course, the most vehement anti-abortionists - those whose opposition had its roots in Roman Catholic dogma - were no more prepared to countenance contraception than they were abortion. The high profile accorded birth control policy by supporters of the Bill can be seen as, on the one hand, tactically motivated, in that it provided a defence against charges that the radical provisions of the legislation would serve to promote contraception by abortion; and on the other, perhaps as a response to the growing concern within the Women's Movement about contraception and women's health issues generally.

Another "myth" about abortion, according to Lynch, was the spurious misconception that it had no harmful consequences; "many women have been misled by pro-abortion propaganda to believe that an abortion is as simple and as safe as having a tooth pulled out". Again citing submissions to the Lane Committee, he claimed that "this frivolous approach" had condemned women to suffer serious complications, permanent physical disabilities, sterility, chronic illness, lasting psychological disturbances and even death. Cynically inverting the rhetoric of the Women's Movement, he declared that:

[i]n the name of liberation it [legalised abortion] imposes new burdens on women... It leaves the aborted woman to pay the price, sometimes with physical and psychological ill-health.... It is a solution which is promoted by some under the guise of a new liberation for women. In fact, ... it treats women as second class citizens, not worth the proper care of society and the government. (1975)

In another context, Anthony similarly suggested that the provisions of the Bill constituted a covert attack on women:

It seems to me to be not an expression of the liberation of a woman but an affront to her womanhood and a denial of her rights if it is suggested that all responsibility for avoiding or terminating an unwanted pregnancy should rest with that woman alone.... To what greater extent will he [the man] be encouraged to avoid responsibility in these matters if women are called upon to accept an even larger part of what should be a dual responsibility. (1982)

Anthony's concern for men's responsibilities did not, however, overshadow that he held for their rights, a concern he shared with several others. He expressed his alarm that there was no provision in the Bill for the father of the unborn child to exercise his rights; that is, to veto a women's decision to abort, nor even to be consulted in the decision-making process. (1980) Jarman echoed these sentiments, pointing out that "it is his child equally with the mother". (2000) Even more outrageous, according to Beazley, was the fact that if the woman was married, "there is no provision for consulting the husband as to whether he wants [the child] destroyed. (1976) In the same vein, Anthony pointed out that there was no allowance for the parents of "a girl of say 12, 13 or 14" to be notified, let alone consulted, if their daughter sought an abortion. (1980) The question of a 'father's' rights was to become the subject of a High Court decision in the next decade and of a demoralising defeat for anti-abortionists.

Another aspect of the role of men with regards abortion, one which had been voiced consistently by its proponents since the mid 1960s but which assumed a particular salience in the public and Parliamentary debate on the Bill, was the fact the law was one which impacted primarily on women but was propounded by men. The House of Representatives was wholly male, and yet "we sit here as men making decisions about women when there is not a single woman amongst us". (Enderby: 1990) All those in favour of the Bill recognised the situation to be incongruous if not outrageous. On behalf of women demanding legalisation, Lamb expressed their indignation thus:

I warn this totally male House that it is because we are males that there is a great danger that we will ignore the needs of women in this matter. Laws are made by men, sanctioned by a male dominated church hierarchy and imposed largely by policemen, and yet we will never bear children ourselves. (1970)

None of this carried any weight with their opponents. One, apparently oblivious to the revealing irony of his analogy, retorted that

[t]o say that women should have the say as to whether abortion on demand is legalised is as ridiculous as saying that only criminals should say what facilities should be provided to prisoners in gaols. (Jarman, 2000)

Another, his rhetoric echoing familiar turn-of-the-century sentiments, attacked the idea that women should be permitted abortions "even for the most transitory reason of selfish personal convenience" (Turner: 1988) giving as an example the healthy, young married woman who "would prefer, to have, say, a Mercedes car" (1986). Others similarly referred to destroying human life to "serve the convenience" of the mother (Corbett: 1995) or "the trivial convenience of our society" (Anthony: 1976). Turner made it clear that he considered women's claim to autonomy in decision making about their fertility to be representative of an extreme and preposterous position. After all, he said, "I do not think *even men* are permitted to do whatever they like without proper reasons if their actions affect other people". (Turner: 1988, my emphasis) For him, the 'other people' affected by abortion were medical and nursing staff and the community as a whole.

But for most of the speakers against the Bill the 'person' most affected was the unborn baby. In putting this position, Jarman summoned up the emotive imagery which had become the stock-in-trade of right-to-lifers:

There is someone whom this Bill concerns and will affect far more than the woman, and that is the *child* who will have his or her life denied under the provisions of the Bill.... At 4 weeks after conception the heart of the *baby* is beating. At 7 weeks his face is completely formed; he has 20 milk teeth buds; he has eyelashes and eyebrows. At 10 weeks the *baby* can move himself, and at 11 weeks he can even suck his thumb. It is at about this stage, and even later, that this Bill will allow the life of the *baby* to be terminated, for no other reason than that the mother does not want to go through with the pregnancy.... Not even the mother should have that right. (Jarman, 1999,2000, my emphasis)

Predictably, it was around questions of 'rights' that the core arguments revolved, even more so than when the abortion issue had initially breached the wall of public silence surrounding it for most of the century. Opponents of the Bill reiterated the by then familiar assertions that the foetus - referred to more often as 'the baby', 'the unborn child', or a 'human being' - had a "fundamental" or "essential" right to life and that right outweighed any that the pregnant woman might have. The foetus acquired that right by virtue of the fact that it was a "human person". This was not just "a matter of belief"; it was "a matter of knowledge". (Beazley: 1976) Lynch referred to "scientific evidence" provided by medical authorities to prove that abortion "involves the destruction of a clearly recognisable human being" and quoted a reputable medical journal which derided "the very considerable semantic gymnastics required to rationalise abortion as anything but the taking of a human life". This "schizophrenic subterfuge" was employed to propagate "the myth that abortion is not the killing of human life" by representing the unborn child as merely "an appendage of the mother". (Lynch: 1974) Because this "person [was] incapable of defending his or her own rights", Anthony insisted that "there must be laws to protect the rights of that person". (1981) In phraseology reminiscent of Catholic dogma, Beazley asserted that:

[i]nnocent human life, in whatever stage of development, should be secure from the very first moment of its existence from any direct and wilful attack. This is the essential right of the human person, without which obviously no other rights will exist for that person. It is as valid a legal human right for the life still hidden in the womb of its mother as it is for the life already born.... (1976)

What was distinctive about the debate was the fact that, rather than sidestepping the issue of foetal rights or merely counterposing women's rights against those claimed for the unborn, pro-abortionists were prepared to tackle the question of foetal personhood, and all those relating to it, head-on. Thus, Hayden argued that it only made sense to talk about rights if they could be attributed to an individual person. Accordingly, it would have to be established that the foetus possessed those characteristics which made a living thing a person. Cleverly turning Catholic dogma back onto the opponents of abortion, he referred to the Vatican 2 Declaration on Religious Freedom which

... defines a person as being endowed with reason and free will and therefore privileged to bear personal responsibility. Thus, a person is a moral agent with intelligence, aims and goals; who has the capacity for reasoning, willing, desiring and loving; who has the capacity to relate to and respond to others. It is the existence of these characteristics which gives rise to rights, that is, a person has rights just because he has his own personality, because he is a moral agent. A foetus has none of these attributes; it has none of those characteristics which distinguishes a person from other living things. (1993)

To circumvent this objection, pro-lifers argued that the law implicitly recognised that an unborn potential person could have rights by making provision for the inheritance of property by a conceived but still not born child. On this basis, it was claimed, rights, including that to life, could flow back to something which could become a person. Countering this, Hayden submitted that the existence of these rights was contingent upon a child being born alive; that is, "these rights are retrospective rights". If a foetus died, it could not attain the rights of a person including the right to survive. (1993)

The other side of the right to life argument was that which alleged abortion to be murder. Hayden said that this derived from the Catholic position that the body of the foetus was infused by the human soul but pointed out that it was only in recent times that the Church had decided that this occurred at or shortly after conception. Prior to that, abortion before ensoulment was deemed to be a form of contraception and therefore not murder. But more importantly, for abortion to be equivalent to murder, that which was killed had to be a human person, and as he had already argued, the foetus was not endowed with those characteristics necessary for it to be accorded that status. Anti-abortionists claimed that because the foetus was continuous with the adult person it was itself human. "But", objected Hayden, "the possibility of development along a biological continuum does not by itself guarantee that the foetus is a responsible moral agent capable of living a full human life". (1993)

The claim that abortion constituted murder was, on the surface, the most powerful moral argument against it, said Hayden; but if those alleging this genuinely believed it to be the case it was morally incumbent on them not merely to oppose the Bill, but to work actively for legislation to make abortion "the serious, and seriously punished, crime they claim it to be". That they did not do so showed that their claim was

... just an effective means of marshalling support against this Bill. They know that to introduce laws making abortion such a serious crime would quickly reveal the strength of the commonsense attitude to the foetus ... already incorporated in our law.... Describing abortion as murder ... is simply playing on our emotions and fears. (1993)

In a similar vein Lamb maintained that for most people the idea that abortion entailed the death of a human being was untenable. Indeed, even the Church, which held that a human being exists from conception did not make allowance for funeral rights or baptism in the case of death prior to birth. The law did not view the foetus as a human being nor bestow it with citizenship rights, “otherwise the state would not condone the ‘murders’ that pass as abortions”. Implicitly rejecting any notion of ‘natural’ rights, he argued that rights could only be conferred by the state, and that it was its responsibility to only grant those which could be exercised and which it had the power and the will to protect. Hence, he maintained, “the state cannot bestow the right to life unless it is prepared to enforce that right. It cannot grant rights cheaply”. Moreover, the “absolutist principle” of the right to life was in conflict with other rights, such as that of a woman to decide whether or not to bear a child, her right and that of any family she may already have to health and welfare, and the right of a child to be wanted. There was an obligation on those who held the foetal right to life to be paramount to establish a case for its primacy over other rights, insisted Lamb, and he challenged those who accepted it without question to

... examine their consciences and answer for the desperate misery and hardship imposed upon pregnant women, the existence of illicit abortionists, the hypocrisy of a law which is different for rich and poor, and the confusion that faces doctors as to their medical rights. (1971)

By way of reply Anthony objected that the matter was not so much one of conflicting rights, but rather the subordination of the unborn child’s right to life to “what has become known as the quality of life”, inferring that the latter was nothing other than a contemporary euphemism for “an attitude of selfishness”. (1981) Similarly, Lynch accused those in favour of abortion of using the guise of appeals to individual rights to attack society’s “whole structure of rights and civil liberties”. He said that the idea that it was a woman’s right to use abortion to control fertility was yet another myth promulgated by pro-abortionists. The aim of such mythmaking was to obscure the fundamental fact that

[i]t can be no one’s right to take the life of another human being. The basis of law in a democratic society is that its provisions must apply equally to all members of that society.... [O]nce [a woman] becomes pregnant ... there is a new human life with an equal right to life. The notion that a woman has a private right to abortion ... cannot be legitimately advanced. Even when she does have an abortion she automatically involves the rights and consciences of a large number of other people - her doctor, the gynaecologist, the nursing staff, the theatre staff, the anaesthetist, and many others. These are people who are personally involved and whose rights must also be recognised and protected. (Lynch: 1974,5)

Although occasionally voiced over the preceding years, this theme, that liberalised abortion violated the rights of medical staff, had recently been developed into an important element of anti-abortion discourse. The impetus for this derived particularly from allegations that under the operation of the UK Abortion Act, medical practitioners in hospitals had been coerced into agreeing to abortions and nurses and theatre staff were forced under duress to participate in them, despite them holding conscientious objections to abortion. There were also criticisms that the South Australian legislation did not provide adequate protection for doctors’ rights. (Jones, 1973: 6) Several speakers dwelt at length on this objection, Lynch warning that liberalised abortion transgressed the rights of doctors both personally, in terms of the exercise of their conscience, and professionally, in coercing them into decisions possibly at variance with their clinical judgement. (1973) Beazley cited a study entitled ‘Abortions and Acute Identity Crisis in Nurses’ which alleged that many nurses whose work involved participating in abortions were suffering acute psychological reactions from the contradiction between the ideal of healing and saving life and the requirement to “terminate life in a recognisable human form” (1977,8) But, for Beazley, it was not only the central values of the nursing profession which were violated by abortion; these emphases on caring and nurturing were indissolubly linked to the essential female qualities of nurses. Little wonder, then, that he forecast a spate of nervous breakdowns amongst nurses if the law was changed. On this basis he appealed for the Bill to be rejected to ‘liberate’ nurses from this “prospective violation of their nature as women”. But there were a “number of [other] disastrous consequences arising from legalising the slaying of unborn children”, charged

Beazley, again bringing into play the scare tactics and horror stories which were to become increasingly typical of the pro-life movement:

The Bill does not dare to utter in law what it will force in practice, namely, that the obligation to endeavour to resuscitate the life of an infant no longer rests on nurses and doctors. They are both turned by groundless abortion from being healers to being killers. (Beazley, 1977)

Even more horrifically, he alleged that “legalisation of abortion in Britain has provided infant bodies as raw material for scientific experiments ... and anatomical study by artificially producing death.”. He compared this to the infamous Nazi experiments in concentration camps, arguing that just as no medical good came out of those, nor could it from any form of experimentation on foetuses. (1979)

The final major set of arguments raised against the Bill was that based on the ‘slippery slope’ principle, or as Lamb and Hayden called it, the ‘moral domino theory’ (striking an analogy with the previous Government’s anti-communist foreign policy in South-East Asia). This had a number of variations, one of which opposed abortion by extending the foetal right to life to a defence of all rights and civil liberties. Earlier formulations of this position, which addressed itself to the principle of the sanctity of life, had warned that liberalised abortion would be the first step down a path leading to the extermination of the old, the useless and the chronically ill, as we saw above. By 1973, what was suggested to be at stake were all citizens’ lives and liberties and the future of democratic society itself. It was claimed that legally negating the foetus’ right to life would enshrine in legislation the principle that life was not inviolate and thus provide the precedent for the further breakdown of that fundamental right which we all possess. Therefore, asked Lynch, “what use are our other rights and civil liberties if we cannot be assured of the basic right to life on which they rest?”. Passing the Bill would begin the process of erosion of the basic right of “everyone in this nation”. Any society which did this could not avoid “further breakdowns of the democratic structure that recognises the equality of all its citizens”. (1976) Anthony similarly claimed that the attitude represented in the Bill would lead to a lessening of the respect for life and the right to life of all individuals; a situation characteristic of a “totalitarian society in which the right of the individual is subordinated to the rights of the state”. (1982)

In anticipation of this line of argument, Lamb flatly rejected the idea that there was any credibility in the moral domino theory (1972) and challenged its proponents to prove that liberalised abortion undermined public and private morality and was the first step towards a total disrespect for life (1971). Repeating a charge levelled at pro-lifers frequently over the preceding years, he remarked that

[a] reverence for foetal life does not guarantee a reverence for all life.... [O]ne can be excused for thinking that among those who now campaign so strongly against abortion law reform there are many who have a great feeling for foetal life but once it stops being a foetus their respect for human life stops well short of that concern. (1972)

The other slippery slope was that leading to further permissiveness, moral decline and the decay of civilisation. A number of speakers expounded on this familiar theme and it is worthwhile quoting at length to demonstrate how little the sentiments expressed had changed over more than half a century.

The moral fibre of this nation is a matter which should seriously concern members of this national Parliament. Any person making a frank and honest assessment of the position must agree that there has been some drift, many would think a considerable drift, towards what is sometimes loosely called the permissive society. I submit that this drift has weakened and will continue to weaken the moral fibre of this nation. History consistently has shown that the downfall of countries has resulted from the lowering of the moral character of the community. We, in this Parliament today, have the opportunity to decide where we stand on national moral values.... Let us reject completely the device of abortion on demand ... and make a real contribution to the strengthening of the character of our great Australian nation. (Corbett: 1997)

Similarly, Anthony decried the demand for legalised abortion as a manifestation of the breakdown in values in society; as part of the same process he saw exemplified in moves to relax controls on pornography and homosexuality and make divorce easier. The basic institutions of society - marriage and the family - he believed were seriously threatened by this insidious trend. (1982) Abortion was nothing other than “contraception-by-killing” and assertions of the need for free access to it “the measure of the degree to which

social values have become callous and ruthless” (Beazley: 1976,7) and “bankrupt of true humanitarian values” (Lynch: 1976).

Furthermore, legalised abortion would operate as an incitement to permissiveness; it would offer a feeling of security, to young people in particular, that if an unwanted pregnancy were to occur abortion would be available as an easy remedy. Consequently, it would serve to encourage immoral behaviour and result in increased pregnancies and abortions. (Corbett: 1995) As far as Stewart was concerned,

we are getting our priorities all wrong by even dealing with this Bill, by promoting another manifestation of permissiveness to such an unreal pedestal. It would be a tragic day for Australia if we submitted to the hysterical and uninformed pressure of a minority clamouring for abortion on demand. (1998)

Supporters of the Bill put forward a number of arguments as to why the law as it existed should be changed, expanding on themes which pro-abortionists had been articulating since the late 1960s. The main thrust of these arguments was that abortion was not a matter which should be regulated by the state (any more, that is, than any other medical procedure); rather, it should properly be a matter for individual conscience. Lamb reminded the House that an estimated seventy-five to one hundred thousand illegal operations were performed each year with virtually no prosecutions. (1969) The law was, then, unenforceable, unworkable, unrealistic, hypocritical and unpopular and as such, operated to make the institution of the law ‘an ass’. It was unenforceable, he maintained, because most people did not regard abortion as a crime. Yet, because Parliaments, by “ignoring the ugliness of abortion”, had refused to face up to their responsibilities a woman with an unwanted pregnancy was forced either to bear a child against her will or to break the law. This, he declared, was an intolerable violation of her freedom of choice. (1970)

McKenzie drew attention to the 1969 Californian Supreme Court decision in which the critical issue at law was whether the state had any interest in the regulation of abortion which was legitimate enough to justify such a major infringement of women’s fundamental rights. The Court found that the state had no such compelling interest. Based on a US Supreme Court acknowledgement of a constitutional right to privacy in matters pertaining to marriage, family and sex, the Court struck down the State’s anti-abortion law as a violation of a woman’s fundamental rights to life and to liberty in choosing whether to bear a child. In its January confirmation of that finding, the US Supreme Court held that during the first three months of pregnancy any decision to abort was a private matter between the woman and her doctor. (1965) On this basis, insisted McKenzie, the ACT statute was an overt, illegitimate and repressive interference in women’s right to choose. (1968)

Whereas the legal situation in the US was based on judicial interpretations of the Constitution and individual rights, the UK Abortion Act derived its philosophical justification from utilitarian propositions regarding the proper function and limits of the law. Hayden articulated these as enunciated by the Wolfenden Committee,

... which argued that the function of the criminal law is to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitation or corruption of others. They further argued that there must remain a realm of private morality which is not the law’s business. (1994)

Similarly, Enderby referred to the principles of Bentham and Mill in arguing that “all criminal law on the face of it is bad and can be justified only if it seeks to overcome a social evil”; and that the purpose of legislation is to achieve the greatest good for the greatest number of people. If these tests were applied to the existing abortion law it was apparent, he concluded, that the law was criminal. (1989)

On the premise that abortion was properly a matter for individual morality rather than for the criminal law, both Lamb (1971) and Enderby (1989) reminded the House that in a pluralist society people with strong religious or moral convictions did not have the right to impose their views on the rest of society, nor, by force of law, to insist that others live by their standards.

This position, long espoused by the Humanists, was supported by a motion recently passed by the General Assembly of the Presbyterian Church which recognised that in a pluralist society Christians held differing views on abortion, that the law may permit provisions for it and that it was a matter for the conscience of each individual as to whether they took advantage of that. In drawing attention to this, McKenzie tabled the report

made to the Assembly which took an even stronger position, criticising the “polemics” of the National RTL Association and explicitly recommending that State criminal laws be amended to allow women abortions on the advice of their medical practitioner. (1966) McKenzie also cited the opinions of several prominent American Catholic theologians, including one who stated that he was in favour of the repeal of all abortion laws on the basis that the state should keep out of the business of decreeing who should be born; and another, who - critical of the “anti-life propaganda” of “the religious simplists” for doing a disservice to all Catholics - suggested that Catholics, in good conscience, could support liberalisation of the law. As well, McKenzie quoted from a statement by the Catholic Bishops of England, issued before the 1967 Act, which declared that Catholics did not demand that their own convictions be imposed by law on all citizens. (1967)

Here, McKenzie was demonstrating that Christian, and even Catholic, religious conviction was not necessarily antithetical to support for liberalisation. Inferred also, was the hegemony of ultra-conservatism in the Australian Catholic Church in contrast to the existence of liberal elements elsewhere. Simultaneously, whilst attempting to reassure Catholics that it was not religiously incumbent on them to oppose abortion - that indeed, they should be circumspect about efforts to translate their moral principles into a law for all. McKenzie was adroitly turning the contrary opinions of high-ranking Catholic clergy against the implacable dogmatism of the Australian bishops and doing so to good effect.

On a related point, Mathews pointed out that of all those women legally aborted in South Australia one-quarter gave their religion as Roman Catholic, and yet only twenty percent of the population of that State was Catholic. (1984) Hence, despite the vocal opposition of the Church - or, indeed, as a direct result of its proscription of contraception - Catholic women were availing themselves of abortion more than were non-Catholics.

This reference to statistics on South Australian abortions serves to remind us of a phenomenon to which Foucault has drawn our attention: the modern obsession with the ‘scientific’ collection of knowledge about sexual behaviour, essential to policy making and the management of sexuality and population. The 1904 Royal Commission was, as we saw, an example *par excellence* of that ‘will to know’, as was the 1944 inquiry by the Medical Research Council into variables influencing the birthrate. Virtually from the outset of the abortion debate in Australia commentators frequently voiced frustration at the lack of reliable data available, a function, of course, of the illegality of the operation. The crux of some of the first statements to be uttered on the subject were estimates of the number of abortions annually, and over time various speakers voiced either their agreement with those or took issue with them. There was much speculation, but more often outright claims (mostly unsubstantiated), as to the types of women having abortions, their ages, marital status, socio-economic class, ethnicity, religion and reasons; whether they used contraception, what sort of abortion particular categories of women had, how much it cost, whether the rate was falling due to the contraceptive pill or increasing with the advent of permissiveness.

Lacking solid evidence, speakers often drew (selectively, according to their position) on information available from countries with some form of legalised abortion, such as Sweden, Japan, Hungary, Romania. The UK Lane Committee provided speakers in the ACT debate with ‘solid data’ to bolster their arguments. As well as abstract principles, they could argue from ‘hard facts’, and given the diversity of submissions, both sides were able to draw on this fertile knowledge base. The constant bureaucratic monitoring of the operation of the South Australian Act provided the first statistical evidence about abortion behaviour, categories and characteristics of aborting women and (official) reasons for terminating pregnancies in Australia. These records provided the basis for a minor publishing boom of which little added anything genuinely useful to the debate, limited as it was to raw statistics sifted into systems of classification according to a grid of variables and covering only the fifty-percent or so of applicants granted abortions.²¹⁰ Moreover the apparent objectivity of this new knowledge was confounded by the fact that some medical practitioners granted virtually every application whilst others refused all for reasons unrelated to the indications of the presenting women (*MJA*, 28.4.73: 822)²¹¹ Nor did those carrying out and writing up the studies maintain an impartial

²¹⁰ For example, see: Walsh (1971); Cox (1971); Connon (1971); Connon (1973); Miller (1973); Weston (1973); Ruzicka (1975).

²¹¹ Quite apart from those who objected on conscientious grounds, a number of specialist gynaecologists with hospital appointments refused applications because of “pressure of work” and the “additional burden” of accepting women for abortions (this was under the

distance from the material; for example, one reported that doctors found many “serious and often tragic cases ... but in addition many frivolous requests were also received, from women with one or no children who had taken no contraceptive measures and who just did not want a baby at that time” (Cox, 1971: 189).²¹²

Nevertheless, employed selectively, both pro- and anti-abortionists could find evidence in this new compilation of knowledge to support some aspect or other of their case. For instance, for the former, there was the evidence that the incidence of unwanted pregnancies and applications for abortion did not rise steeply over time, proving that the provision of the service did not create a whole new market nor cause a decrease in the use of contraception, as had often been claimed by their opponents. Also, the cessation of deaths and septic complications from illegal operations lent weight to their argument that the only way to eliminate the backyard operator was through reform. And for the latter, there was the fact that between eighty and eighty-five percent of abortions were performed on psychiatric grounds (as far as they were concerned, a ‘spurious’ justification involving the connivance of psychiatrists) and that the large majority of women had not been using contraception when they conceived the unwanted pregnancy and, therefore, they concluded, were undeserving of abortion, having brought about their predicament by their own lack of responsibility.

As well, then, as copious references to matters raised by the Lane Committee and submissions to it, the Medical Clarification Bill debate was peppered with facts culled from the South Australian experience. In support of his contention that abortion was a dangerous operation and its liberalisation actually a new form of oppression of women, Lynch cited a South Australian study (Miller, 1973) which asserted that forty-nine percent of women aborted under the legislation suffered “significant complications” (1975). For Anthony, whose whole speech revolved around the refrain of responsible sexual behaviour as the antidote to the problem of abortion, the finding from the “South Australian experiment” that “of those women having terminations only one in eight had employed contraception” was damning evidence of the lack of “control which an acceptance of responsibility would suggest should be exercised”. (1981,2) Conversely, Mathews quoted from an *MJA* editorial to the effect that the number of abortions in South Australia had been far less than opponents of the legislation had predicted, that there was no evidence that illegal abortionists were continuing to operate and that the incidence of women presenting to hospitals with septic or incomplete abortions fell dramatically immediately after the Act came into force. (1983). And in response to those anti-abortionists who smugly pointed out - as evidence that the problem was really permissiveness and sexual promiscuity - that most South Australian women obtaining abortions were single, that under nineteen year-olds were heavily over-represented and that ninety-percent of this latter age group had not been using contraception, Mathews retorted that the *MJA* itself placed much of the responsibility for this on medical practitioners. It said that many of these “young girls”, after beginning sexual activity, had approached doctors for contraception but had been refused, presumably on the grounds that they were unmarried. (1984)

One tactic employed by virtually every speaker against the Bill was to label it as a recipe for either ‘abortion on demand’ or for ‘abortion on request’. Thus, denying that the object of the Bill was clarification of the law, Lynch insisted that “it goes much further and seeks to implement what I regard as abortion on demand” (1973), whilst Anthony charged that its purpose was “to secure the introduction of abortion on request” (1980). The way in which these terms are used is of particular significance, not just here but throughout the years of debate generally. As indicated previously, they operate as signifiers imparting unspecified but ominous meanings and associations to a partisan audience. Recognising this, McKenzie objected: “the use of the term ‘abortion on demand’ has been an obvious ploy to discredit this legislation” (1968). And Enderby could well have been speaking of the abortion debate *per se* when he made a similar point:

[T]he level of debate that has been waged in the community is such that abortion on request, which should be the simplest, cleanest and best way to describe the situation, has been made into a dirty expression as though it were a crime. (1990)

honourary system where they were not paid for public hospital work). Other young gynaecologists, “who might have been expected to have a more liberal outlook” did not want to gain a reputation amongst their colleagues for doing abortions, presumably out of concern that their careers might be compromised. (*MJA*, 28.4.73: 822)

²¹² This was not an isolated example. An *MJA* editorial observed: “Many patients with tragic stories ... apply for consideration. But the large bulk of those requesting abortion are young women, single and married, who have taken no thought for contraception and are surprised when nature takes its course. (28.4.73: 822)

Because the overtones conjured up by 'abortion on request' were apparently less dire than those associated with 'abortion on demand' the Bill's supporters were anxious to reject the latter characterisation: "This Bill is truly for abortion on request and not abortion on demand", insisted Lamb (1970).

Clearly, both terms - to use Enderby's words - were 'dirty expressions' for opponents of liberalisation. Many advocates of abortion reform, however, whilst openly supporting the concept of abortion on request, preferred to distance themselves from what was considered the more extreme and less tenable position conveyed by 'abortion on demand'. In fact, the pro-abortion movement had to some extent split over this division; Women's Liberationists being adamant that women should have an absolute right to abortion, that they should not have to politely 'ask' as was inferred by the notion of 'request'. How real this difference was in practical terms - that is, in respect to abortion access - and how much a matter of semantics and an expression of political militancy is a moot point. George Petersen, for instance, maintained that there was no real distinction between the two alleged positions and that the expression 'on demand' was an inappropriate terminology to apply to a medical procedure (*NSW Parliamentary Debates, Assembly*, 3.10.72: 1257,8).

What is significant is that this lack of clarity both between the two terms and even as to the actual meanings of either of them pervades the entire abortion debate. Presumably, when articulated, each held meaning for the speaker, both advocates and opponents of whatever it represented. Whether that meaning related to a specific practical situation or to a cloudy and less tangible bundle of ideas is, however, not clear. But what is extraordinary, is that whatever the intended meaning was, speakers apparently saw no need to elucidate its actual specificity. To put it bluntly, in the review of all the documents of the period this researcher never encountered a clear definition of either of the terms, not in reports of the arguments of protagonists from either side, nor in journalistic commentaries. Moreover, whenever I thought that by inference I had nailed down one meaning or another it subsequently appeared to shift and slide away.²¹³ It is apparent, then, that there was no fixed meaning for either the term 'abortion on request' or 'abortion on demand', that there was no understanding to which these signifiers were anchored and which was shared by all protagonists to the debate and by its public 'audience'.²¹⁴ Yet these terms consistently reverberated throughout the discourse, their elusive content seemingly contradicted by the apparent solidity imparted to them in speech. Ultimately, one is led to the conclusion that they meant different - but presumably, in one sense or another, substantive - things to different individuals or groups at different times.

Thus, whilst Lamb, McKenzie and Enderby all insisted, from tactical necessity, that the ACT legislation was not a mandate for abortion on demand, Lynch alleged that it was and Anthony - most certainly no less opposed to it than Lynch - said it would establish abortion on request. Not only was there no agreement between different speakers opposed to it, particular individuals showed their confusion about the two terms. At one point Beazley claimed that "the justification for abortion under this Bill is simply demand" (1978), yet

²¹³ The distinction made above in terms of Women's Liberation's rejection of 'abortion on request' in favour of 'abortion on demand' was offered to me by Movement activists. It was not drawn from material published at the time. Thus, it is a distinction from the perspective of Women's Liberation.

²¹⁴ Examples of this abound, but mention of just several make the point. In one article Journalist Brian Johns discussed a prominent Roman Catholic barrister, Neil Mackerras, who was a member of the DLP for fourteen years. During the recent federal election campaign he resigned from the DLP and stood down as a candidate, declaring instead his support for the ALP. As he had previously made clear his stand against abortion he said he felt it necessary to publicly announce that he had changed his position to one of favouring reform of the present laws. He could "no longer be party to denying a woman her right to religious freedom ... at least so long as that life [the foetus] remains physically within the mother's body, unable to survive outside". Johns quotes Mackerras as saying that he had come to believe that abortion involves "a clear question of religious freedom", although he was still against "abortion on demand". Then, later in the article, Johns referred to a recent Gallup poll which "found that two out of every three Australians support abortion on demand if the mother's physical or mental health is at risk". (Johns, 1973: 6) Conversely, the *Canberra Times* (15.5.73: 2) claimed that "a series of Gallup polls has shown fairly consistent results: ... About 20% is in favour of abortion on demand." The substance of an article entitled "Abortion on demand: its getting easier for the rich", was a journalist's claim that a woman from the upper middle-class was likely to get a legal abortion; if working, perhaps migrant, class, any abortion was more likely to be illegal. He then gave examples of how several women in "the higher echelons of the socio-economic scale" secured legal abortions by telling their doctors they were depressed and intensely stressed, had a history of anxiety neurosis or even, would commit suicide. They were then sent to psychiatrists for opinions as to the advisability of abortion. (Byrnes, 1973: 27) If this amounted to abortion on demand for this journalist, what would he consider was meant by 'abortion on request'? And what would one conclude from all of this about the meaning of abortion on demand? If one considers the comments made about it during the debate the picture becomes all the more confusing.?

elsewhere he said that it “authorises the intentional destruction, ultimately on simple request, of unborn children” (1976). Even more confusedly, Corbett called the Bill a “device for abortion on demand” and earlier in his speech defined the situation it would bring about as being “generally described as abortion on demand, or in other words, where an abortion for any reason is made legal on request without any regard to the rights of the unborn child” (1997).

Despite the confusion, both those who condemned the legislation as abortion on demand and those who labelled it abortion on request agreed that it represented a situation wherein women would be legally permitted to abort without having to prove that they had any legitimate reason for doing so. “This Bill does not seek any grounds of justification.... The mother may be healthy and wealthy and the child in perfect development. It is enough that the woman wants it destroyed.” (Beazley: 1976) Apart from the fiercest defenders of the absolute sanctity of life, such as Stewart, others were begrudgingly prepared to countenance abortion in cases which they considered warranted it: that is, in the proverbial ‘deserving cases’. As far as they were concerned, Levine’s ruling (narrowly conceived) laid down the broad parameters in common law and it was then the duty - and the right - of medical practitioners to administer these, according to their clinical judgement. The question of whether or not an unwanted pregnancy would continue to full term or not they clearly considered should reside ultimately with the state, and its management with the medical profession. Apparently, abortion either on request or on demand (whatever the difference between them) meant that the decision to abort belonged to the woman alone and entailed no necessary justification apart from her desire to be rid of a pregnancy. For this reason, it was outrageous, untenable and beyond the pale!

The Bill was defeated by ninety-eight votes to twenty-three. Despite the Opposition’s alleged commitment to a conscience vote, not one Liberal or Country Party member supported it, although five Liberals were amongst the forty-two voting in favour of the amendment, which was defeated by a majority of thirty-eight votes. Supporters of reform pointed out that recent surveys showed that up to eighty-five percent of people surveyed in Australian cities were in favour of some sort of reform, yet eighty-five percent of MPs voted against the Bill. (*SMH*, 13.5.73: 136) Whilst some commentators attributed the Bill’s overwhelming defeat, in part at least, to the “sweeping and extreme” nature of its principle proposal (*SMH*, Editorial, 11.5.73: 6), most were in no doubt that the massive lobbying and propaganda campaign mounted by the Catholic Church and the RTL Association was decisive, cowing many Parliamentarians who otherwise would have supported it into buckling under the pressure (*CT*, 15.5.73: 2). Although the extraordinary degree of agitation was seen as emanating from a tiny minority, its intensity - in excess of 100,000 letters and telegrams to MPs, albeit most in circular form or from children, (*CT*, 15.5.73: 2) - ensured that political party and individual electoral considerations outweighed genuine conscientious objections and “reasoned cogitation” (*SMH*, Editorial, 11.5.73: 6).

For the Opposition, the temptation to “isolate the ALP as the party of abortion” and make it appear that only Labor MPs, “from the Prime Minister down, gave it any favour at all” was too attractive to resist, the substantive issue at stake in the Bill being typically side-lined by political opportunism, despite their rhetoric. (*CT*, 15.5.73: 2) Contributing to this somewhat was the fact that Whitlam’s victory at the polls meant that the Opposition was almost completely comprised of experienced (one might say cynical) MPs accustomed to the exercise of power and the machinations of politics. Conversely, quite a large number of fresh Labor men, unused to the formal political process, were swept into the Parliament.²¹⁵ Most of these were of the new ‘middle-class radical’ breed - as were many of Whitlam’s ministers, nine of whom supported the Bill - and they apparently refused to be intimidated by the force of the anti-abortion campaign into compromising their principles. They told a *Canberra Times* journalist that they decided to vote as if the Bill was being discussed in a ‘vacuum’ and to ignore the external political situation. (15.5.73: 2)²¹⁶ But there is little doubt that these MPs were the exception. Whilst for those with a genuine objection to abortion there was no contradiction between their consciences and their negative vote, for others - and, unless the views of Parliamentarians

²¹⁵ In the old Parliament the Liberal-Country Party coalition had sixty-six seats against Labor’s fifty-nine. After the election the ALP had sixty-seven and the coalition fifty-eight. (Hughes, 1977: 87,95)

²¹⁶ Note the parallel here with Luker’s point that the Californian reform Bills were sponsored by ‘freshman’ politicians prepared to take on the issue on its own terms, either ignorant or regardless of wider political considerations.

lagged quite extraordinarily behind those of the rest of the population, one would have to say most - conscience was subordinated to politics. Again, then, as in every other instance that the abortion issue entered the arena of formal politics, the outcome hinged not on the principles seen as inherent in the issue itself, but on political factors irrelevant to the alleged sanctity of foetal life as well as to women's claim to exercise control over their bodies and fertility.

Defeat of the Bill spelt the end of organised efforts to achieve liberalisation by legislative means: not many reformers would have maintained the illusion that change could come about via the traditional avenues of pressure politics. Yet ironically, given the magnitude of the defeat, liberal access to abortion, to a degree virtually undreamt of until recently, was at that very time in the process of being institutionalised through practical activity. Hence, although the fledgling RTL Associations had scored a brilliant victory in their first major assault against reform, it was no foretaste of future successes. In front of them was a long and largely disappointing campaign where, as much as anything, their energies were to be directed at maintaining the issue on the public agenda. Little could anyone have imagined at this point that within several years a woman with an unwanted pregnancy would be able to locate 'abortion services' within the pages of the telephone directory!

CHAPTER SEVEN

1973 - 1985 NORMALISATION AND ANTI-ABORTION RESISTANCE

ABORTION RAIDS: A GRISLY CIRCUS FOR THE TV CAMERAS (*National Times*, 24.5.85: 7)

Names and records of thousands of patients were seized by Queensland police in simultaneous raids on alleged abortion clinics in Brisbane and Townsville yesterday. (*Aust*, 21.5.85: 1)

The raids and subsequent arrests of two doctors have picked the scab off an old sore in Queensland's social history - the protracted fight for and against more liberalised abortion. [They have] outraged civil libertarians, some medical and political leaders, and have filled the State's strong anti-abortion lobby group, Right to Life, with joy.

... [N]ews reports showed graphic film of stunned clinic staff and patients running from the clinic, some with their heads covered, through the gauntlet of television cameras and reporters - some of whom were tipped off just before the raid took place at 10.30 am and the rest who received a telex from the police media office at around 10.40 am giving them plenty of time to get there before the raid was over.

The raid has been described by members of the Queensland Labor Opposition as a carefully orchestrated television event with no opportunity to provide graphic pictures left out.

More than 50 police arrived at the Greenslopes clinic in busy Logan Road in unmarked police cars and a bus. They sealed off the clinic and erected a sign saying "Crime scene investigation. No Entry". (Loane, 1985: 7)

Police and State government legal officers had been planning the raid for 12 months. In Brisbane police even arranged for the drainage system of the clinic to be sealed. (*Aust*, 21.5.85: 1)

Police confiscated a foetus from the Townsville raid. In Brisbane, police sent a plumber down a stormwater drain to search for placental material [as "evidence"], but he found none. (Monaghan, 1985: 2)

Squads of police - backed up by specialist gynaecologists, anaesthetists, a pathologist and forensic biologist, nurses, and government medical officers - burst into the premises with search warrants. The police spokesman said the medical team was kept on stand-by in case patients were undergoing or recovering from operations when the raids were made, and there was a "medical emergency". (*Aust*, 21.5.85: 1)

With TV cameras still rolling, drawers of files detailing medical histories of 47,000 men and women who had attended the clinic for abortions, vasectomies, counselling, contraception, or treatment for sexually transmitted diseases, were loaded into police vehicles.... Likely to be included in the files is the name of a Queensland Cabinet minister who has allegedly had a vasectomy [illegal in Queensland] at the clinic.

The afternoon after the raid, the media recorded the Queensland Attorney-General, Mr Harper, saying, "You might get some idea [now] of why I have been referring to these places as 'abortion factories'". [He] told a [televised] media conference that State Cabinet had directed him to have the clinics closed [after it] had received a petition from Right to life members which complained about illegal abortions. (Loane, 1985: 7)

The 1985 raid on the clinics was the Queensland Government's second concerted assault on abortion (the former, to be dealt with later in this Chapter, being in 1980) and reflected its strident and much vaunted vigilance in protecting the moral sensibilities of Queenslanders. By the 1980s, it was *only* in Queensland that anti-abortionists could realistically hope for government intervention to outlaw or drastically curtail abortion. Although in other states they continued, via traditional means, to press for legislative reversal of the trend towards *de facto* legal abortion, this had become more of a long-term strategy rather than a goal they could hope to attain in the immediate future. For most pro-lifers political activism aimed more at keeping the issue alive by maintaining a public perception that abortion was still a contested and morally fraught arena. But the more militant amongst them recognised that growing public acceptance, coupled with a realisation amongst politicians that there was little political gain in the issue, necessitated extra-parliamentary and even 'guerilla'

tactics to elicit media attention and jolt public awareness. This division amongst anti-abortionists on appropriate tactical means - a division between 'moderates' and 'extremists' - had provoked a split within the Right to Life Association itself in 1979.

The events in Queensland in 1985, however grotesque, can be seen, on the one hand, as a result of the traditional pressure group activities adhered to by the moderate majority of the movement (lobbying politicians, petitioning parliament, writing letters, supporting pro-life politicians, educating the public, seeking media exposure of their views, etcetera), and on the other, as an outcome of political concerns unrelated to the specifics of abortion. This dual agenda, so frequently a characteristic of the abortion struggle when raised at the formal political level, continues to confound the issue throughout the period covered by this chapter.

In contrast, a visit to Australia by American anti-abortionist activist Joe Scheidler exemplifies the more militant forms of resistance adopted by the radical wing of the movement. Scheidler, "a former Benedictine monk, father of seven, and proud harasser of abortionists" came to Australia in August, 1985. "His mission: to teach his guerrilla tactics to Australian Right-to-lifers." (Kizilos, 1985: 7) He came at the invitation of Margaret Tighe, "Victorian Right to Life crusader, [to] introduce her troops to sophisticated activist plans to close abortion clinics". (Duncan, 1985: 17) Head of one of the most militant and effective anti-abortion groups in the USA, Chicago's Pro-Life Action League, Scheidler developed an array of confrontationist tactics designed to harass abortionists out of practice, and to intimidate women from going ahead with abortions. With the closure of eighteen clinics already to his credit, he had the credentials to substantiate his argument that 'pro-lifers'²¹⁷ needed to switch to radical shock tactics for their resistance to be successful. Of moderate anti-abortionists Scheidler observed "There are too many Wimps for Life here. They are afraid. They don't do much and they know it, so they ridicule the headliners out of guilt". (quoted in Duncan, 1985: 17) The tactics Scheidler employed included sending pro-life couples posing as patients into clinic waiting rooms to talk women out of 'killing their babies'; recruiting nurses to refuse cooperation to medical practitioners who performed abortions; and accusing garbage collectors servicing clinics of collecting corpses. But Scheidler's "prize targets" were medical practitioners who did abortions:

You put them under pressure. You go to the doctor's home. You accuse him of killing. You picket his house. Doctors we harass will only hold out for a short time. If he travels, you meet him at the airport. You harass him in the corridors. (quoted in Duncan, 1985: 17)

In 1984 and 1985 twenty abortion clinics in the USA had been firebombed. Whilst Scheidler "advised against firebombing" he said that "once it's done, that's different ... we should use it and respond to the media interest". (quoted in Duncan, 1985: 17) A particularly grotesque example of Scheidler's methods was demonstrated in an ABC Four Corners television report on his visit. It showed him picketing a clinic in Melbourne and berating passers-by about the 'killings' going on inside. At the same time, lying in the palm of his hand, he held out in front of them a six-months aborted fetus!

Tighe hosted Scheidler's visit because she was "impressed with the progress in the US [where] many more people are prepared to protest against the killing at the places where it is carried out." She warned that "you are going to see more protest in other parts of the country and we will intensify our activities here [in Melbourne]". (quoted in Duncan, 1985: 17)

The Normalisation of Abortion

Efforts by Tighe and others to develop more militant forms of resistance in the 1980s were a sign of frustration on the part of right-to-lifers at the normalisation of abortion in Australia. With the failure of Lamb and Mackenzie's Bill the main focus of pro-abortion activity had been transferred to the practical implementation of liberalised abortion. Political struggle focused on institutionalising abortion services by setting up clinics and referral services and disseminating knowledge on access to abortion. In this process the latitude provided by Levine and Menhennitt's rulings was stretched to its limits. Statute and case law, then,

²¹⁷ Increasingly, during this period, anti-abortionists referred to themselves as 'pro-life' to project a positive emphasis rather than the somewhat reactionary connotation implied by the term 'anti-abortion'. I shall use the two terms interchangeably.

rather than imposing fixed structural limits on the possibilities for abortion, was reinterpreted in the ongoing process of political practice so that the law operated instead as a structural element enabling freer abortion. A stricter interpretation of the case law judgements adhering, for instance, to orthodox notions of 'mental health', would have circumscribed the availability of abortion within much narrower boundaries. The onus on the Crown to prove that a medical practitioner did not genuinely believe that continuation of a pregnancy would constitute a threat to a woman's health amounted to an almost insuperable barrier to any successful prosecution. Thus, unrestricted legal access to abortion became institutionalised in NSW and Victoria. In those States, just as importantly, it gradually came to be perceived by a large majority of the public as a taken-for-granted fact. It is in this sense that we can speak of this period as characterised by the 'normalisation' of abortion.

For activists or people consciously pro-choice, abortion was seen as a 'right'. For something to be claimed as a right or conceptualised and articulated in terms of the language or philosophy of rights implies that it is in fact actually or potentially contested and pervious to challenge. For those involved in the struggle for liberal abortion, or for people with a sense of the history of that struggle, the security of the gains made could never be safely assumed: abortion freedom was established as a right only by being fought for. Its legitimacy was still precarious. It needed to be constantly safeguarded and, on occasion, defended strenuously. For the populace more generally, recourse to abortion gradually assumed the status of a 'normal' alternative available to women who perceived that their personal inclinations or circumstances warranted it. Thus, it was a 'right', but one so assumed that it was not consciously conceived of as such. It is this 'taken for grantedness', this incorporation of liberal abortion access into the store of latent knowledge that people hold about their social world and the 'way things are' that constitutes normalisation.

This is not to imply that all people viewed it similarly in terms of emotional effect or moral connotation or that they equally approved of it. Clearly this was not the case: right-to-lifers opposed it strenuously and opinion polls consistently showed a pocket of hard-core disapproval by about fourteen percent of the population. Nevertheless, abortion became largely accepted as a fact of life and awareness about security of access to it would have filtered into and formed part of many people's, and particularly women's, background understandings underlying their decisions and behaviour with regard to sex and their sexuality.

Indeed, many young people can no longer comprehend abortion not being automatically available for women who want it. The group of ten seventeen- and eighteen-year-old young women interviewed in 1989 for this research couldn't take seriously the threat to abortion posed by a motion, put before the NSW Parliament that year, intended to seriously curtail it. Rather, they tended to treat my seriousness about it as an indication that I was out of touch with contemporary life. The following comments were typical:

You just don't understand, they couldn't make it illegal.

Things aren't like that any more. People have to be able to have abortions, or you would end up with all these single girls having babies and ruining their lives. And anyway, the Government wouldn't want all those extra single mothers on pensions.

Look, it's not that getting pregnant and having an abortion aren't taken seriously as important things. They are, and girls try not to get pregnant if they are in that sort of relationship with their boyfriends. But if they do [get pregnant] they have to be able to have an abortion. I know of a couple of girls in our form at school who have. What would have happened to them if they weren't allowed to get an abortion.

Look what happened to - She left school and had that baby and lived with that drug addict and her parents won't have anything to do with her. Now she's trying to get away from him and she can't get a job because there's no one to look after the baby. She chose to have it but that's what would happen to everyone who got pregnant if they stopped abortions.

The suggestion that many girls who would be unable to get an illegal abortion could adopt out their babies as they did prior to liberalisation was treated with horror by all of them. Now that the stigma of unmarried motherhood and illegitimacy has largely dissipated, they couldn't countenance a girl surrendering her baby and having to live with that knowledge.

At the beginning of 1974 Bertram Wainer's Fertility Control Clinic in Melbourne was the only free-standing abortion clinic in the country. The previous year it had performed about two thousand-five hundred abortions. (Larkin, 1974: 9) In Sydney, three public women's hospitals performed abortions (at least five thousand a

year) including the Crown Street Women's Hospital which established a Therapeutic Abortion Clinic in 1973. About seven hundred and fifty a year were performed at the Royal Newcastle Hospital at the State's only outpatient abortion service. (McIlraith, 1975a: 1) Abortions were also performed in some hospitals in other States. Women seeking abortions at hospitals were required to undergo assessment procedures to determine their eligibility and the stringency of these differed from State to State (and even between hospitals within each State). Even at hospitals providing abortions some medical practitioners gave women seeking them "a rough time". (Larkin, 1974: 9) It was very difficult to obtain a hospital abortion in Tasmania and Western Australia and almost impossible in Queensland unless there was a danger to the women's life. In South Australia and the Northern Territory, both of which had passed more liberal amendments to their abortion laws, it was easier but women still had to meet certain criteria. An unknown number of private general practitioners and gynaecologists performed abortions in their surgeries or in private hospitals with about twenty of them being 'abortion specialists' according to the report of the Royal Commission on Human Relationships (V3, *Final Report* 1977: 177). In Melbourne, five of the thirteen 'old-school' full-time practitioners had closed down and by 1974 there were about sixteen who were well known for their abortion work (Larkin, 1974: 9). In Sydney, about six practitioners were specialising in terminations using the vacuum aspiration method and others were doing them by curette. (McIlraith, 1975a: 4) Referral centres had been set up in Sydney (for example, Leichhardt Women's Health Centre), Melbourne (ALRA), and Perth to direct women to practitioners who were doing abortions. The Perth Abortion Information Service was raided by police in 1974 (Thomas, 1977: 2) but no charges were laid and all the records seized were returned. In fact, the publicity resulted in more than a doubling of enquiries. (Dale, 1975: 3) In Queensland, Children by Choice had been established to refer women to Sydney. In mid 1974, the first freestanding clinic - Preterm - was established in Sydney. It was a non-profit company whose sponsors included the Country Party politician Geoffrey Keighley who had pressed for legal reform in the NSW Upper House some years previously and publisher and fellow MLC, Clyde Packer.

Thus, whilst the operation was easiest to obtain in Sydney and Melbourne in 1974, women in other parts of the country faced varying degrees of difficulty. Knowledge, contacts and money were still important factors for many women in getting an abortion. Many who could afford to do so travelled to Sydney or Melbourne, that being the surest and easiest way, and a means of avoiding the ordeal of assessment by psychiatrists or hospital boards. In 1975 a clinic opened in Perth. Although it was raided by the police there were no prosecutions and over the next several years others were established without further police harassment. (Thomas, 1977: 2)

The cost varied but generally it had come down to roughly half or less what it had been when illicit, with much of it being claimable on medical benefit rebates. Despite the increasing availability and openness, Wainer and other practitioners found that many women still had to be reassured that it was 'legal' for them to have an abortion (Larkin, 1974: 9; McIlraith, 1975a: 4). Conversely, in South Australia, where legal abortion had been available for longer, there were already signs that it was taken for granted by the mid 1970s. The 1976 annual report of the State's Committee on abortion stated that it was apparent that not all abortions were being reported (as was required by the reformed law) and nor even were all post-abortion complications. The Committee suggested that this general laxity was evidence of a "relaxation of standards" in reporting and was indicative of "a more general acceptance of the on-demand principle". (*Aust*, 11.6.76: 4)

By the 1980s, there were a number of free-standing clinics operating in NSW, Victoria, Queensland and Western Australia respectively. In those States where there were no clinics, abortions were being carried out by certain medical practitioners and gynaecologists, and numerous referral centres in each state had been established to assist women seeking abortions. In Tasmania it was still virtually impossible to get a hospital abortion even for a pregnancy caused by rape (this was still the case in 1985) and if a woman didn't know of a private practitioner, she would have no choice but to fly to the mainland. (Montgomery, 1985: 6) Also, in NSW and Victoria, abortions were performed in various women's health Centres and Family Planning clinics. Abortion clinics and referral centres were listed in telephone directories, and over the period since 1974 numerous articles had appeared in the press and in women's magazines - such as the *Australian Women's Weekly*, *Cleo* and *Cosmopolitan* - and even in a reputable consumer journal, *Choice*, giving specific details of where women could obtain abortions, the cost, the time involved, the methods used at various

places, etcetera.²¹⁸ In 1975 the Women's Abortion Action Campaign (WAAC), with the assistance of a Federal Government grant for International Women's Year, produced a twenty-page booklet called *A Woman's Guide to Abortion: Why, How, Where* to be translated into several languages and sold through booksellers and newsagents for forty cents. Also, most medical practitioners, other than those personally opposed to abortion, were known to refer women to either clinics, hospitals or gynaecologists for abortions. Information, then, was widely disseminated and the main bar to acquiring an abortion for some women would have been financial in the case of someone needing to travel a considerable distance. Also, girls removed from centres where abortions were available, and not wishing to tell parents of their pregnancy, could still have faced a similar situation as their counterparts several decades before did.

The increase in open availability of abortion services was paralleled by a gradual rise in public acceptance of abortion as demonstrated by opinion polls and surveys. A 1972 Australian National Opinion Poll survey showed sixty-one percent of the sample approved of abortion under some circumstances (for example, danger to a women's physical or mental health, rape or incest) and twenty-five percent approved of "abortion on demand". Conversely, thirteen percent disapproved under any circumstances. Thirty-one percent of Roman Catholics thought it was "always wrong", whereas fourteen percent agreed with "abortion on demand". (Snyder & Wall, 1976: 33) In a poll conducted by the *Age* newspaper in 1973, thirty-five percent of the sample said they thought abortion on request was right or harmless and thirty-nine percent said it was wrong. (Radic, 1973: 7) A Morgan Gallup Poll conducted in 1974 asked respondents "Should an abortion for a woman who has had medical and social counselling be legal or illegal?". Against twenty percent who replied that it should be illegal, sixty-nine percent said it should be legal, with eleven percent undecided. (*Bulletin*, 11.1.75: 25) In comparison, half a decade later, a 1979 Morgan Poll asking the same question showed seventy-three percent of respondents agreeing that abortion should be legal, with sixteen percent opposed. (*Bulletin*, 18.5.82: 18) A random telephone survey conducted by Spectrum Research in 1980 found fifty-two percent of those questioned approved the availability of "unconditional abortion" and twenty-one percent in favour of it "depending on the situation": in all, eighty-three percent approved of abortion in all or some circumstances. (Vick, 1980: 67)

As representative of opinion in the mid-1980s, a Saulwick *Herald* Poll showed that in 1987, eighty-five percent of the sample approved of abortion in all or "some circumstances" and fourteen percent disapproved of it entirely (Stephens, 1987: 7). Finally, a survey by researchers at the Australian National University, also conducted in 1987, showed eighty-six percent in favour in all or some circumstances, including sixty-three percent who approved of it for financial reasons in the case of a family on a low income. The researchers contrasted these latter findings with surveys in the USA and Britain, where only forty-four percent and thirty-nine percent respectively agreed with abortion for financial reasons. They also found that whereas almost sixty percent of Australians thought it right for a single woman to abort a pregnancy where she did not want to marry the father, only four out of ten Americans and three out of ten Britons did. (*Aust*, 5.9.87: 3)

Clearly, the level of acceptance in Australia was very high in the mid-1970s and grew even more so throughout it to be much higher than in the USA or Britain. Closer examination of the polls does show, however, that the less the pregnancy and the reasons for aborting it are associated with what could be deemed 'irresponsibility' or 'immoral' sexual behaviour, the greater the level of tolerance for abortion. Thus, foetal deformity, rape, incest, or a threat to the woman's life or health are considered by far more people to justify abortion than financial hardship or the woman being pregnant outside of marriage. Even though there has been a dramatic rise in the proportion approving abortion in these latter circumstances, they still lag markedly behind approval for factors which are beyond the control of the woman.

Perhaps the strongest indication from the polls regarding public acceptance of abortion and its normalisation comes through a contrast with a Gallup Poll taken in 1974 on the subject of contraception. Respondents were asked whether or not they approved of artificial birth control. Sixty-eight percent approved, eighteen percent disapproved, and fifteen percent were undecided. By comparison, the poll on abortion for the same year showed sixty-nine percent approved and twenty percent disapproved of legal abortion after medical and social

²¹⁸ For example, Larkin (1974); McIlraith (1975a); McIlraith, 1975b); Dale (1975); Blackie (1979); "The Abortion Dilemma", (1978); "The Abortion Argument", (1980); "Abortion: Legal? Acceptable? Available?", (1980).

counselling, with eleven percent undecided. These results are strikingly similar, the main difference being the marginally higher polarisation on abortion. Also, whilst the figures on abortion are not surprising as it is still perceived as a contentious issue, those for contraception are as by the mid-seventies one might have thought there would be little disagreement with it. Perhaps what this comparison indicates is that in Australia there is an eighty to ninety percent ceiling on approval for any issue with 'moral' or sexual connotations, and a constant hard core of opposition of some ten to twenty percent of the population.

The example of contraception is instructive here in another respect too. From the nineteenth century up until the 1960s it had been the subject of moralistic prohibitions, opposition and controversy (for example, the Collins censorship case of the 1880s over books advocating birth control, the Royal Commission into the Birthrate and the subsequent sanctions against contraception, the banning of contraception advertising by the Labor Government in the 1940s). But with economic and social changes creating a need for women to control their fertility - not merely women's personal need as formerly, but one meshing with wider economic and 'national' interests - controversy around birth control gradually evaporated, despite pockets of continuing opposition.

There are solid and material reasons to indicate that abortion is the subject of a similar history. Whilst on the one hand, moral approbation of unmarried mothers has noticeably diminished, on the other, the stringent economic conditions of the later 1970s and the 1980s has provoked a backlash against single mothers on other grounds, one which keys into and feeds off the still considerable residue of disapproval of them. The economic New Right's attack on taxation and the financial cost of welfare, the obsession with balancing the national budget and reducing dependence on the state both in terms of income support and services, coupled with the growth of an impoverished underclass (the largest proportion of whom are single parents) and the political costs associated with that, all produce an environment in which the regulation of particular segments of the population is seen as an urgent priority. The largest group of welfare consumers (apart from the elderly and the unemployed) are sole parents - of whom ninety-four percent are females - the number of which has risen steeply over the last fifteen years, consuming an ever-increasing bite of the welfare budget and constraining the possibilities for fiscal 'restraint'. The popular stereotype of this category is of an unmarried teenage girl who deliberately chose motherhood in preference to work or the dole, despite the fact that only four percent of sole parent welfare recipients are unmarried teenagers (derived from Department of Social Security data as at 30 June 1986, cited in MacAlister, 1988: 5). Qualitative research into attitudes towards single mothers has uncovered a widespread and even vicious resentment towards them (MacAlister, 1988: 6). Typically, respondents see them as 'bludging' off them (the respondents) personally through a welfare system which, by overtaxing them, enables (promiscuous) girls to have babies at their expense. Perhaps even more ominously, MacAlister found a similar attitude amongst most of the federal politicians to whom she spoke, although with them the emphasis was on the women as lazy and too unintelligent, dependent and undisciplined to control their own lives effectively unless forced to do so. These attitudes are encapsulated in a 1986 statement by Queensland's Welfare Services Minister, Yvonne Chapman:

Honest taxpayers are being forced to pay for the irresponsible and promiscuous lifestyle of women who have children out of wedlock. To stop this rip-off no benefits should be paid after the first child. Women would be allowed one 'mistake'. More was an obvious fraud on the welfare system.... If supporting parents with no money could no longer afford to keep their children, they would be cared for in state institutions or would be adopted by the hundreds of decent families waiting with open arms. (quoted in *Impact*, June, 1986: 3)

The point here is that there are powerful economic reasons - 'real' or perceived (effectively they are the same) - to not institute measures which would increase the number of single mothers and thus the drain on welfare. Given the marked reluctance of unmarried mothers to adopt out their babies, the contemporary aims of population regulation require easy access to abortion to stem the growing army of welfare dependent single mothers.²¹⁹

²¹⁹ At the same time there is a contradiction here, in that many of the same people who are vehemently against benefits for single mothers are also likely to be opposed to abortion: Chapman would be one case in point. This does not, however, negate the argument that there are strong social and economic pressures for population regulation which operate against prohibitions on abortion.

Just as importantly, the contradiction between economic conditions and the aspirations of young couples for home ownership and a high level of material consumption, along with the burden of debt repayments, mean people increasingly need to delay marriage and then delay childbearing and limit their family size to a small number of children. In this context, resort to abortion for an unwanted pregnancy is a crucial factor in controlling their reproduction and thus their lives. Whilst experienced as a personal matter, it is one with wider social implications in that political interests require couples to manage their reproduction according to prevailing economic circumstances. For this contemporary variant of the 'Malthusian couple' the availability of abortion is a necessary disciplinary instrument for population regulation (just as contraception was recognised to be several decades earlier).

What appears to be the case with issues which are the subject of sexual politics is that the more they mesh with economic and political interests and requirements, as those are socially constructed at any historical point, the wider is likely to be the degree of public acceptance or 'normalisation' (other things being equal). Nevertheless, even when acceptance is high they retain always a potential or latent reservoir for conflict - if not even a core of overt resistance - which, given appropriate social conditions and changing interests, can flare, enabling the forces of resistance opportunities for advancement and possibilities for capturing the middle ground. The degree or form of conflict, however, is not by any means determined by the social and material context. Rather, the latter create conditions either more or less conducive to strategies of resistance and particular tactical interventions.

The period after the Lamb and Mackenzie Bill of 1973 can be seen as comprising a distinct era in the history of abortion struggle in Australia: one characterised, on the one hand, by normalisation, and on the other, by reactionary resistance against it. Throughout the time there were no major campaigns initiated on any front by pro-abortion forces to make further substantive gains (although there were attempts, partly successful, to make abortion rights trade union policy and continuing efforts to bind the ALP to a pro-abortion platform). Political activity was largely confined to service provision, thereby consolidating and entrenching what had been won and to defending these services and women's right to abortion from attacks by pro-lifers. It is this lack of concerted political action directed at change at the legal or formal political levels which finally serves to define the nature of normalisation. With only minor exceptions, each skirmish developed out of an attack on abortion rights by organised pro-life forces or, for one reason or another, by political allies in legislatures or government. Summing up his perception of the state of the abortion struggle in the mid 1970s, Bertram Wainer claimed:

[t]he battle is really over. The big issue over abortion now is not the religious, social or moral question, its whether it should be done with a general anaesthetic or a local anaesthetic. (quoted in Hills et al, 1975: 3)

But Wainer's optimism understated the resilience and perseverance of the opposition. Whilst pursuing the ultimate object of criminalisation and effective policing of all abortion, right-to-lifers were to wage an ongoing tirade of harassment and come very close to scoring some major wins. In so doing they helped to construct and fix abortion as one of the 'profound and insoluble ethical dilemmas of our times'.

Right to Life Resistance

The blanket of normalisation settling over the issue of abortion from the mid 1970s onwards defined the situation confronting right-to-lifers in the period covered by this chapter. Ironically, despite their crushing 1973 victory in the ACT, henceforth they were faced with the long-term project of ensuring that abortion remained a contentious issue in public perception: the attainment of ultimate goals depended on maintaining it as a contested terrain despite the reality of dwindling opposition. This required a consistent campaign of active resistance. With the strategic aims being legislative recognition of the foetus' right to life and the statutory outlawing of abortion, it was imperative that they create an impression of themselves as the vanguard of a large constituency, even a (so called) silent majority. This meant, on the one hand, attempting to capitalise on, or create, opportunities for specific gains in the legal and political domains, and on the other, pursuing media attention via a range of tactics. Also, they worked to forge organisational alliances with other groups or interests whose philosophies made them sympathetic to their cause, and to learn from similar movements overseas (mainly the USA) through visits there and by sponsoring tours to Australia by prominent

and experienced right-to-life campaigners. The latter, apart from its purpose of strengthening their own organisation and invigorating their membership, also served to capture attention by media.

Given that the provision of abortion services was pivotal to the process of normalisation, it was also the main target of right-to-lifers. Here, they pursued two distinct avenues of attack: direct action against clinics, and legal measures to curtail and frustrate their operations. The latter involved drawing on support from sympathetic elements in government - both state and federal - and in parliaments.²²⁰

Immediately the Preterm clinic opened in Sydney it became a target of anti-abortion harassment. Within days five hundred RTL protesters marched three kilometres down Parramatta Road and staged a demonstration outside the clinic's premises. They carried posters proclaiming "Liberty, Equality, Maternity", "I was a foetus once", "Cheap homes, not cheap abortions" (*SMH*, 1.7.74: 3), the latter referring to newspaper headlines announcing that the clinic would offer 'instant abortion on demand for \$50' (*SMH*, 19.6.74: 8; *DT*, 20.6.74: 5). Several months previously a Women's Health Centre, established with a grant from the Whitlam Government, was established at Leichhardt. As one of its services the Centre referred women to medical practitioners for abortions. (*SMH*, 23.2.74: 1)

NSW and the Infant Life Preservation Bill

Horried by these "appalling developments" the RTL called on the Government to act against the open availability of 'abortion on demand' and questions were asked in both the Commonwealth and State Parliaments. The Federal Minister for Health said he was unaware whether or not the Leichhardt Centre performed therapeutic abortions but confirmed that it was entitled to do so under NSW law. Premier Askin stated his concern at reports that illegal operations were being performed at clinics but said that none of the complaints the Government had received indicated any breach of the law. If breaches were detected the Government would be quick to act, he insisted. (*SMH*, 18.7.74: 2) Answering a question from Labor M.P. Kevin Stewart (a fervent anti-abortionist who, as Minister for Youth in 1982 was to provoke a major abortion case in the Supreme Court over state wards) the Attorney-General, Mr McCaw, assured the House that despite ALP Opposition claims, abortion on demand was not available in NSW. In a consummate piece of double-talk (given that the pressure now was for a tightening of the law, rather than its liberalisation) he re-affirmed the Government's policy of the last half dozen years: "The law will not be changed, nor will it be changed while this Government remains in office." (*SMH*, 8.8.74: 9) And on another occasion he sidestepped a question from a DLP member, Kevin Harrold, who asked what the Government was doing to investigate the legality of abortions at the clinics, by saying that citizens should report any information they had about illegal abortions to the police who would not be slow to act if presented with evidence that a crime had been committed. (McIlraith, 1974: 10)

The responses of Askin and McCaw are further indications of the Government's determination not to become embroiled in any controversy over abortion except when it perceived political dividends in doing so. Any action at this stage would have opened up an issue which, for all political purposes, Levine's judgement had largely lain to rest. For Askin's Liberal Government the abortion question was something to be dealt with in terms of political expediency, rather than ideological or moral commitment. The reverse was the case with members on the Opposition benches, where Petersen's passionate advocacy of women's right to abortion was equalled in intensity by religious opposition to it on the part of Catholics such as Kevin Stewart. On a number of occasions after the opening of the first clinics various right-wing Labor MPs attempted to force the Government to confront the proliferation of openly available abortions but without success. And the newly elected DLP member, Harrold, took the opportunity to castigate the Government, and particularly Attorney-General McCaw, on the issue in an Address in Reply speech.

The following year, in March 1975, Harrold introduced a private member's bill designed to drastically curtail abortion practice, the Infant Life Preservation Bill. That the Government granted leave for him to do so can

²²⁰ Occasionally, local government became involved in the issue, for example, some aldermen objected when it became known that a private hospital at Arncliffe in Sydney was operating as an abortion clinic. But this was not provoked by intervention by organised right-to-lifers although they quickly took advantage of it, holding rallies outside the clinic and burning a doctor's white coat as symbolic of medical practitioners' abrogation of the Hippocratic oath to preserve life.

probably be best explained in the light of what was going on within the Parliamentary Liberal Party. In November 1974 Askin retired without leaving an heir apparent of any particular ability. The new Premier, Tom Lewis, a rather nondescript choice, lacked the political wit and shrewdness of Askin and it was during his term that Harrold's bill, which lapsed with the prorogation of Parliament, was introduced. Shortly afterwards, Lewis was deposed by Sir Eric Willis. Basically, for the two years it was in government after Askin the Liberal Party was in a shambles, lacking in strong and effective leadership and without any clear sense of direction. Whereas Askin always used or avoided the abortion issue according to its potential gains or losses, the two succeeding premiers neither prevented Parliamentary debate on abortion (even when their inaction was the issue) nor managed to capitalise on it when it did arise.

In 1976 Harrold introduced another Infant Life Preservation Bill at which time the new Attorney-General pointed out that the Premier had asked him to prepare a report on the present laws on abortion with a view to bringing about a "state of affairs better than those of the moment" (sic) (*SMH*, 3.3.76: 4) although when this was announced Willis said that it did not mean the Government was planning to change the law (*Aust* 10.2.76: 4). This would have effectively put the matter aside until after the next election, which was imminent. Nevertheless, the Government permitted the Bill to proceed to the second reading stage thus allowing prolonged debate on a subject on which it was vulnerable, given the easy availability of abortion and the Government's apparent failure to enforce the law.

After all, it was estimated that at least ninety-five percent of abortions were carried out on the grounds of 'danger to the women's mental health'. Legally, unless one accepted the extremely liberal interpretation that carrying an unwanted pregnancy to full-term was *ipso facto* a danger to mental health, as this would be defined psychiatrically (even given the vagaries of psychiatric diagnosis), most abortions were indeed unlawful. In the few years following Levine's judgement this was apparent to legally informed observers and lawyers,²²¹ although, for obvious political reasons, proponents of liberal abortion would have been reluctant to acknowledge it openly. That abortion was deemed legal in all cases by the 1980s was an understanding which came about over time because that extremely wide interpretation remained unchallenged legally. Essentially, practice and the understandings promoted by it became so firmly embedded that they assumed a taken-for-granted character. A corollary of this process is that the meaning of abortion itself has also changed.

Harrold's bill provided for a penalty of twenty years imprisonment for anyone performing an abortion when the pregnancy was twenty weeks or more advanced and ten years if it was under twenty weeks unless they could prove it was done in good faith to prevent either the death of the woman or "irreparable damage" to her. It would have required each abortion to be performed in a public hospital and registered and certification on oath by two medical practitioners as to its necessity according to the law. This was draconian in the extreme - not only would it have outlawed abortion on most if not all mental health grounds, in cases of foetal deformity or probable physical or mental disability, and for pregnancies caused by rape or incest - legally it would have transferred the onus of proof onto the medical practitioner, whereas Levine had declared that it was beholden on the prosecution to prove that a medical practitioner was not acting in good faith. It was this rider in particular which had made the possibility of successful prosecution so difficult since 1971, and effectively deterred police from acting against abortionists (Lucas, 1978: 31).

If passed into legislation, the Bill would have prevented all but a tiny few abortions. Little wonder then that it provoked a storm of protest from pro-abortionists, even though there was little chance of it being passed into law. Petersen - who at this time was President of ALRA - accused the Government of allowing the Bill to be

²²¹ See, for example, an article by a lawyer, Brian Lucas, in the *Australian Law Journal*. After examining the details of the statute covering abortion and Levine's judgement, Lucas applied the criteria therein to the practice of abortion in NSW and concluded that the vast majority of abortions performed did not fall within the grounds of what was permitted within the law. In summarising, he says

The law in New South Wales is treated with scant respect, and the abortion practices continue in a setting, where, to say the least, stringent [legal] controls are far from operating. The current position may be said to be in disregard of the medical evidence that the particular circumstances in which an abortion may be necessary to save life or to preserve health from some permanent and serious damage are almost negligible.... [A determination of when an abortion is permissible] ought to be made in a legislative context, and should not be governed by the acts and conduct in practice of those who may seek to change the law by disregarding the law. (Lucas, 1978: 332)

debated, even though it had no intention of proceeding to a vote, so that it could represent itself when it moved to tighten the law in the future, “probably as part of the State election policy”, as taking a middle course between the two extremes of ‘libertarianism’ and the ultra-reactionary fanaticism of the DLP:

It wants to have a reputation for mild small-l liberalism because it will not accept the Harrold bill with its Hitler-Stalin type provisions. It will also get the gratitude of the clerical fascists from the right to life movement for introducing legislation to prevent working-class women from obtaining safe abortions in relatively cheap clinics. (*NSW Parliamentary Debates, Assembly*, 23.3.76, 4600)

In fact, in the campaign for the election, held on 1 May (only five weeks after the debate), the Government completely avoided any reference to abortion, perhaps not surprisingly, given that most Labor MPs were opposed to it, whereas ‘small-l’ Liberals were not. Even though Willis himself held “traditional” views and “defended conventional morality” (Gill, 1976: 11), he lacked the Askin-like discipline over his Party necessary to risk making it an issue in the election. Probably, in calling for the report and allowing the Bill a second reading, Willis was hoping to head off the possibility of abortion surfacing during the campaign. If it had, the attack would have come from anti-abortionists concerned about the Government’s failure to police the burgeoning incidence of abortion. Permitting the issue to be aired served to symbolise the Government’s concern and would have allowed it, if challenged, to claim that the matter was ‘in hand’.

The Bill, and the debate over it, raise several things worth noting. John Dowd, a barrister and Government backbencher (and Willis’ successor to the leadership after Labor’s election win) drew attention to the highly unorthodox uses of several words, usages which very clearly reveal the influence of the Right to Life. The Bill stated that its second objective was to ensure protection of the *civil rights* of the unborn *child*, and its third, to ensure that there were not two classes of *citizens* in NSW. It further defined “child” as “mean[ing] any human foetus from conception to live birth which is not a still-born child”. Dowd objected that “to have the word citizen used in relation to an unborn child is a complete abuse of the word”. Similarly, the Bill’s definition of the word ‘child’,

... is an extraordinary meaning ... and it ought not to be accepted in this House. It is obvious that for the purposes of an Act it is abhorrent to use a totally distorted meaning for an ordinary English word with a common meaning. (*NSW Parliamentary Debates, Assembly*, 23.3.76: 4591)

Whilst Dowd confined himself to criticising the Bill in terms of its poor draughting he nevertheless highlighted its pro-life intent: to gain statutory recognition of the foetus as an *actual child and citizen* with a claim to the same rights as all citizens, pre-eminently, of course, the right to life. By defining the foetus as a child, abortion would be effectively translated into child murder.

As previously in the lower House, George Petersen was the only member to speak in favour of women’s right to abortion. Of the other two Labor speakers, one opposed the Bill on the grounds that it was badly drafted and the other, Michael Maher, foreshadowed an amendment he would move if it went to the third reading to ensure there were no loopholes in it to allow abortion other than in the circumstances proposed by Harrold.

As predicted, the bill lapsed, and as Labor won the election that was the end of the matter. The new Premier, Neville Wran, was one of the ‘new guard’ of Labor politicians who, amongst other things, recognised the importance of the female vote and introduced a number of policies directed to women’s concerns, and was personally opposed to state governance of abortion, homosexuality and censorship. In the lead-up to the election, statements by Wran such as “if you are old enough and you want to read a bit of porno, you should be entitled to”, prompted considerable unease amongst churchmen. The NSW Council of Churches sought an interview with him to express their concerns, at which Wran “redeemed himself” with the following and particularly telling remarks about the nature of the Labor Party:

I am the only Protestant leader of the Labor Party [in NSW] for 50 years, and many of the Party follow the Roman Catholic faith. It is a very conservative group of people, even more conservative than you gentlemen here. It is a great mistake to think that if we are elected ... there will be a wave of permissive legislation. Anyone who thinks that misunderstands the nature of the Labor Party. (quoted in Gill, 1976: 11)

Moreover, Labor's commitment to a conscience vote on abortion ensured that Wran could not impose his own view about it on the Party even in the unlikely event of him wanting to do so.

The ALP and the Conscience Vote

In fact, the issue of the conscience vote in the ALP constituted the only ongoing campaign to be waged by supporters of abortion during the period under question. The policy of a free vote - rare in the ALP - is both a convenient device for avoiding a contentious electoral issue and an indication of the inability of many Labor politicians to divorce abortion from its moral connotations. The policy could only be maintained if abortion was construed as a non-political issue and therefore outside the legitimate ambit of party policy and philosophy. This highlights the pre-eminently sexual meanings in which abortion is embedded, and therefore its 'private', as opposed to 'public' nature. This division, however, is an artificial one, there being no boundary inherent in the nature of social life itself between the two allegedly separate spheres. The state consistently intervenes in the 'private', both directly, for example, in stating the conditions necessary for divorce, and indirectly, through any number of actions in areas of welfare, wages policy and the economy, which impact on, or assume, particular structures and forms of organisation of private life. Thus, the argument that abortion is a private matter rests on an acutely narrow definition of the 'private', as being the 'moral' or sexual areas of life.

Equally, if it was fundamentally perceived - as was consistently claimed by its opponents who after all formed a majority in the ALP - as a matter of life and its destruction, and thus a proper concern of the state, it would have been incumbent on the Party, within the terms of liberal democracy, to declare a policy position on it. The conscience vote suggests that at the heart of the Party's dilemma over abortion was the morality of sex - and particularly the sexuality of women - but most politicians, in the context of the 1970s, would be loath to express their objections in these terms. The most frequent justification enunciated in defence of the free vote was that a pro-abortion policy would have transgressed the religious convictions of Roman Catholic members. But in numerous other respects the Party overrode dogma or policy of the Catholic Church - for example in federal legislation relaxing divorce laws, and in its historical opposition to state aid. What it also expresses - as Petersen recognised - was the marginal relevance of women's issues, of their independence, and of factors bearing on the possibilities of them controlling their lives. The ALP had traditionally seen its constituency as the male worker, and women entered their considerations only as the family adjuncts of male workers as breadwinners.

This is not to suggest that the Liberal and Country Parties were different in this respect, but anti-abortionists there had little difficulty in stating their moral objections to abortion, as they sat more comfortably with the Party's conservative philosophy. At the same time the presence of a small-l liberal element had enabled pro-abortionists in the Liberal Party a legitimate framework for their position. As we have seen with the example of Keighly, this had been possible even in the Country Party, its political rationale being first and foremost based on representation of rural interests, and only secondarily, and perhaps almost accidentally given the traditionalism of its constituency, on conservatism. This, however, was to change quite dramatically when it renamed itself the National Party and gradually but deliberately repositioned itself further to the far-right of the political spectrum, especially on 'social' or 'moral' issues. Whereas the Liberals were the first party to seriously debate policy on abortion (in the late 1960s) the issue died there, as more liberal members were eventually swamped by the advance of more trenchantly Right-wing interests in the Party in the later 1970s and 1980s.

In contrast, the question of the conscience vote continued to bedevil the ALP throughout the period under review, and was symptomatic of the shift within the Party to encompass a wider range of concerns than those applicable to its traditional but dwindling working class constituency and so capture the middle-ground of Australian politics. Having first been raised federally in 1971 when Whitlam pledged his support for legalised abortion but argued for a free vote for parliamentary members, the conscience vote became official Policy at the 1973 National Conference and was reaffirmed at the 1975 Conference. Subsequently it returned to haunt all National and many State Conferences thereafter, becoming increasingly contentious as, on the one hand, party strategists recognised the necessity of closing the 'gender-gap' - female electoral support for Labor

trailed three to four percent behind that of men - by showing that issues pertinent to women were taken seriously, and on the other, the representation of women delegates at Party Conferences increased.

In 1976, the NSW Labor Women's Conference passed a resolution demanding that all laws on abortion (and prostitution) be removed from the statute books, adding that "no man is being asked to violate his conscience, but merely to cease oppressing women" (quoted in *SMH*, 29.3.76: 2). The resolution went to the State Conference but was deferred for consideration in October by the State Council (the Party's governing body between annual conferences). There, the resolution received little support and the free vote was retained. One former Federal minister argued that any move to legalise abortion would divide the Labor Party on "what many people saw as a basic moral issue". (*SMH*, 11.10.76: 2) Speaking on behalf of the 800 members of the Labor Women's Committee, Jeanette McHugh claimed afterwards that the matter may have turned out differently if there were a few more women in Caucus, pointing out that abortion was about women's subordination, not about male conscience. (*SMH*, 11.10.76: 2)

At the National Conference the next year, the Party's Health and Welfare committee proposed that it become policy that abortion be legal when performed by a medical practitioner at a woman's request, and a delegate, Penny Giles, moved that all MPs should be bound to vote for abortion on demand. (Frykberg, 1977: 9) Four of the most senior members of the Party combined to argue for the retention of the free vote, indicating the seriousness with which the matter was viewed. Each said that although he himself favoured abortion on request there were many MPs that did not and therefore it should be a matter for the individual's conscience. Whitlam maintained his position that a free vote was the only way to get legalisation. His argument was that as long as freedom of conscience prevailed, the matter was one for each person and political parties had no particular stand, making it much more difficult for the Right to Life to campaign effectively. Bill Hayden, who was to succeed Whitlam as Leader of the Opposition after the next election, warned that the subject was:

... potentially the most explosive and divisive of any issue the Party was likely to have to face. If you bind people in this Party of ours to a commitment such as this one then you can rest assured you'll damage the Party. You will set back its fortunes and its capacity to achieve worthwhile things for a very long time, and you will set back this important social reform quite damagingly. (quoted in Frykberg, 1977: 9)

The South Australian Premier, Don Dunstan, told delegates that if the motion was carried the Labor Party would split as many members would refuse to accept it.

I don't want to go to an election faced with the fact that I am going to lose three Cabinet ministers at least, before the election, over an issue like this. (quoted in Ramsay, 1982: 7)

Referring to Catholics, Neville Wran, the new Premier of NSW, said that twenty-eight percent of Australians had "a deep-seated religious conviction" against abortion, and their rights had to be considered and respected along with those of proponents of abortion on demand. (Frykberg, 1977: 9)

In response, Penny Giles said that women were getting bored with such arguments and that she didn't believe a policy binding MPs to vote for legalised abortion would force Roman Catholics out of the Party, as there was a big change going on within the Church. Male politicians had been "hiding behind this subterfuge for too long" and:

[a]nyway, why should Catholics have special privileges within the Labor Party? We are a broadly based party, and all members should be prepared to accept the majority decision. This is a vital principle and no one should be exempt. There are many decisions the Party makes which I don't like, but I accept them because I believe the overall policies of the Labor Party are the best. (quoted in *SMH*, 10.7.77: 19)

The Shadow Minister for Health, Dr Moss Cass, argued strongly that it was time for the Party to make a stand in favour of abortion on request. After all, changing the laws would not force women to have abortions, but the present situation prevented them from freely exercising their rights. And he told the predominantly male conference: "Gentlemen, if we had babies there would be no laws against abortion". (Frykberg, 1977: 9)

When put to the vote the motion was lost by twenty-five votes to eighteen, with six delegates abstaining, but Giles optimistically predicted that the issue would be won at the next conference as the margin had narrowed considerably from that of previous votes. (*SMH*, 10.7.77: 19) This was held in 1979 and the motion to rescind

the conscience vote came from the Victorian branch, which had long had a policy in favour of legalisation. (*SMH*, 2.4.79: 3) Only a month before the Conference the South Australian ALP Convention had also adopted a policy urging the Government there to remove all restrictions which operated to limit access to abortion and to establish education and counselling services. (*SMH*, 19.6.79: 2) Despite a debate lasting one and one-half hours delegates voted again, by twenty-seven to twenty-two, to retain the present policy. (*SMH*, 20.7.79: 10) In arguing for the motion Victorian feminist MP, Joan Coxsedg, told the conference that:

People who separate women's issues from other political issues by using phoney terms like 'conscience voting' merely demonstrate the hypocrisy of the ALP. Abortion is a political issue as vital as equal pay. Your job, delegates, is not finished when you legislate equal pay, because women have a right to determine for themselves the scope of their social and economic activities without being handicapped by bearing and rearing unwanted children. (quoted in Ramsay, 1982: 2)

Opponents of the free vote refused to let the matter rest and over the next three National Conferences it was a major point of contention and, in the view of many commentators and party leaders and strategists, a real threat to ALP stability and unity. In the lead-up to the next conference both the Young Labor movement (Harper, 1980: 3) and the first National Labor Women's Conference resolved to call again on the National Conference to bind members to a pro-abortion vote, with the latter also deciding to move for the Right to Life Association to be declared a proscribed organisation for ALP members (*SMH*, 27.1.81: 5). This was the first time that Young Labor had supported free abortion and followed the replacement of the right-wing leadership by a socialist-left executive. (Harper, 1980: 3) The Women's Conference was a rank-and-file initiative welcomed by the Party in its drive to win a larger slice of the female vote. (*SMH*, 27.1.81: 2) It was recognised that if the ALP had received the same proportion of women's votes as it had men's in the 1970s it would have won every Federal poll held during the decade. The Women's Conference called for a policy of affirmative action in the Party, and it was accepted at a special ALP Conference on party structure - held in July, 1981 - that one quarter of all delegates to National Conference would be women. (Ramsay, 1982: 7) Certainly, some members did not welcome this reform; commentator Max Walsh quoted one "prominent Labor figure" observing quietly when the affirmative action policy was adopted: "The trouble is you do not end up with women - you end up with feminists". (Walsh, 1984: 11)

Party leaders reacted sharply to the ALP Women's attack on the free vote with Deputy Opposition Leader Lionel Bowen condemning the move as an assault on the conscience of the individual and pledging himself to leave politics if it were to become ALP policy. (*SMH*, 27.1.81: 5) Wran and other leading party figures also spoke out in defence of the present policy. (Hewett, 1981: 12) Their reaction was prompted by a recognition of the new and acute significance of the issue given the large number of women at the next conference, and the dilemma it posed at a time when the Party was energetically pursuing the adoption of policies with electoral appeal to women. It was apparent that most if not all female delegates would back the motion and they would have the support of the left faction of the Party, along with an unknown number of other delegates. (Ramsay, 1982: 7)

In 1982 Labor was poised to win power at the Federal level but whilst, on the one hand, it desperately needed to close the gender gap, on the other, it could hardly afford to lose votes by outraging that small, but possibly electorally significant, band of virulent anti-abortionists who normally voted Labor but would switch their vote over just such an issue. Internally, the consequences for the Party could be equally disastrous, with Catholic frontbenchers such as Bowen and shadow treasurer Paul Keating on record as feeling so strongly about the issue that they were likely to leave the Party. (Walsh, 1982: 27) Party leaders were reported to be "deeply worried" and the issue was seen as "potentially the most divisive and damaging at the conference". (Kitney, 1982: 7) At a time when Labor was tempering principle with pragmatism in its approach to such fundamental policy areas as uranium, the economy, tax, welfare, and foreign affairs, it was questionable to many in the Party whether it should give priority to a cause such as abortion, and thereby "risk its political neck and chances of Federal office". (Ramsay, 1982: 7) There was no doubt that political commentators and leading ALP figures saw the move as feminist-motivated and misplaced in its priorities. One of the former, Max Walsh, remarked that the women delegates:

... were, almost by definition, of a militant or radical bent. To have forced your way to the top policy-making body of the party at this stage of its history, that is at a time when the odds were stacked against the women, takes a certain degree of aggressiveness. (Walsh, 1982: 27)

He claimed that lurking behind the issue too was an even more explosive threat. The ALP was “always a coalition of interests that are often uncomfortable, verging on the incompatible”. The NSW Right which controlled the party machine was under challenge from a rising new Left - an “increasing militancy at branch level and the emergence of a new generation of ideologically motivated number-crunchers”. A change in the abortion policy would symbolise the ascendancy of a combination of “radical feminism and new Left ideology” and traumatise the party. Significant desertions at the rank-and-file level would follow, either in retaliation at the new general direction of the party, or specifically at the abortion decision. The consequent shift in power at the branch level would ultimately see the whole party machine captured by “the militant forces”. (Walsh, 1982: 27) At stake then, was not merely party policy on abortion, but possibly the future of the ALP and the power brokers in it. So once again we see the abortion struggle being fought out at the political level not in its own terms, but primarily in those of electoral and intra-party politics.

At the conference, the motion - that all reference to abortion be removed from the Federal, State and Territory Crimes Acts - was moved by Joan Coxsedg and seconded by Sandra Nori of the Leichhardt Women’s Health Centre (later to be elected as a State Member). “Do the supporters of the conscience vote seriously contend that their conscience is more important than that of a woman who is pregnant and has to make the difficult decision?”, asked Nori,

We are always being told that if we abolish the conscience vote we will split the party, that the Mike Egans, Kevin Stewarts and the Lionel Bowens will have to leave the party. How much longer do we have to put up with that kind of blackmail? We of the Left constantly put up with seeing our party’s principles sold down the drain, but we do not leave. (quoted in *SMH*, 9.7.82: 13)

In reply, NSW State MP Michael Egan retorted:

It is not just for many of us a matter of political life and death, but many of us see the issue of abortion as literally a matter of life and death. Make no mistake about it, the consequence of adopting a binding policy mean that because of the nature of the issue, everyone who is fundamentally and conscientiously opposed to abortion will either have to leave the party, or defy the party. (quoted in *SMH*, 9.7.82: 13)

When the motion went to the vote it was defeated by fifty-five votes to forty-four.

Later that year Labor went on to win the Federal election and by 1984, the time of the next conference, it was also in power in all States except Queensland and Tasmania. For pro-choice advocates in the Party this gave the matter a heightened significance, in that if the free vote could be overturned, abortion could be wiped from the statute books of most States. Inevitably, the issue was on the agenda again. The 1982 election and opinion polls since showed that the ALP was, for the first time in its history, evenly sharing the female vote with the non-Labor parties. (Walsh, 1984: 11) The Government had devoted a good deal of attention to implementing its platform on women’s affairs, and included the Minister responsible for them, Senator Susan Ryan, in the inner cabinet. In contrast to 1982, however, when virtually all women delegates had been both Left wing and feminist, the policy on affirmative action in party organisation meant that women were now represented in all factions and did not necessarily identify with women’s issues or the abortion cause. (Walsh, 1984: 11) There was less chance, then, of rescinding the conscience vote. Nevertheless, some Party leaders felt the need to be seen as sympathetic to women on the abortion question. The Prime Minister, Bob Hawke, engineered a compromise motion in an attempt to appease feminist and Left delegates and pro-abortion women electors.

The motion, put forward by Susan Ryan, was to amend an existing policy which stated that Labor supported “the particular right of women’s choice of fertility control” by adding the words, “including abortion”. (Buckley, 1984a: 1) Effectively, this meant that the Party was committed to putting forward legislation to legalise abortion, but with the conscience vote retained. (Donohoe, 1984: 5) Thus abortion became the only item of ALP policy which members were permitted to oppose in the Parliaments. (Buckley, 1984b: 6) Hawke, along with a senior minister and the National Secretary of the ALP, spoke for the amendment which was opposed by Bowen, the Minister for Defence Kim Beazley, and a women delegate. Opponents feared that the

policy could eventually lead to the right of the free vote being abolished, but Hawke denied that it was a 'backdoor' method for accomplishing this.

But in a surprise move the next day Senator Pat Giles attempted to push through a motion binding all members elected or pre-selected as candidates as from that day to the new policy without the right of dissent. After a bitter and emotional debate, the move was soundly defeated by fifty-eight votes to thirty-five, with even some of the Left voting against it or abstaining. Many delegates were angry that after winning the policy change Giles and her supporters stubbornly persisted with the issue, despite the concession. The move was described variously as a "double-cross", as "deliberately bigoted", and "spitefully and childishly mocking of the moral beliefs of many delegates". Bowen announced that if it were passed "perhaps" he would "retire immediately". (Donohoe, 1984: 5)

In five National Conferences over ten years, then, pro-abortionists failed to budge the party from its resolute insistence on freedom of conscience despite *de facto* legal abortion having become available to most Australian women, being used as much as Catholics as by other women, and public opinion being overwhelmingly in favour of it. It would be reasonable to say that by the early 1980s abortion was accepted as a fact of life for the great majority of Australians yet this process of normalisation had failed to impact on the ALP (and, indeed, on political institutions generally). As pro-abortionists frequently asked, why were members permitted the luxury of their conscience on abortion, whereas this concession was not available to others with moral objections to, for example, the export of uranium? Even more to the point, if it the case that abortion is a private matter for the individual conscience, why not wipe abortion laws off the statute books and allow each individual to exercise their own moral judgement? Why were the consciences of some allowed to prevail over those of others? Legalising abortion would not force those opposed to it to have abortions, it would merely allow each person the right to, and the freedom of, their own decision. It would not be a matter of legislating *for* abortion, but of *not* legislating against it.

Undoubtedly, and on one level, the most important considerations were pragmatic, and there were sufficient very powerful party figures opposed to abortion, or concerned firstly about the effects of a policy change, to ensure that the anti-abortionists' personal objections, party unity, and electoral considerations had priority. But apart from these overtly political factors, what was it about abortion which made it unique? Inescapably, we are drawn back to the sexual undertones of abortion, and to the fact that it was women's sexuality and women's bodies which were at issue. It was only because abortion was perceived as a sexual and thus private matter that it was afforded the special exemption of the free vote. Yet, that amounted to confirming the right of (male) politicians to impose controls on what women did with their bodies: a right which is in contradiction to the premise that the matter is a private one, the very premise which entitled them to a conscience vote in the first instance. Anti-abortionists would retort that the matter is really about 'the life or death of the foetus' but, according to that logic, they should have been arguing for a binding vote on a stringent anti-abortion policy. If the issue was about life and murder it is surely inconsistent to allow, as did Bowen for instance, that each member be entitled to their own judgement on it, given the premium put on the sanctity of life in the Western ethico-juridical system. On one level, maintenance of the free vote can be seen as merely one instance of the marginality of women's issues to the mainstream of politics; but on another, it points to the salience attributed to sex and the investment of power in women's bodies. Further, it demonstrates that a women's body and sex were not things to which she had inviolate title and over which she could exercise her will and control but rather, that they were assumed to be properly subject to political management and discipline.

Whereas the rhetoric centred mostly on the question of moral conscience and, more pragmatically, on the danger posed to party unity by a binding vote, the other political consideration was the electoral damage that could result. The concern here was that a binding pro-abortion policy would make the ALP as a whole a target for anti-abortionist forces, and in particular, the Right to Life and the Roman Catholic Church. In fact, whereas both organisations tended to be more suspicious of the ALP than of the non-Labor parties, it was individual pro-abortion candidates in marginal seats who had most to fear. Later in this chapter, then, I will deal with interventions by the Churches in electoral politics over the issue of abortion, and most specifically the Catholic Church, and the tactic of election candidate targeting by the Right to life. At this point, however, we will look at the only other initiatives by pro-choice advocates to *formally* further the abortion cause, by

securing women's right to abortion into the policies of trade unions, and at the resistance provoked by those moves.

Trade Union Policy

The friction in the Labor Party had its parallel, although to a lesser degree, in the union movement, where the same alignment of forces was represented: feminists in coalition with the Left (indicative in part of the 'new guard' of professional middle-class men and women) versus the traditionally moral conservative Right-wing working class (often Catholic and mainly men).

In 1980 the National Conference of the Administrative and Clerical Officers Association (ACOA) adopted as union policy the right of women to abortion on the ground that, as control of fertility was necessary to women's equal participation in the workplace and in union activities, abortion was a legitimate industrial issue. (CT, 20.9.80: 11) Whilst the vote was not unanimous, nor was it close, the issue not being particularly controversial at the time. Yet, eight months later the union management was confronted with a petition containing the signatures of eight thousand members calling for a plebiscite of all the membership to determine if it believed that the union should have a policy on abortion. The National Secretary, Paul Munro, found the tactic "perplexing": on the one hand, the petition was not demanding a change in the policy, although he assumed that was the eventual aim and on the other, the issue could merely have been raised and decided at the next conference, rather than by the mechanism of a plebiscite which would cost the union \$35,000. He thought it a deliberate move by the Right to Life to intervene in union processes in a way calculated to "bleed the union of funds". (Summers, 1981: 42) The publicity around the plebiscite was also occurring at the same time as one of its proponents was challenging for the position of assistant national secretary. A similar move was taking place within the Canberra Teachers' Federation where an anti-abortion group of members was attempting to collect sufficient signatures to force a plebiscite there on the union's abortion policy. (Summers, 1981: 42)

Generally, commentators were puzzled as to just what the RTL was trying to achieve, it being unlikely that they would win anti-abortion policies in more than a few unions. (Summers, 1981: 42; McVey, 1983: 40) Possibly, these incidents may have been linked to a wider campaign by Right wing forces in the early 1980s to win union executive positions from Left wingers. For example, in NSW a Right-wing group, inexperienced in union politics, was able to take over the leadership of the Teachers' Federation after a campaign costing at least \$80,000. The shock defeat of the incumbent Left leadership was attributed to its failure to campaign because it was heavily involved in industrial activity and assumed its re-election would be virtually automatic. One of the new executive told a press conference that the campaign was funded by the National Civic Council - the vehemently Right wing Catholic lay organisation which replaced the old Industrial Groups movement - an admission she retracted the following day. It has been frequently alleged by various sources that the Right to Life is funded by the NCC, particularly when in the 1980s the breakaway Right to Life Australia (RTLA) was spending large sums of money in its campaigns, money which it claimed came solely from donations. For example, its President, Margaret Tighe, said that its budget for 1985 was \$400,000 (Burns, 1985: 9).²²² RTLA is based in Victoria, the same State as the NCC, and certainly seems to have more funds at its disposal than do other anti-abortion or moral-authoritarian organisations.

In the Western Australian and Victorian nurses unions anti-abortionists adopted a tactic similar to one used in the UK to intimidate doctors who did not make maximum efforts to assist babies born deformed. Over 2000 pamphlets were distributed to nurses urging them to refuse to participate in abortions and to report any failure to attempt to resuscitate "any child of 20 weeks or more born live during an abortion". (McVey, 1983: 40)

Meanwhile, the abortion issue was causing consternation elsewhere in the union movement. The executive of the Australian Council of Trade Unions (ACTU) - the peak trade union body - recommended to its national congress that it adopt a policy that free, safe and legal abortions be available to working women, a move which emanated from the ACTU women's Committee.²²³ (Hope, 1981a: 10) A third of the executive had

²²² The split in the Right to Life movement will be covered later in this chapter.

²²³ The exact wording of the recommendation was:

opposed the recommendation, including the secretary of the NSW Labor Council, Barrie Unsworth, a prominent Right wing Labor machine man and Catholic (and Wran's successor as Premier in 1985). (Hurst, 1981: 4) He was bitterly anti-abortion and was subsequently to coin the phrase identifying Sydney as 'the abortion capital of the South Pacific' (Martin, 1982: 1; Price, 1982: 6) thereafter a favourite expression of pro-lifers. To "loud booing and hissing" from the floor, he put forward an amendment to delete the reference to abortion from the motion, arguing, firstly, that abortion was not an industrial issue, and secondly, that whereas the right of working people to decide on the number and spacing of children was, that this could be achieved through other methods of fertility control, including abstinence. He was supported by a woman from the Right-wing Federated Clerks Union who said abortion was a middle and upper-middle class issue unrelated to the working class or to trade unions. (Hope, 1981a: 10) As expected, the recommendation proved the most disruptive and divisive of any at the Congress, polarising it and transcending normal factional groupings. (AFR, 11.9.81: 5) When put to the vote, the recommendation was accepted in its original form. The outcome was considered a "major defeat" for the hard Right-wing of the union movement, all of whom voted against it. (Hope, 1981b: 8) The ACTU President, Cliff Dolan, who normally sided with the Left, said he voted against it because "I believe it [abortion] is a termination of life, and to put it bluntly, I believe it is murder". (Stephens, 1981: 3) Right wing leaders warned that the union movement would become increasingly divided as a result of the policy. The basis for such a pronouncement seemed to be a fear that the ACTU would begin lobbying governments for changes in abortion law (Taylor, 1981a: 7), but as it turned out this didn't happen, the policy apparently being of symbolic rather than practical value. Speaking at the conclusion of the debate, Peter Cook, ACTU Vice-President, identified a banal theme which ran through many of the debates on changes to law or policy on abortion. He said the executive was not recommending that there should be "an *enforcement* of abortion".

Listening to the debate ... one could have got the impression that we were ogres recommending that [abortion be forced on women]. What we are recommending is the freedom of the individual to choose. Whatever are the proper matters of conscience for that individual, they are the matters of conscience that should be applied. We are not seeking a situation in which conscience is determined by rules which prevent the exercise of free conscience. (quoted in Taylor, 1981a: 7)

Throughout the five days of the Congress anti-abortionists maintained an ongoing demonstration outside the Sydney Town Hall in which it was being held, chanting and waving placards, and handing out leaflets to delegates and passers-by. The result was condemned by the RTL and by clergy, the Anglican Dean of Sydney saying it "was a shocker", and an "immoral and dangerous" outcome. (Hope, 1981b: 8) Shortly afterwards a circular, purportedly published by the (non-existent) 'Australian Childhood Termination Unit' of the ACTU and authorised by Peter Cook, was distributed in workplaces and to Church groups. The circular said that the ACTU Executive felt it was irrational to endorse only the termination of the unborn, when "the oppression of working women by the unwanted requires a more far-reaching socialist solution". Thus, announced the bogus circular, the new ACTU policy was "free, safe, legal termination of childhood for working women". Cook dismissed the circular as a vicious product of a sick mind. (Taylor, 1981b: 11)

Several months after the ACTU Congress the ACOA plebiscite was held. Sixty-three percent of the 16,000 members who voted rejected the concept of the Union having a policy on abortion. In a separate question they also rejected the actual pro-abortion policy adopted the previous year. By then it was clear that four officials from the ACT and Victorian branches were behind the petition and they issued a statement claiming that the decision was a lesson for the ACTU and for other unions and "a rebuff to the trendy Left faction in the ACOA". (quoted in Veltman, 1982: 3) Members voting against the policy - about one thousand more than the nine thousand signatures collected for the petition - comprised only about twenty percent of the Union's total membership of 50,000. Presumably, this would have included that hard core of people resolutely opposed to abortion as well as some members who did not consider it an appropriate issue for an industrial body. Twelve percent cared enough about the policy to defend it but most of the membership - nearly seventy percent - did not take the trouble to voice an opinion. In fact, these results are in line with the hypothesis of normalisation;

Provision of finance and access for all couples and individuals with particular emphasis on the needs of migrants, Aborigines, young people and women in the workforce, to the necessary information, education and means to exercise their basic right to decide freely and responsibly on the number and spacing of their children, including the right to free, safe and legal abortion for those who choose it. (quoted in Hague & Milson, 1982: 16)

if asked directly, as in an opinion poll, the seventy percent would probably have agreed with abortion in all or some circumstances but simply did not consider the matter important enough to make the effort to vote.

The campaign to eliminate the ALP conscience vote and get a positive ACTU policy were the only proactive efforts to advance the pro-abortionist's cause at the formal political or organisational level. Whilst neither had any practical effects in terms of access to abortion both (along with the ACOA reversal) are important examples of the entrenched opposition to liberal abortion by the (heavily Catholic) Right-wing of the Labor movement and indicative of the continued resilience of that resistance despite the normalising processes at work in the wider community.

The Clinics: "They Murder Babies in There"

Most initiatives around the issue emanated primarily from pro-lifers, the onus being squarely on them to maintain abortion as controversial. They were fighting a rear-guard action and they knew it. For example, a meeting of Roman Catholic bishops deplored "the steady growth of the abortion mentality amongst [Australian] citizens", and their "insensitivity to 60,000 abortions per year, [which] underlined the advancement of deterioration of Australian values". (quoted in *SMH*, 28.8.78: 3) What the bishops saw as growing 'insensitivity' and 'deterioration of values' in fact represents the normalisation of abortion, its embeddedness into the structure of practices and meanings regulating sexuality and reproduction. The most tangible reminders of the creeping normalisation confronting pro-lifers were the actual sites of abortion: the clinics devoted exclusively to fertility control. In one way or another, a large proportion of their resistance was targeted at these, either directly, by means of demonstrations and harassment, or indirectly, through actions designed to disrupt or prevent services.

As mentioned previously, in Sydney, Preterm was the main object of direct action (possibly for the simple reason that it was close to Central Railway Station and therefore easy to get to for women who didn't drive cars); in Melbourne it was Wainer's Fertility Control Clinic, Wainer being a *bete noir* of right-to-lifers because of his crusade for liberal abortion. Periodically the clinics were picketed by the RTL. These were generally peaceful demonstrations, the Association eschewing more militant tactics as counter-productive (and probably because they were 'out of character' for the mostly middle-aged and older women involved).

It was this refusal to resort to militarism which caused the split in the National Right to Life Association in November, 1979. It was disbanded and replaced by a looser coalition of State RTL associations with a national Federation. Numerically the strongest, the federated associations also represented the moderate wing of the movement. The Victorian RTL, with its President, Margaret Tighe, did not join the Federation, and in April, 1980 Tighe formed Right to Life Australia (RTLA). (Sturgess, 1980: 8) Under her leadership, the Victorian group had for some years pursued tactics disapproved of by the moderates, and after the split they were at pains to disassociate themselves from Tighe's organisation and her confrontationist and controversial methods. In contrast, they saw their role primarily as a positive one of 'educating' the public and offering alternatives to abortion through their sub-group, Pregnancy Help. (McInerney, 1985: 26) This offered emotional and financial assistance to women to enable them to continue their pregnancies, arranging for them to stay interstate if necessary and taking care of such things as organising deferred university exams and helping to find accommodation and work. It also provided post-abortion counselling. (Burns, 1985: 9) The moderate organisations were unable legally to prevent Tighe using the 'Right to Life' name; to their annoyance, then, they were identified in the public mind with her activities. (Sturgess, 1980: 8) Tighe's more moderate NSW counterpart, honorary secretary Kath Harrigan, who has single mindedly fought abortion and lobbied NSW and Federal parliamentarians since 1973, complained that Tighe should keep to her home turf of Victoria. In her opinion Tighe could actually do harm to the anti-abortion cause by her aggressive and confrontationist politics. (Burns, 1985: 9) Tighe spurned the moderate's emphasis on education, organising her activities in ways designed to attract maximum media publicity:

We want to raise the awareness of the public, bringing home to people just what abortion is, and TV is the best way to do it. When people see normal, respectable women going out and protesting they must think there is something to our argument. (quoted in Burns, 1985: 9)

Instead of merely demonstrating in an orderly manner outside clinics, Tighe's mode of operation often took the form of physically invading them: for example, in April, 1978 she staged a sit-in at Wainer's clinic and eventually had to be removed by police (*Bulletin*, 11.5.82: 12).

We feel closer to the babies when we are protesting. We are against violence. We always train our protesters that even if they are hit or pushed they must not retaliate. (quoted in Burns, 1985: 9)

One of the main tactics she developed was the targeting of, and campaigning against, pro-abortion election candidates, and specifically those who had publicly championed the abortion cause, as we shall see below. Her more moderate counterparts also used this tactic but not with the virulent zeal characteristic of Tighe and her supporters. Hers was not the only group to be formed to resist abortion by the use of more extremist methods. In 1980, a Queensland group, Electors for Life, was formed with the intention of unseating candidates there who had strenuously opposed moves by the Premier, Joh Bjelke-Petersen, to legislate draconian anti-abortion laws.

In terms of direct action against clinics, however, the group most consistent in their harassment was an unofficial Catholic lay organisation of six men which called itself the Brothers of the Mother of God. The group cared for twenty-five disabled men and in turn was provided by the Church with buildings to do so in the town of Albury. Dishevelled in appearance, all had given promises of celibacy (they could not take formal vows as they were not a recognised religious order) and pursued their anti-abortion 'mission' with a zealous fanaticism. (McInerney, 1985: 26) In 1985 the Brother's community was granted official status in the Catholic Church by a decree from the Bishop of Wagga,²²⁴ an act which prompted outrage from Preterm and from various Church sources, both Catholic and Protestant, because of the methods they employed in their campaign against Preterm. (Roberts, 1985: 4) Even the Reverend Fred Nile of the Festival of Light, whilst generally approving of the protesters for reminding people of what went on inside the clinics, admitted that they were too extreme! (Roberts, 1984a: 3) The community's elected superior, Brother Denis (Denis Devcich), described the Brothers as "evangelical first and foremost" and, referring to Aid-Life (the name the Brothers sometimes used of their anti-abortion 'sub-group'), said:

I can't sleep at night thinking about the deaths of all those unborn babies. We're not apologising for our stand on this. Justifying abortion is like the Nazis justifying the murder of the Jews. (quoted in Roberts, 1985: 4)

The Preterm harassment was undertaken mostly by two of the Brothers, Patrick Darcy and Mark Sheehan. Between 1980 and 1985 they consistently and relentlessly picketed the clinic, often daily for weeks or more at a time. Amongst other activities, they wore or carried placards about the 'killing of babies' going on inside the clinic, blocked the entrance and had to be removed by police, sang hymns, read sections of the bible and recited their rosaries in shouting voices. They verbally assaulted women trying to enter the clinic and staff as they came and went: for example, they pursued one staff-member several hundred metres to a busy city bus-stop pointing at her and shouting "See that woman, she kills babies". (Duncan, 1982: 11) They ostentatiously copied down the registration numbers of the cars of staff-members and women visiting the clinic and on one occasion assaulted a woman trying to stop them (*DT*, 16.10.81: 4). As well, they handed out gruesome anti-abortion literature to women entering and a card which had the following message on it:

²²⁴ This was a different status from a religious order and was made possible by a new code of Canon Law which came into force in 1983. (Roberts, 1985: 4)

**WARNING
DO NOT ENTER**
This is an Illegal Abortion Clinic run by Criminals
Abortion is a Criminal Offence in NSW
THE POLICE COME HERE OFTEN
If You Take Part in an Illegal Abortion Here You Risk Arrest and
Imprisonment
THIS CLINIC HAS ALSO BEEN RESPONSIBLE FOR MANY DEATHS
Do Not Let Anybody Try to Take This Card From You

(from Roberts, 1984a: 3)

Two reported examples of how the Brothers attempted to deter women from entering the clinic convey very starkly the tenor of the harassment, and even vindictiveness, to which they subjected women. One woman entering for an abortion had her path blocked by one of the picketers who said “Don’t go in there. They murder babies in there”, and pointing to her stomach, “She is too young to die yet.” The woman said afterwards that she was already feeling “very highly strung. I couldn’t believe what was happening to me”. (Roberts, 1984a: 3) At another time, a girl, “barely sixteen”, already very frightened about the abortion despite reassurance from her mother and the family doctor, approached with a friend.

Outside the clinic, two badly-dressed men stood with placards over their shoulders. On the placards they had splashed words like ‘murder’. Beside the words, full colour photos showed curled-up foetus [sic]. Red paint ran like blood on the pavement. One of the men approached the girl. He was a thin, pale-faced young man, badly dressed, with an almost vacant look on his face. “Are you”, he quietly asked her, “going to murder your baby?” The girl turned and ran, crying. Her friend calmed her and coaxed her back. The two men grinned as she walked past them. The girl’s face didn’t crumble again until the door closed behind her. (Duncan, 1982: 11)

The clinic also provided family planning services and pregnancy tests. The executive secretary, Sue King, pointed out that many women arriving to avail themselves of these services were also subjected to the Brothers’ harangues and abuse. Amongst them were “happy mothers-to-be”, some of whom were conspicuously pregnant, and they likewise were assailed for intending to ‘kill their babies’. (McInerney, 1985: 26).

Apart from these overt actions, numerous other attacks were made against Preterm by ‘persons unknown’ in the same periods as when the Brothers were openly picketing the clinic. Although unproved, it seems more than obvious that they were responsible for these also. The clinic received numerous phone calls from people asking to speak to ‘the persons who murdered babies’, and the clinic’s medical practitioners also received similar calls at their homes. An anonymous letter - addressed to “the fascist ghouls who make a living chopping up babies” (*SMH*, 10.7.81: 6) - warned Preterm that it would regret the “serious consequences” which would follow any threats or “violent action” by it against the people protesting the clinic’s “revolting actions”. (Duncan, 1982: 11) Stickers arrived at the clinic and at the homes of its medical practitioners saying “Fight Child Abuse - Terminate Abortionists”. (Duncan, 1982: 11) In an arson attempt three thousand dollar’s worth of damage was done to the clinic. The lock was filled with glue so that the door couldn’t be opened. The windows and the stairs were paint-bombed several times by bright-red paint up to half an inch thick. Bricks were thrown through the front windows several times. (Roberts, 1984a: 3) On a number of occasions invitations were sent to community members to attend barbecues at the homes of the clinic’s medical practitioners, who were to demonstrate first semester abortions and deliver lectures on “dismemberment” and “paying the police for cooperation”. (Duncan, 1982: 11)

The Brothers were charged by the police on a number of occasions and they were found guilty on various charges such as offensive behaviour and trespass, but this did not stop them picketing. The prosecuting police tried unsuccessfully to have the court order them not to approach the area of the clinic. The Brothers told the court that they refused to stay away as they wanted to continue praying outside the premises and telling

people that babies were murdered inside. They said an undertaking to keep away would interfere with their religious freedom. (SMH, 17.10.81: 3) By 1985 Darcy and Sheehan owed the clinic over seven thousand dollars in court costs which they couldn't be forced to pay as they had no assets. (Roberts, 1985: 4) At one point Preterm asked the court for an injunction to prevent them molesting or obstructing persons entering or leaving the clinic, in reply to which the Brothers alleged that it was incumbent on it to prove that abortions were legal, and subpoenaed the clinic's files. The judge upheld this claim, and Preterm dropped the case, allegedly because of costs and the invasion of clients' privacy. (Duncan, 1982: 11)

More dangerous, however, would have been the test of the legality of abortion. A finding against the clinic, even in a civil court, would most likely have had disastrous implications for the abortion cause. People involved in doing abortions always projected a public image which implied that the legality of abortion was not even in question. In the numerous articles on abortion services appearing in newspapers and magazines its legality was consistently treated as a given by pro-abortion spokespersons. (Interestingly too, in none of these accounts, was there any report of journalists querying this in interviews with clinic workers or medical practitioners.) It is arguable that, whereas in the early years of abortion on demand (which was the de facto situation by 1974)²²⁵ it was considered strategically necessary to impart the impression that there was no doubt as to its legality, over time and through continued practice this deliberate device became deeply embedded as a genuine belief and taken-for-granted understanding. This was so even amongst those people who were most familiar with the specifics of Menhennitt's and Levine's judgements, which only by the widest conceivable interpretations could be said to have given legal status to every abortion under any circumstances.

The Question of Legality

This contention is borne out by several legal cases in NSW. In 1974, Relee Skinner - convicted two years previously for conspiracy with a non-qualified abortionist, John Anderson - appealed to the NSW Court of Appeal against his removal from the NSW Medical Practitioners' Register. The Court directed that he be reinstated on the grounds that it was in the public interest that he should continue practising. In finding this the Court noted the very high esteem in which he was held by colleagues and patients and his belief that Anderson was "a skilled and experienced lay practitioner in the field". More importantly for our purposes, the judges acknowledged that "the conception of the law relating to abortion which was prevalent at the time of the offences [has] since [been] shown to be erroneous", and that the "*conditions of the two girls would have warranted therapeutic abortions according to the principles established in the courts over the last two or three years*". (SMH, 11.1.75: 52, my emphasis) As in the future Skinner could refer women in similar condition to hospitals for legal therapeutic terminations, it was most unlikely that there would be a recurrence of the offence (of referring to an unqualified abortionist), said the judges. The crucial point here is the emphasis on the fact that there were particular conditions which had to be satisfied for an abortion to be legitimately therapeutic within the parameters of Levine's judgement. There was a very strong inference in the Appeal Court's judgement that if the abortions had been 'therapeutically unwarranted' Skinner would not have won the appeal. This indicates clearly that the highest Court in the State was still prepared to distinguish between justified and unjustified abortions depending on the condition of the woman, and that therefore, some (if not most) abortions being performed were not technically legal.

A similar question arose again in 1980 in respect to George Smart. Several years after McCaw had the outstanding charges against him dropped, Smart was suspended from practising for one year by the Medical Disciplinary Tribunal for advertising. The offences related to letters Smart had been sending throughout 1974 and 1975 to numerous general practitioners in Australia, New Zealand and Papua New Guinea telling them that he did abortions "legally, skilfully and cheaply". As evidence of his skill, he stated in the letters that he had done some 15,000 terminations over a period of fourteen years. Moreover, he said he had incurred fifty-thousand dollars legal expenses defending himself on abortion charges but claimed that, through "this privileged ordeal", he was responsible for the reform of the law in NSW. (DT, 14.4.75: 5) One can assume

²²⁵ Although previously I have argued that the meaning of 'abortion on demand' was rather murky (and that it meant different things to different groups and individuals) I will use it in the sense of abortion being available to any women who decided she wanted it, as long as the pregnancy was not advanced beyond the time wherein a medical practitioner considered termination safe.

that with safe abortions available through reputable practitioners and clinics, Smart was having difficulty getting 'business', given his notoriety and past allegations of causing a number of women's deaths. Hundreds of letters were sent to New Zealand doctors alone, prompting the Medical Association there to report him to the Medical Board of NSW. An article in a New Zealand newspaper reported Smart as saying he had approached the Australian Federal Government to arrange fares at the tourist rate for "unfortunate girls" having to travel to NSW for abortions. (*Aust*, 5.8.74: 10) The *MJA* published a letter from a doctor in Papua New Guinea complaining about Smart's "personal promotion campaign" to practitioners there. (*DT*, 14.4.75: 5) It would appear that the Medical Tribunal only took action against Smart after several years of complaints and publicity about his actions. The suspension was subsequently upheld by the NSW Appeals Court which commented that Smart obviously regarded NSW as a "legal haven" for abortions and considered that he had "some kind of proprietary right in this haven, because of his view as to his part in establishing it". (*SMH*, 19.3.77: 5)

His suspension over, in 1978 Smart, by this time seventy-one years old, continued his abortion practice. In April 1979, Labor Premier Neville Wran said in Parliament that in the previous year one abortion case had been investigated. (*SMH*, 25.4.79: 10) As it transpired, this concerned Smart who was charged two months later. Both Wran and the Attorney-General, Frank Walker, were in favour of abortion reform and would certainly have been reluctant to initiate action which could undermine the Levine ruling. Wran's statement was in reply to a general question about abortion, indicating that the case had been especially brought to his attention presumably because of the possible disruption it could cause to the legal *status quo* and, further to that, because of the political implications which would follow.

The particular facts of the case, however, make it apparent why Smart was prosecuted. He had operated on a seventeen-year-old girl who, according to medical evidence given at his trial, was seven months pregnant and had been refused an abortion by several other practitioners because of this (*Aust*, 31.3.81: 5). Smart had attempted to abort the foetus by suction curette and, failing that, had used forceps. In so doing he had killed the foetus but had been unable to remove it from the girl's body. (*SMH*, 10.5.80: 3) She was subsequently taken by ambulance to hospital where it had been necessary to perform a hysterotomy operation (clearing out the foetus and placenta through an abdominal and uterine incision). In March 1981, in the District Criminal Court, Smart was found guilty of unlawfully using an instrument with intent to procure a miscarriage. (*Aust*, 31.3.81: 5)²²⁶ He was placed on a two-year good behaviour bond, but appealed against the conviction. A decision by the Court of Criminal Appeal to uphold the judgement, because it is the highest appellate court in the state, would have taken precedence over the Levine finding and, depending on the nature of its ruling, could have seriously eroded or even negated the force of that ruling. (*NT*, 12.7.81: 4) Both pro-abortionists and the Premier were reported as being very concerned about the outcome; Wran not least because he was facing an election later in the year and abortion was "one of the last issues that [he] would [have] liked to see raised in time for the election".²²⁷ (McCathie, 1981: 4) In the event the appeal proceedings were adjourned due to Smart's ill health (he was suffering from Parkinson's Disease) and, fortuitously for the pro-abortion movement and the Premier if not for Smart, his subsequent death caused the appeal to lapse without a decision. Smart remains, then, the only medical practitioner ever found guilty in NSW of performing an abortion and it could well be said that his only contribution to reform consisted in his timely demise.

²²⁶ At the committal hearing Smart was remanded to trial on this charge and also on that of causing grievous bodily harm. The latter, which was not proceeded on, resulted from an interesting piece of reasoning by the magistrate and, if it had been proceeded with and a conviction obtained, a potentially dangerous one for the pro-abortion cause. Kevin Waller, SM, said that the foetus had been "severely damaged", it had been "disfigured and mutilated". By "some legal fiction", he said, the foetus was regarded as "having no existence of its own" and therefore, under criminal law, it had always been thought that one could not be accused or convicted of harming an unborn child although, obviously, grievous bodily harm had been caused to the foetus by Smart. "If the foetus then has no legal existence of its own, is it part of the girl's body?" asked Waller. If this were so, he continued, there was no doubt that there was a *prima facie* case against Smart for causing it, as part of the girl's body, grievous bodily harm. (in *SMH* 10.5.80: 3) According to Waller, then, either the foetus had an existence of its own or it was part of the girl's body. In either case, it had been damaged or harmed and Smart was liable. If the law did not recognise the foetus in its own right then, *ipso facto*, Smart had caused grievous damage to the girl. Importantly, in Waller's reasoning, this was not because she had required a hysterotomy, *but because the foetus was "damaged"*, an occurrence common to all abortions.

²²⁷ In fact, as we shall see in the following chapter, within a month he had another abortion controversy on his hands - one precipitated by his Minister for Youth and Community Services, Kevin Stewart - which likewise threatened to disrupt the legal *status quo*.

Significantly, at the committal proceedings, the magistrate had drawn attention to the allegation that Smart had not asked the girl about the state of her physical or mental health. Furthermore, he remarked that the reasons for the termination given the Court by her and her mother pertained to the interruption of her education and career and the stigma of pregnancy in a small country town, rather than “*anything to do with her health*”. (SMH, 10.5.80: 3, my emphasis) Inferred here by the magistrate was a presumption that the abortion was not justified within the parameters of the Levine judgement - as he interpreted it - and that Smart had failed to take proper steps to ascertain whether or not it was warranted.

A similar point arose at the committal hearing for a medical practitioner charged with unlawfully using an instrument to procure the miscarriage of a fifteen-year-old girl, and a nurse, charged with aiding and abetting her. The charges followed a police raid of the Liverpool Women’s Health Centre in October 1975 on information from the girl’s parents that she had been aborted without their knowledge or permission. The defendants’ Q.C. pointed out that there was no case to answer if the doctor believed the girl would suffer mental and physical damage if an abortion was not performed. (SMH, 23.3.76: 2) Ten days prior to the hearing she had been declared uncontrollable by a children’s court and he submitted that she was emotionally unfit to continue the pregnancy. The police prosecutor alleged that the doctor had only seen the girl briefly twice before the termination, the only consultation the girl had being with the nurse. Despite not having examined her the doctor had certified in writing that the girl would suffer mentally and physically if she were to bear a child. The magistrate found that a *prima facie* case against the defendants had been established and both were committed for trial. (DT, 24.3.76: 76) The charges were no-billed later in the year, however, when Wran’s Labor Party won government.

The cases of Skinner, Smart and the Liverpool two show that, notwithstanding the normalisation of abortion within NSW and its concomitant ‘taken-for-granted’ legality, for the judiciary - whilst granting that judges and magistrates don’t constitute a homogeneous group, its members varying in degrees of strictness and leniency - the evaluation of an abortion’s legality still depended on the presence of certain conditions: a threat to the woman’s life or her physical or mental health and a ‘genuine belief’ on the part of the practitioner performing the termination that it was warranted on those grounds. By implication, the latter required him or her to have undertaken specific procedures - consultation, counselling and examination - which allowed the practitioner to satisfy him or herself, in all ‘good faith’, that this was so. The magistrate’s decision in the Liverpool Health Centre case inferred that he, at least, did not accept that this obligation could be delegated to another health worker.

On a few occasions, then, (including the 1982 State ward case to be discussed below) the shadow of the law fell briefly across the practice of abortion and joltingly reminded pro-choice advocates of the precarious legal foundation on which *de facto* abortion on demand rested. But for the most part, everyday practice, the sets of ‘normalising’ understandings within which people acted and public acceptance (escalating over time into ‘taken for grantedness’) served to redirect the attentions of pro-abortionist activists towards the specifics of service provision. Thus their preoccupation shifted steadily away from the law governing abortion to, on the one hand, concerns about technique, counselling, the demographics of women seeking abortions, the use of contraception and advice on it as an adjunct of abortion services and, on the other, to expressions of outrage at anti-abortionist harassment or other attempts to interfere with ‘women’s right’ to abortion and to its defence against the periodic attacks mounted by right-to-lifers.

In their own way pro-lifers also participated in this discursive shift. We have seen how in 1975 there was still a good deal of pressure being put on the Government of NSW over the inaction by police with regards to the proliferation of (what was then claimed to be illegal) abortion services. In 1974 a ‘Rally for Life’ at the Sydney Town Hall condemned the Government for not making a stand (SMH, 5.8.74: 8). Charges of this sort, however, rapidly evaporated.²²⁸ There is a sense, then in which the discourse of right-to-lifers was itself

²²⁸ The last few references I found of right-to-lifers stating that the law did not permit abortion on demand or allow a doctor to ‘kill a baby at the mother’s convenience’ were by Patricia Judge, then Secretary of the NSW RTL, in 1976 (CT, 6.2.76: 7); a statement in the same year by Cardinal Freeman, accompanying an editorial in the *Catholic Weekly*, in which he despaired that failure to enforce the abortion provisions of the 1900 Crimes Act was leading to abortion on demand (cited in CT, 24.4.76: 5) and finally, another by Freeman during the lead-up to the 1978 NSW elections where he stated that that “the protection of the unborn is proclaimed by our

being subsumed onto a terrain dictated by pro-abortionists, in that the former ceased questioning the legality of abortion and concentrated instead on pitting the rights of the foetus against those of women. This argument stressed that abortion was morally, not legally, wrong. Later, in 1980, as we shall see, the *Herald*'s religious writer claimed that this shift to the discourse of 'human rights' was a clever tactical move on the part of the Bishops. (Gill, 1980: 7) Similarly, the allegation that abortion was 'murder' constituted a claim as to how it *should* be viewed by the legal system, not how it was presently conceived and acted upon legally. What was happening here is that the meaning of abortion was changing in interaction with practice, so that people's actions and understandings were overruling and subverting the formal structure of the law. Yet strictly speaking the legality of abortion as it was practised had not been tested and was highly suspect, although for the general public, and probably even many involved in the abortion struggle, this was often lost sight of.

The Melbourne Hospitals' Campaign

An earlier and very determined attempt by pro-lifers to inhibit the spread of abortion services, and an ingenious tactical move on their part, was a campaign to win representation on the Boards of the two major maternity hospitals in Melbourne, the Queen Victoria and the Royal Women's, in an effort to prevent the hospitals from allowing terminations to be performed there. At that stage the only places carrying out abortions in Melbourne, apart from Wainer's clinic and private medical practitioners, were public hospitals. The first sign that pro-lifers intended targeting them was a sit-in at the Queen Victoria Hospital in 1975 waged by about thirty demonstrators calling themselves the Citizens for the Protection of the Unborn Child. (*Aust*, 10.5.75: 5) A spokesperson claimed that the hospital was

... killing children in a special extermination clinic. For every four babies who are born alive the hospital is killing at least one baby before it has the chance to be born. (quoted in *Age*, 11.5.75: 8)

By July, the protesters had occupied a corridor in the hospital for forty-four days and one of them - Vice President of the Melbourne University Pro-Life Society - had begun a week's fast to draw attention to its abortion policy, and to the fact that there were alternatives to abortion. He said the hospital must become more "socially oriented" and insisted that abortion "wasn't a women's problem, but a human rights problem". Meanwhile, four hundred men, older women and nuns from an organisation calling itself 'I'm for Life' marched to the hospital and formed a human chain around it. They were met by twenty vocal members of the Women's Abortion Action Campaign. (*Aust*, 7.7.75: 6) In September, members of WAAC and other Women's Liberation groups demonstrated outside the Hospital's annual general meeting against attempts by right-to-lifers to influence the Hospital's policy on abortion. (*Age*, 25.9.75: 3) About one-thousand anti-abortionists marched in a 'Walk for Life' through Melbourne's city streets in November. Margaret Tighe told the demonstrators that abortion had reached "epidemic proportions" in Melbourne hospitals. A visiting American priest and sociologist, Dr Paul Marx, also addressed the rally. He said that Hitler had shown that if people were allowed to take innocent lives, everyone was in danger: "abortion was only the tip of the genocidal iceberg, which will eventually lead to infanticide and euthanasia". The Western world was not suffering from overpopulation, he announced, but "from over-fornication which easy abortion tended to encourage". (*Age*, 3.11.75: 6)

Then, in the second half of June, 1976, contributions started flooding in to the hospitals, each of which was for two dollars. Under Victoria's hospitals and charities regulations, anyone who contributes two dollars or more to a public hospital is entitled to vote for that organisation's board of management, or even to stand as a candidate. (Balderstone, 1976: 13) Both hospitals were due to hold their annual general meetings in September when approximately one-third of board positions (seven at the Royal Women's [Monks, 14.9.76: 8] and eight at the Queen Victoria [*SMH*, 15.9.76: 9]) were up for election. The normal practice was for incumbents to be re-elected when they stood again, and for 'appropriate' persons to be invited to fill vacancies, these latter in turn also being unopposed. In fact, at the Royal Women's there had been no need for an election since 1902. It was apparent that the whole process was a very 'genteel' affair and that the hospital management was appalled at finding itself at the centre of an abortion controversy. Earlier in June an advertisement appeared in the Catholic newspaper, *The Advocate*, appealing for support from pro-lifers to

laws" and asked the parties to declare what each intended to do "either administratively or by legislation" to guarantee that protection (*CT*, 30.9.78: 1)

elect an 'Alliance' team of four candidates to the Board of the Royal Women's "on a platform to help pregnant women and reduce the number of abortions done at the hospital". The Alliance was the Australian Pro-Life Youth Alliance, a university students' sub association of the RTL. The advertisement asked supporters to donate two dollars to the hospital by the closing date of 30 June which would enable them to vote. (Baker, 1976: 3) Alerted in June to the pro-lifer's intention, WAAC and WEL had organised a similar campaign to get pro-choice advocates to contribute two dollars to each hospital and to vote to retain the present Boards. By the deadline there were three thousand new contributors.

Although a number of apparently different pro-life organisations were reported in the media as being involved, it seems that the whole operation was conceived by Margaret Tighe, and that the employment of these hitherto unheard-of groups was a smokescreen concocted by the Victorian RTL to confuse opponents and the public into believing that opposition to abortion was truly widespread. In September, Tighe "admitted" that her organisation had been responsible for encouraging people to subscribe their two dollars, and said they had embarked on the campaign:

... because we love babies, those already born and those who may never get the chance to see the sunshine because they have been killed by the weapons of the abortionist.... The Women's [Hospital] has performed 1300 abortions in the past year. That's virtually abortion on demand and we intend to stop it. (quoted in Monks, 1976: 8)

The day before the Royal Women's general meeting Tighe unsuccessfully sought an injunction to stop the election on the grounds that the hospital had distributed literature supporting its own candidates (Monks, 1976: 8). Presumably she was not optimistic that the RTL had the numbers. And in fact, its candidates received only five hundred votes against the 2,200 mobilised by WAAC, WEL and the hospital (*SMH*, 15.9.76: 7). The results at the Queen Victoria were similar. Considering the energy that the pro-lifers put into the campaign and that WAAC and WEL only realised what was going on in the second half of June, the RTL's poor showing is significant. Their claim to represent a large constituency is less than credible if this exercise is any indication.

The ACT Clinic Dispute

One of the few successes of the anti-abortionists was in preventing the establishment of clinics in the ACT. Population Services International (PSI), which was already operating in Sydney, attempted to set up a branch in Canberra in 1977. This first came to light when John Martyr discovered that the Commonwealth Employment Service was recruiting staff for the clinic and raised the matter in Parliament. (*SMH*, 10.3.77: 11) PSI's Director, Dr Geoffrey Davis, was accused by the ALP's Frank Stewart of being an "abortion profiteer". (*SMH*, 18.3.77: 9) In Sydney, Davis had incurred the wrath not just of pro-lifers but also of the Women's Movement which claimed abortion services as its 'territory', maintaining that clinics should be run and staffed by women. It also objected to the fact that Davis did not offer counselling to women. In short, although the PSI Foundation had the status of a non-profit organisation, Davis ran it as a business, something which outraged both pro- and anti-abortionists alike. Later, in 1978, PSI's Potts Point clinic was seriously damaged by arson. Police interviewed members of "radical fringe groups" of both right-to-lifers and the Women's Movement. (*SMH*, 17.4.78: 2) Davis himself, however, was confident that the fire was caused by pro-lifers, occurring as it did on the Catholic Church proclaimed 'Right to Life' Sunday (personal communication). In Federal Parliament, independent MP Brian Harradine, an avid campaigner on 'moral' issues, accused Davis of being 'Sydney's abortion king'. He alleged that Davis drew off profits by receiving inordinately high fees for medical professional services and by leasing to the Foundation its premises at Potts Point and Arncliffe for unrealistically exorbitant rents through a network of companies in which he had a substantial interest. The Minister for Health, Ralph Hunt, announced that he had called for a report on the desirability of an abortion clinic in the ACT, and on the political and social consequences of such a clinic. (*SMH*, 18.3.77: 9) In the meantime the ACT Legislative Assembly passed a Bill prohibiting abortions in the ACT for three months, other than in public hospitals. (*CT*, 26.3.77: 3) In the interim, the 1977 Laity Conference of the Catholic Archdiocese of Canberra and Goulbourn passed a motion declaring its complete opposition to any extension of abortion services in the ACT, either in public hospitals or in any other form, and condemned any move to 'liberalise' the existing policies. (*SMH*, 9.5.77: 1)

The Health and Education Committee of the Assembly, which was charged with preparing the report, called for submissions from interested parties. One, from over fifty social workers and welfare officers, pointed out that there were few abortions carried out in ACT hospitals because most women wanting an abortion travelled to Sydney for the operation. This was because the procedures to approve requests for abortions in the hospitals were too time-consuming - when everyone agreed it was wise to have an abortion early in a pregnancy - and degrading for women without any physical indications, who were forced to prove they were at psychological risk. No information was made available about the procedures so women were kept ignorant of what to expect and the chance of an approval. The submission advocated extending and liberalising the service at hospitals by setting-up clinics to deal with it specifically, or allowing the establishment of free-standing clinics. (CT, 25.5.77: 3)

In its fifty-three-page submission, the RTL emphasised the injustice caused by abortion becoming so common that “desperate” childless couples in the ACT were waiting six years to adopt a baby. The submission claimed that abortion counselling services were actively dissuading women from having and adopting their babies by telling them that adoption was a “traumatic experience”. The RTL said it was “disturbing” that such “misleading information” was provided, but not surprising, as all abortion counselling services were “biased” towards abortion. One of three executive officers of the RTL appearing before the committee, Reverend Dr Daniel Overduin, alleged that women were “hoodwinked” into “choosing” abortion by being told that that it was a simple medical procedure, and all the physical and psychological complications were “swept under the carpet” He produced an article to ‘prove’ that women in the early stages of pregnancy “were significantly more neurotic and anxious” than women at other times, and therefore more easily led by abortion counsellors into “taking actions which they may later judge, when in a calmer state of mind, to have been ill-advised”. He added that in every country where abortion had been legalised, it had been followed by a campaign for “active euthanasia” The submission rejected any suggestion that special abortion clinics be set-up in the ACT, and advocated that only “prescribed” hospitals be permitted to perform abortions, and then only after a thorough review of each application by a “termination committee” which would only approve them in those cases where continued pregnancy constituted “an imminent threat to a mother’s life”. (CT, 27.5.77: 3) Of course, as the latter category comprised only a minuscule proportion of abortions, the RTL was, for all practical purposes, virtually calling for a total ban on abortion.

In its report, the Committee ruled against the establishment of free-standing clinics. It opted instead for a self-contained clinic operating within the grounds of a public hospital. This would perform abortions up to eleven weeks of pregnancy on an outpatient, one day basis, with removal to the hospital of any cases with complications. For those between eleven and twenty weeks it proposed that a terminations committee comprised of medical practitioners firstly investigate the legality of later-stage abortion. Apart from that it recommended that for these to be approved, certification by two legally qualified medical practitioners - one being the doctor performing the operation - be required. It also stipulated that all women be given comprehensive counselling by specially selected Health Commission personnel specially trained to give non-directive advice, information about abortion, alternatives to it and contraception and that this be followed up by post-abortion counselling. (CT, 5.7.77: 1,3)

On receipt of the report, Hunt announced that the temporary ordinance prohibiting abortion was to be extended for another twelve months to give the Government time to study the report. (SMH, 29.7.77: 8) But he subsequently proclaimed the ordinance to be permanent, thus ruling out any changes in the prevailing situation and ignoring the report from the Legislative Assembly which he himself had requested.²²⁹ This decision may have been influenced by the Prime Minister, Malcom Fraser, who was personally strongly opposed to abortion. This summary action on Hunt’s part, which contradicted promises he had previously made in the Parliament that all matters with social consequences for the people of the ACT would be decided by the people themselves, provoked a ten hour debate in the Senate on a motion moved by Senator Susan Ryan (the Opposition speaker on Women’s Affairs and representative for the ACT) that Hunt’s ordinance be disallowed.

²²⁹ Prior to 1989 the ACT did not have self government, the role of the Legislative Assembly being only an advisory one to the Commonwealth, which governed the Territory.

Throughout the long debate, in which twenty-six senators spoke, the gallery was packed with members of the RTL, many of whom had travelled from Sydney and Melbourne. They also demonstrated outside Parliament House during the lunch recess. Both the Government and Opposition parties declared that the motion would be decided by a conscience vote. Six Liberal senators crossed the floor to vote for the motion which would have overruled the ordinance and the two Australian Democrats also supported Ryan. (*SMH*, 10.11.78: 3) A few years later, when the Liberal Party, following Thatcher and the 'New Right', moved even further away from centre to the right, these Liberal senators (at least those that were still in Parliament) were to be amongst those in the Parliamentary Party to be identified as the 'wets' for their continued adherence to liberal rather than to neo-conservative views. Conversely, eight Labor senators plus Brian Harradine voted against the motion, thus ensuring its defeat. (*SMH*, 10.11.78: 3) Afterwards, and in defending herself against attacks from the RTL, Ryan said at no time was she advocating private clinics for the ACT, but rather that the Legislative Assembly's recommendations be accepted as Hunt had formerly promised to do. (*CT*, 12.11.78: 1) Presumably Ryan, whose feminist credentials went back to the very early 1970s, shared the Women's Movement's animosity towards Davis and so would have herself preferred an abortion clinic attached to a public hospital, as the Assembly recommended.

Tighe was later to claim the ACT clinic defeat as one of the great successes of the right-to-life movement, and indeed, it has been the only one they have had in terms of preventing the establishment or spread of abortion services. Simultaneously though, it also indicates the almost insurmountable barriers facing pro-abortionists during the period when any attempt was made to advance their cause through formal political legislative channels. It is important to note that pro-lifers did not win a *change* - rather, they were successful in maintaining the *status quo*. That is, despite all the events in the ACT, at the end, the situation was the same as at the beginning: very restrictive abortions in hospitals, with most women travelling to Sydney or Melbourne for the operation. A successful outcome for pro-abortionists would have actually involved *positive* legislative action, and in the whole period examined in this chapter, there is in fact not one substantive change impinging on the abortion struggle at the formal structural level (this would include retention of the conscience vote by the ALP). What this highlights of course, apart from the marked conservatism of politicians on sexual or 'moral' matters, is the influence of the interaction of daily practice, meaning and understandings in effecting social and political change, or in Gidden's terms, in the 'structuration' of society or elements in it. Menhennitt's and Levine's judgements provided the preconditions, or the skeletons of structural change, enabling them to be fleshed-out by action. They did not determine the processes or the eventual outcomes; rather, these were consequences of practice by individuals and groups of individuals. For example, there was a division amongst women abortion activists in the earlier 1970s as to whether political action should be directed at an ongoing campaign to secure statutory change or to the provision of services through clinics and women's health centres. In retrospect, it is arguable that the latter course, which was the one pursued, in meeting a widespread need, permitted the question of abortion's ambiguous legality to be submerged, and capitalised on the inertia and reluctance of politicians to deal with sexual matters, particularly once the political and electoral hazards had become apparent. Examination of the rest of the period will confirm that each intervention at the formal political level, no matter how threatening or auspicious it appeared at the time to either side to the struggle, culminated in retention of the *status quo*. Nevertheless, as that *status quo* virtually always favoured the advocates of choice, the defeat of a threat to it constituted a victory for them, further entrenching the normalisation of abortion freedom.

Health Funding

The strongest threat of all came in a form which, if successful, would have undermined the basis on which the clinics depended for payment of abortions for women not carrying private health insurance. Through Medibank, the Commonwealth paid the health costs of people classified as 'disadvantaged'.

At the RTL's first annual National Conference in 1977 Dr Carolyn Gerster, a leading figure in the American Right to Life invited to Australia to address the conference, told members here of the success of the Hyde Amendment in the US Congress, which barred federal funding of abortions. Subsequently, the Supreme Court upheld the amendment which meant that no State could be compelled to fund abortions except to save the life of the mother. She said that whereas 300,000 abortions were performed in the US the previous year there was

now hope that those paid for by Medicaid would cease. (*Age*, 20.8.77: 9) As only the poorest women qualified for Medicaid there was some justification for her optimism.

Tighe, encouraged by this American success, immediately called on the federal Government to legislate to prevent women from claiming the costs of abortion from either Medibank or private health funds. She questioned why taxpayers should be required to pay for abortions which were not medically necessary. (*Age*, 20.8.77: 9) Two weeks later Ralph Hunt told Parliament that thousands of people objected to paying contributions to health funds and having them used to pay for non-therapeutic abortions. Undoubtedly, Hunt was responding to pressure applied from Catholic health funds and from the RTL. (Summers, 1977: 3) He said he had called for a Health Department report on means of ensuring that benefits claimed for abortion were only paid to women with “proper medical grounds” for the operation, and for an investigation into the reasons why women were having abortions. (*DT*, 6.9.77: 7) In May of the next year he announced his intention to legislate to allow funds not to pay for abortions. The RTL urged its members, as a moral duty, to quit their medical funds on the grounds that they were contributing to the costs of abortions, and to write to all funds objecting to the payment of such benefits. (*Age*, 9.6.78: 8) The legislation, when introduced, allowed private health funds to apply for a special exemption to exclude items covering abortions from their scheduled list of benefits, and to notify contributors accordingly. Two Catholic health funds informed the Minister that they intended to apply for exemptions under the new provisions. (*SMH*, 29.9.78: 8)

The Lusher Motion

But this was only a ‘curtain raiser’ to a much more serious attack on abortion via the mechanism of funding. In 1978 the RTL hosted a visit to Australia by Henry Hyde, which presumably reinforced their conviction that this was a propitious line of attack. The following year a Country Party member, Stephen Lusher, announced that he intended to move a motion in the next Parliamentary session to request the Government to disallow Medibank funds for abortion (although he denied any association with the RTL). Even at this initial point the economically discriminatory nature of the proposal was apparent in that it would hurt those least able to pay the cost themselves, but when the *National Times* asked him about this, Lusher simply replied:

If you can afford to send your kids to Kings [an expensive private school], you can; if you can't, you can't. There will always be people who have more advantages than others. I don't think you will ever get away from this. (quoted in *NT*, 9-15.12.78: 2)

Whilst Lusher indicated his thorough lack of concern with the element of economic inequality, it was ultimately this very factor which weighed heaviest in influencing the eventual outcome. Indeed, he even suggested that richer women would be the ones worse-off if the motion was legislated: “If people have to pay more for abortions, I feel sorrier for the rich. Poorer women [will] have the advantage of having to stop and think.” (quoted in Dexter, 1979: 5) This statement strips bare Lusher's motivation. If his concern was merely that non-medically necessary procedures were being funded by Medibank, whether abortions were carried out or not wouldn't have been at issue. The statement reveals that for Lusher, a Catholic father of four, the moral dimension of abortion was the overriding priority.

The motion was introduced into the Federal House of Representatives in early 1979. It requested the (Liberal-Country Party) Government to legislate to deny Commonwealth medical (Medibank) benefits to women for abortion. (*Age*, 28.2.79: 4) The move was not condoned by the Government which saw it as a potential source of embarrassment: success of the motion in itself would have had no statutory effect, but it would have put pressure on the Government to comply, thus setting the scene for continued agitation over abortion. Nor, of course, was it welcomed by the ALP Opposition, for whom the issue was always divisive. The Government parties, like the ALP, agreed to a conscience vote on the motion.

Agitation around the motion was extraordinary, both publicly and in Canberra. Federal politicians were said to be “in turmoil” over it. Nevertheless, the campaign mounted by RTL was dwarfed by mobilisation against the motion by a wide cross-section of the community. Apart from WAAC, which organised a number of demonstrations in several States (*SMH*, 27.2.79: 8; *Age*, 28.2.79: 4), and lobbied politicians and arranged for a flood of letters and petitions, strenuous protests came from the AMA, the Royal College of Obstetricians and Gynaecologists (*AFR*, 19.3.79: 5), the Doctors' Reform Society (*Aust*, 19.3.79: 4), the Victorian Young

Liberals (*Aust*, 19.3.79: 4), the Young National-Country Party in NSW, the National Women's Advisory Council (*AFR*, 19.3.79: 5), and the Brotherhood of St. Laurence (*Age*, 14.3.79:7), amongst others. In all, 129 organisations contacted all Parliamentarians to protest, and 145 took out advertisements in the print media (*Aust*, 19.3.79: 4). The diversity of groups united against the motion was striking and represents very telling support for the concept of normalisation: the AMA's statement of protest, for example, was described as "strongly-worded" (*Age*, 7.7.79: 3), indicating a major reversal of its former reticence about involvement and of its position only four years previously on the Medical Clarification Bill.

In contrast, support for the motion was virtually limited to specifically pro-life groups and some Churches. But whereas clerical pronouncements against abortion had once commanded newspaper headlines and carried considerable weight, by 1979 a leading journalist on Church and religious concerns declared bluntly that "statements by church leaders on abortion are no longer newsworthy", even in the period leading up to the vote (Gill, 1979: 10). To make matters worse for the anti-abortionists, researchers commissioned by the Roman Catholic Church to study Catholic women and abortion released their findings at this time. These showed that twenty-five percent of all women having abortions were Catholic, and that forty percent of this number were actually practising their religion. (Williams, 1979: 1) Even more damaging was the disclosure that of two hundred Catholic women who had had an abortion and were interviewed in depth for the survey, four were active members of the RTL. (Dale, 1979: 13)

Right up until the day of the debate it was uncertain which way the vote would go.²³⁰ To avert a possible victory for pro-lifers a supporter of women's right to abortion, Liberal MP Barry Simon, devised a compromise amendment proposing that benefits be paid only for abortions performed legally: essentially a confirmation of the existing situation based on *de facto* legality. This provided another option for wavering members, especially those in marginal seats with an eye on the next election, who were concerned that their vote would be interpreted as categorical support for, or opposition to, abortion freedom. (Ellercamp, 1979: 4) Simon's amendment was accepted by the House with the consequence that Lusher's motion was not actually put to the vote. (*SMH*, 23.3.79: 1)

The marathon debate had taken two days with fifty-eight members speaking. In most respects the debate retraced the same discursive territory traversed in 1973. In particular, however, it is worth noting the reappearance of the spectre of 'race suicide' along with the idea that the 'national interest' required 'regulation of the population' and, hence, the 'disciplining of women's bodies'. For example, Health Minister Hunt, in supporting the motion, pointed out that abortion and contraception had resulted in a twenty-nine percent fall in population increase since 1971. He warned that Australia was approaching zero growth, a situation which "upset" future-planning and would require massive migration. (*SMH*, 23.3.79: 1) Furthermore, the decrease in the number of babies being born was a factor contributing to unemployment, he claimed. Another MP echoed Hunt's sentiments, bemoaning the fact that the abortion of "80,000 unborn Australians" annually was putting the country "on the path of national self-genocide" (as well as denying to "thousands of parents" the opportunity of adoption). (quoted in *NT*, 25-31.3.79: 3) Similarly, Phillip Lynch pointed out that estimates showed there was one abortion for every four live births in Australia and expressed alarm at the implications of such a "loss of potential citizens" on the future of the nation. (Petersen, 1984: 176)

A number of members were of the opinion that removal of benefits would be in the best interests of the women concerned because they would be forced to think twice about aborting if they had to find the money. Similarly, many who could not afford to pay would no longer be in the position of having to make the decision about abortion on their own (something, it was claimed, that the "vast majority" of women did not want), financial circumstances requiring them to consult the man in question or doctors in public hospitals. (*NT*, 25-31.3.79: 3)

The hypocrisy of the motion, in terms of the claim that it was an illegitimate use of taxpayer's money, was made patently clear in the debate. That the issue was really about supporters' aversion to abortion itself was

²³⁰ The debate was originally scheduled for 7 March but at the last moment the Prime Minister decided to postpone it until 21 March because of the proximity to International Women's Day. (*CT*, 8.3.79: 3)

evident, but the cost argument was shown to be fallacious by, for example, one Liberal, who pointed out public hospitals would be flooded with women needing abortions which would still be paid for by State and Commonwealth taxes and by Hayden, who demonstrated that the alternative to each abortion was a cost to taxation of \$76,000 made up of supporting mother's benefit and other welfare allowances. (*NT*, 25-31.3.79: 3)

Perhaps the decisive factor in Lusher's defeat was the element of discrimination against poorer women. Even if the import of the motion had been enacted in legislation it would not have affected the availability of abortion; rather, access to it would have been made difficult for poorer women and for some, financially impossible. This allowed some MPs to speak of a return to the dark days of illegal abortion and a return of the spectre of the cheap but dangerous backyard operator. Consequently, some Parliamentarians including some Catholics, who declared themselves totally opposed to abortion on moral and religious grounds, voted *for* the compromise. In fact, an anonymously answered questionnaire, sent the following week to all those who voted for the compromise amendment, revealed that almost fifty percent of this group were actually against "abortion on demand" but didn't support Lusher, either because of the overtones of economic discrimination, or because they considered the motion an illegitimate incursion on States' rights, abortion being a State matter. For them, Simon's amendment allowed them a way of not voting for Lusher, *without* seeming to endorse abortion *per se*, something they would have found difficult, if not impossible to do.

Nevertheless, the vote was interpreted as a significant step towards acceptance of abortion, even if politicians as a whole were still trailing well behind public opinion. It was also significant in signaling the end of the use of the abortion issue as a political football (apart from in Queensland, as we shall see). Party politics did not enter into the debate and the vote showed that support or otherwise for abortion spanned party political lines. The DLP along with its blackmailing tactics was a spent force, a relic of a bygone era, its once powerful electoral clout finally extinguished. Commentators on the Lusher affair accepted that, with the exception of a few members in marginal seats concerned about their re-election, the vote was a genuine expression of conscience (even if out of step with the people they governed) (for example, O'Reilly, 1979: 55; *NT*, 25-31.3.79: 3). But reason to doubt that conclusion emerges from the next, and the last time, that the abortion issue was catapulted into the arena of federal politics. Entirely unanticipated, it exploded in the House of Representatives and created an almost unprecedented deadlock between that Chamber and the Senate.

The Bill of Rights Debacle

At stake was an Australian Bill of Human Rights. In general, there was bipartisan support for such a Bill between the federal parties. ALP Government Attorney-General Lionel Murphy had attempted to create a Bill along the lines of the American model in 1973. These rights were to be enforceable in law and would have overridden States' laws. The States reacted predictably, "with howls of outrage and threats that they would challenge the legislation" in the High Court. The Bill subsequently lapsed with the 1974 double dissolution and was overtaken by the events of 1975. (Hewett, 1980a: 7) In 1975 Australia signed the International Covenant on Civil and Political Rights, and in 1980 the Fraser Government's Attorney-General, Senator Durack, introduced legislation to the Senate which was to operate as Australia's back-up to the Covenant, which it then hoped to be able to ratify. From the first it was beset with problems. In an attempt to prise grudging acceptance from the States it was considerably watered down in contrast to Murphy's Bill and was thus criticised from both sides of the House in both Chambers for having no teeth. Rather than forcing the States to comply with respect to the individual rights enunciated therein it relied on persuasion and education and delegated all investigative powers to the States. Conversely, conservatives criticised the need to have a Bill of Rights at all, no matter how moderate it was, on the grounds that it was unwarranted and intrusive. Sufficient compromises were made to allow its passage through the Senate, both Liberal and Labor civil libertarians eventually accepting it as better than no legislation at all. (Hewett, 1980a: 7) From there on, with these difficulties ironed out in the Upper House, its acceptance by the House of Representatives was anticipated as more or less a *fait accompli*; that is, until one member blew an already shaky consensus apart by introducing an amendment proposing *recognition of the civil rights of the unborn from the moment of conception*.

Mr John Martyr was a West Australian Liberal. At the time of Dr Hislop's third attempt there to introduce an abortion liberalisation Bill, Martyr was State Secretary of the DLP and was instrumental in the blackmail which thwarted that reform attempt by threatening withdrawal of preferences. With the demise of the DLP Martyr had moved over to the Liberal Party and won a federal seat. His wife, Doris Martyr, was herself deeply involved with the RTL, at various times being on the executive of the Association. With these credentials, it is no surprise that Martyr saw the Human Rights Bill as an opportunity to inscribe in law the fully human status of the newly-conceived foetus, and have accorded to it all the civil and political rights which the Bill was meant to enshrine. An indication of his attitude towards abortion (and women) is neatly encapsulated in a comment he made after Hislop's Bill was defeated:

Victory for Common law and common sense was achieved in the Legislative Assembly when the foul debris of the abortion bill was swept out. Parliament and people are not bamboozled by editorial trumpeting and feline strumpetings before or after the throwout [sic]. (quoted in WA, 21.5.70: 8)²³¹

After proposing his amendment Martyr was reported as being optimistic about winning. "A number of fellows were worried about the money aspect before [referring to Lusher's motion] but that won't come into it now", he said confidently. (quoted in Ellercamp, 1980a: 12) Because of the divisive nature of the amendment, a number of Liberal backbenchers tried to persuade Martyr to drop the matter, but without success. In putting his amendment, he told Parliament that the amendment sought:

... to write into what is supposed to be legislation to secure full human rights to Australian citizens the basic right to life of every Australian - not from the accidental time of birth, but from the impeccable moment of conception. Every child conceived in Australia is in undisputed fact a new citizen for this country, and, as such, must be accorded the same rights as every other citizen. (quoted in Ellercamp, 1980a: 12)

With the probability looming that Martyr's amendment would be included in the Bill and that it could be used as a "back door" way of preventing abortion, Barry Simon put forward a compromise amendment, vaguer in its meaning but adopting the exact wording in the Covenant, guaranteeing rights "before as well as after birth". (SMH, 5.3.80: 14)

Martyr argued for his amendment on the familiar ground that "the right to life of every innocent person is the central base on which is built the whole of our Western civilisation". Some basic facts, he said were beyond dispute. "The first and most fundamental is that human rights date from conception." The second 'fact' was that unborn life was exactly the same as that of the person already born. Nevertheless, he complained, the traditional protection accorded to unborn life had been so eroded in Australia as to be virtually non-existent, both State and Federal Parliaments having been party to that process. His amendment would enable the Federal Parliament to put that shame behind it and begin with a "fresh start". (SMH, 5.3.80: 14)

Simon, in charging that Martyr's amendment "sought to redefine an international Covenant" and its intended meaning, questioned whether there was a constitutional basis open to the Parliament to do this.²³² The insertion of the words "life begins at conception" would, he contended, constitute a direction to the Human Rights Commission on how to interpret the meaning of life. (SMH, 5.3.80: 14) He made it clear that the only purpose of his counter amendment was to allow members who would have been inclined to support Martyr - because of their beliefs on abortion - an opportunity to vote for a less stringent wording. In fact, the day after he moved it, Simon announced to the House that he would not vote for his own amendment lest it be

²³¹ Although the meaning of "feline strumpetings" is not fully clear it is presumably meant to imply an analogy between pro-abortion women and 'promiscuous' female cats screeching and yowling in a loud and manipulative manner.

²³² Giving rise to the whole issue was the wording in the 1959 *United Nations Declaration of the Rights of the Child*, which was included in the Covenant and therefore in the Bill: "... the child, by reason of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection, *before* as well as after birth...". (my emphasis) In 1982 the United Nations Human Rights Commission drafted a new Convention which omitted the words "before as well as after birth" (CT, 13.2.82: 12). I am unaware of the background to that alteration but it is not unlikely that it was prompted by widespread acceptance internationally of abortion, including that by population control agencies in developing countries. The wording in the original Declaration could well have been recognised as conflicting with birth control programmes employing abortion and with the emergent recognition in Western nations of women's right to abortion.

interpreted similarly to that of Martyr's. (*SMH*, 6.3.80: 3) Nevertheless, he allowed it to stand as the lesser of two evils. For his latest intervention, on top of his success in defeating Lusher, Margaret Tighe described Simon as a "marked man" and one of the "prime targets" of RTLA at the next election. Another strong holder of liberal values in the Liberal Party, Ian McPhee, vehemently attacked Martyr, and said that if Simon was a marked man, so was he. Referring to Tighe's Association, McPhee appealed to members not to bow to this "scurrilous intimidation of totalitarian bullies". He accused RTLA of underhand tactics: at the last election it had distributed pamphlets on his pro-abortion views in his electorate which were made to look like how-to-vote cards. (*CT*, 6.3.80: 3)

Martyr's amendment had a good deal of support. One Labor member said that the purpose of a Human Rights Commission was to protect a progressive society and look after those unable to take care of themselves. There was no doubt, he said, that "the least able to protect itself was the baby in the mother's womb". (*CT*, 6.3.80: 3) Chris Hurford, an Opposition frontbencher, called abortion a "national tragedy" and condemned Australian Parliaments for not doing more to prevent it. Nevertheless, he said, he would vote for Simon's amendment as he believed it more closely reflected community feeling on the matter. (*Aust*, 5.3.80: 5) A prominent Liberal 'dry', John Hyde, told the House that "we cannot afford to have a society that throws out weak or unwanted birds from the nest". Moreover, "unless life is sacred, society cannot survive", he intoned (*CT*, 6.3.80: 3). One member praised Martyr as a champion of human rights (despite the fact that until he introduced his amendment, Martyr had opposed the whole concept of a Bill of Rights) (*SMH*, 7.3.80: 10).

Others strongly condemned Martyr's move. Former Prime Minister McMahon warned that if it was successful, a Human Rights Commission could rule against all abortions and therefore ACT women would need to go interstate. Ultimately, he claimed, it could create a situation where the only recourse was to backyard abortions conducted under filthy conditions.²³³ (*Aust*, 5.3.80: 5) Labor member Clyde Cameron expressed his disgust at "a Parliament of men" looking sanctimonious about the whole business and dictating to women that they should be "incubators". (*SMH*, 7.3.80: 10) He urged members to try and understand the feelings of an unmarried pregnant woman who couldn't afford to support a child: "We should consider that before we stand up and pontificate on what women should do." (*CT*, 6.3.80: 3) In fact, this theme dominated the arguments of speakers opposing the amendment, more so perhaps than in any previous parliamentary debate: Opposition shadow minister Barry Cohen said he had never previously spoken in an abortion debate as he considered it obnoxious that a totally male-dominated House should be making these sorts of decisions and Labor's Tom Uren echoed this, arguing that a woman should have the sole right to determine what happened to her body. He said as far as he was concerned the amendment "would restrict the whole of women's rights and freedoms". (*SMH*, 7.3.80: 10)

Simon achieved his objective, it being clear from the voting that if he hadn't moved his counter motion Martyr's would have been passed. The first vote rejected Martyr's amendment by fifty-seven votes to forty-seven; Simon's was then accepted by fifty-six votes to forty-nine. But whilst he had headed off Martyr's absolutist amendment Simon remained concerned that even his watered-down compromise could provide the basis for attacks against abortion.

On party lines, the vote is of interest as it indicates the growing strength of the 'new face' of the Labor Party as it moved away from the dominance of the old Catholic Right-wing to encompass a progressive line on 'social' issues, and on matters of concern to women. (The Party was still firmly steered by the NSW Right-wing machine, but the heirs of that faction were less likely to be Catholic, and their philosophy was blatantly pragmatic.) In contrast, the 'small-l' liberal element in the Federal Liberal Party, once strongly represented, was steadily losing ground.

²³³ McMahon's position here contrasts markedly with that he adopted in the 1972 election campaign when he used Whitlam's position on abortion to attempt to paint the Labor Party as 'permissive' on 'moral' issues. In 1980 there was no question of a division on party lines nor anything to gain or lose in electoral terms. Further, McMahon was approaching his retirement from politics so had no consideration about his own seat at stake. His pro-abortion stand here presumably represents his genuine view on the matter as opposed to that he adopted in 1972, the earlier instance being another indication of the subordination of abortion as in an issue in its own terms to overriding political concerns.

Table Two: House of Representatives Voting on Amendments to Human Rights Bill

	<i>Liberal Party</i>	<i>National-Country Party</i>	<i>Labor Party</i>	<i>Total</i>
Martyr Amendment				
<i>For</i>	33	11	3	47
<i>Against</i>	25	3	29	57
Simon Amendment				
<i>For</i>	37	11	8	56
<i>Against</i>	21	3	25	49

As the table shows, the bulk of pro-life support came from the Coalition Parties, with proportionately, the ultra-conservative National-Country Party being very strongly represented. Only three ALP members supported the Martyr amendment, all of them being little-known backbenchers.²³⁴ Another five, including two shadow ministers, Paul Keating and Chris Hurford, supported Simon's compromise. Three-quarters of the Labor Party members, however, did not support either of the pro-life amendments. Although this does not necessarily mean that all of the twenty-five dissenting members were pro-abortion,²³⁵ it marks a considerable change. The three who supported Martyr and four of the additional five voting for Simon's amendment came from NSW, that traditional heartland of Right-wing Catholics, but eight NSW members rejected both amendments. This suggests that the influence of the Catholic element in the Right wing was waning as the politics of pragmatism came to the fore.

Although denied the major victory they had sought, pro-lifers were able to claim some success with the inclusion of the minor amendment, which they saw as still effectively enshrining the principle of rights for the unborn in legislation. (Snow, 1980: 3) With the stormy passage of the Bill through the House of Representatives, the matter seemed all but settled. But as the Bill had originated in the Senate it had to return there for ratification of the amendments. Anti-abortionist independent Senator Brian Harradine announced that he would move, in committee, a motion to extend the rights of the unborn back to the time of conception. (SMH, 20.3.80: 11) Whilst some debate over this was expected, what happened took all observers by surprise. Harradine's motion was defeated on the voices, but then the Senators, who also had a conscience vote on the issue, unexpectedly rejected Simon's amendment by thirty-eight votes to fifteen. (SMH, 21.3.80: 1)

The Senate then appointed a three person 'Committee for Reasons' to report back to it on the reasons why the Senate had rejected the amendment. (SMH, 21.3.80: 1) The report said that the amendment was unnecessary to the purposes of a Human Rights Commission and could bring the legislation into disrepute; if proposals concerning the unborn were to be legislated these should be done separately and not 'tacked-on' the Human Rights Commission Bill. Further, the amendment would also lead to a distortion of the Commission's activities and result in it becoming embroiled in complaints and controversies over the issue of abortion. (Hewett, 1980a: 15) After debate on the report in the Senate, the Bill and the report on its rejection was returned to the House of Representatives. This procedure had happened only four times previously in the history of the Australian Parliament. (SMH, 21.3.80: 1)

²³⁴ Even with them, its not certain that their votes represented a personal aversion to abortion. For example, Les McMahon, in speaking the previous year in the Lusher debate, made it clear that his anti-abortion debate was pragmatically motivated, saying he would have "to live with" his vote in his electorate. McMahon held one of the safest Labor seats in the Federal Parliament, so it was not fear of being targeted by the RTL which concerned him. Rather, his electorate included St Mary's Catholic and St Andrews Anglican Cathedrals, the 'headquarters' of both Churches in Sydney, and he pointed out that he would have to face the Archbishops. Also, he was at the time fighting off a preselection challenge by the 'New Left' in the Party and his need to maintain all the 'old guard' branch support he could muster may have been another factor influencing him. In the event, his two anti-abortion votes did him no good and he was defeated at preselection.

²³⁵ For example, Lionel Bowen did not support them because they did not deal with abortion in the States, which after all is where it mattered.

The Senate's action left the Government with three choices: it could allow the legislation through without the amendment; send it back to the Senate again; or drop the Bill altogether. (Hewett, 1980a: 15) To not jeopardise the Bill, the Government devised a compromise, whereby the sentiments expressed in the amendment would be removed from the Bill and put into a separate resolution, which would be voted on in the House separately and as a matter of conscience. Such a resolution would then have only symbolic value. The Bill, minus the controversial clause, could then proceed through the normal channels and be voted on according to party lines. (Hewett, 1980b: 10) Despite a meeting of both coalition parties approving the move, Cabinet inexplicably rejected the option and insisted that the house have a conscience vote on the Bill. Even though only four MPs were required to withdraw their support for the amendment for the Bill to pass without it, the Government, which was genuinely committed to the legislation, was risking it over what had become a battle of wills between the House and the Senate. (Hewett, 1980c: 13) Despite frantic lobbying from both sides the vote was the same as previously. (Hewett, 1980d: 3) Certainly no one in the Opposition was disposed to change his mind as, although they were not opposing the Bill, they considered it too weak to be worth saving. (Hewett, 1980c: 13) The Government, then, was unable to convince four of its own members to reverse their votes. The Bill returned again to the Senate with a compromise amendment from the House instructing the Commission to "have regard for human life, including unborn human life". (SMH, 23.4.80: 15) This was introduced in the rather forlorn hope of sidestepping the deadlock. But it too failed to get support and once again the Senate voted overwhelmingly to send the Bill back to the House for the third time. (Hewett, 1980e: 15)

At this point it was more than obvious that neither would back down. Consequently, the Bill was allowed to lapse and was not reintroduced in the Budget sitting, the last Parliamentary session prior to the 1980 elections. Acknowledging defeat, in August the Fraser Government announced the setting-up of a Human Rights Bureau to carry out the functions of the proposed Commission. (Ellercamp, 1980b: 2)²³⁶

The Foetus and Human Status

Dispute over abortion and the status of the foetus - tangential, and some would claim totally unrelated, to the whole issue of a bill to protect human rights - effectively prevented, then, the enactment of legislation which had been eight years in gestation. Understandably, though, for pro-lifers foetal rights went right to the heart of any human rights issue. Their view of human life is an absolutist or 'realist' one, in that what is human they take for granted resides in the object. They cannot abide a position which sees what is conceptualised as life as a function of a social and political process: that what is 'human life' is what is *defined* as human life, ultimately by a social consensus, a consensus which is arrived at after a history of struggle. Similarly, with 'rights', which are deemed to exist as universals detached from knowing and acting subjects. The idea that rights are historical and social constructions which emerge from political conflict would have been an alien and incomprehensible concept to them: thus, their sense of outrage that the state or the judiciary could 'redefine' what to them simply was. Linked also to this way of thinking was a 'categorical' view of the world: a thing was either one thing or another; it was either that thing or it wasn't; it either had a quality or it lacked it. They could point to a common agreement that certainly at some stage before birth a foetus was a human being. How could it be one thing and then another thing, *without there being some identifiable, fundamental and intrinsic change in the object itself*? The process of uterine development and growth provides no definitive and naturally given point of metamorphosis whereby what was not a person one moment is obviously transformed into one the next. These considerations are at the crux of the ethical dilemma about abortion, and it is these considerations which lend credibility to the right-to-life movement, because these same conundrums permeate every day, 'commonsense' thinking about the external world in general, and

²³⁶ Legislation was passed in 1981 which enabled the Human Rights Commission to come into being. Schedule Two of the Act comprised the United Nations Declaration of the Rights of the Child. The Commission was proclaimed on International Human Rights Day, 10 December 1981, and Tighe was in Canberra for the event. She announced that RTLA would be laying complaints with the Commission about misuse of health-care funds "to pay for the killing of unborn children" and its funding of experiments with embryos 'left over' from in-vitro research. These complaints would be made on the basis of the U.N. Declaration attached to the Act referring to protection of the unborn child. She said Australia could hardly feel proud of its record on human rights when:

... unborn humans are being discarded like unwanted puppies and kittens. It is easier to win rights for whales in this country than humans. (quoted in CT, 11.12.81: 6)

abortion in particular. By situating the abortion question and the life of the foetus within this framework, pro-lifers have bestowed on the issue a philosophical integrity, one which it would otherwise lack.

Once construed in these terms, it becomes not only politically, but logically impossible to arrive at a compromise. The debacle over the Human Rights Bill highlighted the irreconcilability of the pro-life and pro-choice positions. The difference between the two amendments was crucial here. Martyr's sought legislatively to 'resolve' the dilemma by pinpointing the very instant of conception as that which inaugurates personhood; Simon's compromise sought to merely *inscribe the dilemma itself* - when does a foetus become a person? - into legislation. Hence the latter offered, neither by inference or context, any alleged answer other than which everyone 'knows': that at some point before birth, even if it is only minutes, the foetus is a human being. Even by doing this, however, the ethical framework within which right-to-lifers operated would have been granted legal credibility and the way opened for ongoing litigation about what stage of foetal life was equivalent to personhood. The danger of Simon's amendment, as he became quickly aware, lay in conceding to the right-to-lifers that personhood pre-existed birth. Birth being the one tangible, obvious biological turning point on the continuum, to concede that personhood precedes it would be to grant a fundamental premise of pro-life claims. The closer to birth foetal life is, the wider is the consensus that a person exists and the inscription of that knowledge in law would have established the legitimacy of right-to-lifers as claimants.

The deadlock over the Bill is a particularly clear demonstration of the electoral clout that the Right to Life could wield - or at least, of the perception that it did have this clout - and hence of its ability to intimidate nervous politicians. The whole history of the handling of abortion in the House of Representatives was characterised by decisions which patently lagged well behind public opinion on the issue. Only intervention by Barry Simon in the Lusher episode and the obstinacy of the Senate over the Human Rights Bill headed-off what would have been great victories in the eyes of right-to-lifers. What proportion of the anti-abortion votes in the House was a matter of genuine conscientious belief and what was motivated by political and electoral considerations we cannot know. But that the latter did weigh heavily on the minds of at least some members is evident from the Senate's hostile reception to the Simon amendment. Electorally, senators are virtually impervious to the threats or campaigns of single-issue pressure groups. Rather than party branch preselectors and electorate constituents, their fate is in the hands of the party machines which decide the Senate tickets and the positioning of each candidate on them. On an issue like abortion, on which no major party has an official position, senators enjoy an absence of the sorts of outright pressure which can be applied to MHRs. With this in mind the Senate's reaction to the amended Bill is instructive. We can safely assume that their rejection of the amendment by thirty-eight votes to fifteen represents a genuine indication of the distribution of different beliefs on abortion and/or the proper content of a Bill of Rights. A comparison with the Lower House indicates that a good number of members there (on this vote as well, presumably, as on previous ones on the abortion issue) were more alert to their own re-election than they were to the substantive content of the matter.

For several years the RTL, borrowing a tactic first developed by WEL in the 1972 federal election, had been polling individual candidates on their views about abortion and awarding them a rating between 'minus-ten' (very pro-abortion) and 'plus-ten' (very pro-life) and publicising the ratings of each candidate. This had two related purposes: to influence voters strongly concerned about abortion to vote for a candidate according to his or her position on abortion rather than for the party which they represented (based on the assumption that anti-abortion views can be held so deeply that some electors would vote on that single issue); and to influence, or 'intimidate', elected representatives to support pro-life causes, by making them wary of the possible electoral consequences of siding with pro-abortionists. Whether or not RTL had the electoral clout that they alleged, was almost beside the point. The voting patterns of MHRs on the Lusher motion and the Human Rights Bill make it patently clear that many politicians believed they did, and that *perception* was what mattered. In imploring his colleagues not to be intimidated Ian McPhee was giving acknowledgement to the strength of this perception and the fear accompanying it. This no doubt fortified Margaret's Tighe's conviction as to the efficacy of this tactic and henceforth she was to pursue it more savagely with Simon as her first target. The transition to aggressive militancy resulting in the split within the RTL also marked another transition, whether coincidental or not: the demise of the Catholic Church as a prominent force in resistance against abortion.

Clerical Resistance

During the 1970s the Church continued its outspoken condemnation of abortion and its attempts to intervene at the electoral level. But there are several significant features which distinguish this from earlier periods. Firstly, there is a new and pronounced rhetorical emphasis on the right, indeed the duty, of the Church to interfere in the secular political process indicative, probably, of a perceived need to defend and justify its intrusion. Secondly, it is clear that clergy were aware that they were fighting a defensive battle against the normalisation of abortion. Thirdly, there is an apparent recognition that their main enemy now is the Women's Movement and coupled with that, a discursive shift to the human rights of the foetus as a counter to claims for women's rights (a shift already pioneered by the RTL). Lastly, shocked by the public disclosure in 1979 that Catholic women's abortion rate was the same as non-Catholics, the Church was forced to recognise that its doctrinal intransigence was alienating adherents and it took some steps to ameliorate the spiritual burden of guilt it imposed on Catholic women having had abortions. During this time clergy from the Sydney Anglican Archdiocese also become much more outspoken against abortion.²³⁷ By the end of the decade there is a notable transition from the Catholic Church to the RTL as the main voice of protest against abortion (and to organisations such as the Festival of Light with regards to more general moral issues), both in general terms, and more specifically, in relation to elections and candidates' stands on the issue. In fact, after 1980, there are only several references in the media to views of Church leaders on abortion.

Whereas the RTL was always concerned not to ever appear partisan with respect to any particular party the Catholic Church, as we have seen, was from the late 1960s onwards distinctly nervous about the Labor Party once Whitlam became leader, and later, about the NSW ALP under Wran's leadership. (Indeed, this perception was shared to some extent with most of the other churches.) This mistrust continued unabated throughout the 1970s, being the spur prompting the ongoing intrusion by the Church in election politics. For example, in the 1974 federal election campaign Cardinal Freeman's Senate of Priests urged electors to "carefully examine" the policies of the parties and not to vote for any which favoured abortion. (*SMH*, 16.5.74: 13) As the only party having an *explicit* pro-abortion policy was the Australia Party which attracted only several percent of votes, it is clear that the statement was directed at the ALP and what some of the Church's hierarchy doggedly insisted on construing as an implicit (or even secret) policy favouring abortion.²³⁸

In November, 1974 the Congregation for the Doctrine of the Faith in Rome issued a declaration approved by the Pope reiterating the Church's condemnation of abortion. It referred specifically to civil law and politics with respect to abortion:

Whatever the civil law may decree in this matter, it must be taken as absolutely certain that a man (sic) may never favour an intrinsically unjust law, such as a law approving abortion in principle. He may not

²³⁷ This also coincides with the demise of the DLP and the final death of a sectarian vote, two related events. Post-war affluence gradually broke apart and dispersed the remnants of the old Catholic working class and by the early 1970s there was little difference between Catholics and Protestants in voting intentions. (Hogan, 1987: 250) Whitlam abandoned the traditional Labor tactic of appealing to a sectional Catholic vote and set his sights on the middle-class (which, anyway, by then comprised Catholics too). Electoral politics had become thoroughly secular, even if the remnants of the Catholic Right still persisted in the NSW Branch of the ALP and certain highly-placed Catholic clergy were slow to appreciate the transition. Throughout the twentieth century the links between the Labor Party and the Catholic Church had been paralleled (although to a lesser degree) by those between the non-Labor parties and the Protestant Churches, politicians of the former virtually without exception, being of WASP backgrounds. Whereas the differences between the two political groupings had been primarily class based, this had intersected with a (sometimes bitter) sectarian hostility between Catholics and Protestants. For various reasons this began to largely evaporate in the 1960s, a process which was spurred on in the 1970s by the recognition of a common enemy: that series of social changes covered by the rubric of 'permissiveness'. (Hogan, 1987: 250) This in turn spawned a new phenomenon of religiously-based groups whose *raison d'être* was protest against whatever was perceived as sinful or immoral. Although interdenominational (or even ostensibly non-religious) they had strong but informal links with the more fundamentalist elements of the mainstream Churches, and to a large degree, took over from them the duty of moral guardianship of society. Apart from the RTL the other most prominent of these was the Festival of Light (with which a number of NSW, and particularly Sydney, Anglican clergy were directly involved, with many others supporting it). Between the two a certain 'division of labour' operated. The more Protestant FOL dealt with a wide range of moral concerns and left the fight against abortion primarily to the RTL.

²³⁸ In contrast, the following day the RTL released the results of the first survey it conducted of election candidates. Of the approximately two-thirds who replied, RTL said seventy percent was opposed to abortion. (*SMH*, 17.5.74: 14) There was no breakdown of the figures by political party, demonstrating the Association's strategy of neither supporting nor opposing any particular party so as not to alienate voters normally partisan to one or another.

take part in any movement to sway public opinion in favour of such a law, *nor may he vote for such a law*. (Vatican Congregation for the Doctrine of the Faith, 1975: 205, my emphasis)

Thus, because laws permitting abortion were intrinsically “unjust”, according to the Vatican it was incumbent on the Church and its members to actively oppose them and politicians who favoured them. The statement was designed to “shatter the complacency of people on abortion”, said Dr T.S. Connolly, Professor of moral theology at St Patrick’s Catholic College. “If a statement by the Church can make them feel uncomfortable then it has been successful”. Furthermore, he stated that the Church would direct Catholics to vote against any political candidate in favour of abortion:

It would make it clear to its adherents that such a man who advocated this should not be voted for. The consciences of people would be alerted to the enormity involved. (quoted in *Aust*, 27.11.74: 7)

Fully in accord, then, with official Vatican policy, at the next NSW State elections Cardinal Freeman directed Catholics to take steps to ascertain the views of their candidates on abortion and, “in the name of the unborn who cannot act for themselves”, to take this into account when casting their votes. To assist Catholics in this, the Archdiocese newspaper published the names and addresses of all candidates for the election, and circulars containing notes for writing letters to candidates expressing opposition to abortion were placed in the porches of all Catholic Churches to assist people to lobby candidates. A *Catholic Weekly* front-page editorial adamantly declared

The time has come for all Catholics to stand up and be publicly counted about abortion in this State. The time has come to stop treading softly. And the time has come for those in the public eye to stop duck-shoving, side-stepping and hair-splitting. It has been claimed, particularly by some sections of the media, that abortion is a dead issue in NSW. We Catholics, 28 percent of the State’s population, must ensure that political leaders plainly get the message that as far as we are concerned it is far from being a dead issue. It must be perfectly clear that we in conscience cannot vote for individual political candidates who favour abortion.... Various figures for the number of abortions performed each year are being quoted. One of the most horrifying claims is that the number of abortions each year equals the number of births. (quoted in *SMH*, 24.4.76: 4)

In an accompanying statement, Cardinal Freeman warned that some people were confidently declaring that abortion on demand was “only a step away”; that while the idea of killing was “socially abhorrent”, many people were trying to put abortion into another category - that of women’s rights - and thereby ignoring the fact that human life begins at conception, and is continuous from that moment until death.

What we have to face up to is the terrible fact that some people, especially young people, are accepting abortion as a normal part of our society. As their numbers increase, inevitably our society will decay. (quoted in *SMH*, 24.4.76: 4)

What these statements indicate is a two-fold and related recognition: the Church’s realisation of the creeping and insidious power of normalisation; and the concomitant urgency of mobilising Catholics as a bloc against it to force politicians to take positive measures to halt and reverse the normalising process. With despair, churchmen acknowledged that they were in contest against a social movement - although they conceptualised it in quite different terms - and looked to the political and judicial systems to (re)impose moral order and forestall moral and sexual anarchy. They saw it as the proper responsibility of the state to uphold ‘universal’ moral precepts and rules, the performance of such a function underpinning the legitimacy of the state. Thus, in letter read from every pulpit in his diocese, the Bishop of Bathurst condemned the (ALP) Federal Government in 1975 over its support for abortion, sexual reform, and the Family Law Bill.²³⁹ Whilst acknowledging that it was not normally proper for a clergyman to preach politics from the pulpit, he said that the situation had changed, in that the politician had “used his forum to legislate about matters of religion, faith and morals”. This was illegitimate, implied the Bishop, because it deviated from God’s law, and furthermore, “in this field he cannot direct you, but I must”. The Bishop said that during the life of the Parliament there

²³⁹ The Family Law Act which came into force in 1976 instituted no-fault divorce. Irretrievable breakdown replaced all others as the only ground for divorce with twelve months separation being deemed to satisfy that condition. On fulfilment of that criterion divorce became virtually automatic on application. Just as importantly, the Act made divorce cheap and accessible to everyone and even removed the need for a lawyer.

had been a number of legislative actions taken which weakened and even destroyed the family, and other attempts to legalise sexual freedoms, both natural and unnatural:²⁴⁰

In such cases the Parliament had sought to befuddle the people by legislating for freedoms which neither the Parliament nor the State has the power to give. The State may abolish the penalty but it cannot make an immoral act a moral one. A politician has no right to enter into the domain of religion - to proclaim a standard of faith or morals. In doing so he exceeds his power and must lose credibility. When Parliament allowed life to be destroyed, when it destroyed the concept of the marriage contract, when it tore down the standards of decency in human behaviour, it has gone far outside its scope of legislation for the common good. (quoted in *SMH*, 9.12.75: 10)

Apart from an awareness of normalisation discernible in Bishop Thomas' statement it is enlightening in a number of other respects. It presents us with a theological justification for clerical interference in the process of government, an action which strikes at the traditional separation between church and state. Intervention in the political process, where it bears on abortion (and other sexual issues), is construed as a religious duty for the clergy, not as an illegitimate incursion. On the contrary, it is the state - through its legislative interference in matters where right or wrong is allegedly determined by universally given moral law - which is seen as having traversed the boundary of its correct field of operation and invaded that which properly belongs only to the church.

Abortion is firmly contextualised by the Bishop as a moral issue because of its sexual connotations. He links it with "sexual freedoms, natural and unnatural", and with the breaking down of the lifelong marriage (sexual) contract. Whereas in one breath, critics of abortion reform were at pains to emphasise the sanctity of life as fundamental to their opposition, in another, its nexus with sex and sexual behaviour and freedoms manifests as a salient, if not sometimes dominant, point of concern. Numerous statements by anti-abortionists - both unorganised individuals (for example, in letters to the editor) and particularly clerics - condemn abortion along with homosexuality, pornography, and the decay of sexual standards generally. This is not to suggest that the argument of foetal right-to-life is merely a smokescreen for their 'real' motivations, but rather that abortion is inescapably steeped in sexual meanings and integrally related to sets of understandings about sex, its functions for individuals and for society, and its morality. It is no accident that pro- and anti-abortionists generally adhere to different and diametrically opposed clusters of values and beliefs relating to sex.²⁴¹ Organised single issue right-to-life groups have tended, however, to deliberately avoid publicly linking abortion to sex in an apparent effort to dispel any impression, which they see as tactically counter-productive, that they are 'wowsers' and anti-sex. It was for this reason too that they began to label themselves 'pro-life' rather than 'anti-abortion' (Gill, 1976: 11). Formally, their entire emphasis is on the issue of foetal life. The claim that abortion is a human rights issue operates not only as a counter to women's rights, but also as a means of divorcing the issue from any apparent preoccupation with sex, a charge frequently made of organisations which set themselves up as 'moral guardians'. NSW FOL, for example, claimed that it was Women's Liberation and not themselves, who had a 'Victorian' attitude towards sex.²⁴²

The period saw Anglican clergy in Sydney and some NSW dioceses attacking abortion almost as vehemently as Catholics. In 1973 Lance Shilton was made Dean of the Sydney Archdiocese (often referred to as "the

²⁴⁰ Apart from the Family Law Act, there had been legislation to grant Social Security benefits to single mothers, a huge expansion of childcare and an Act to provide for equal pay for women (the latter two encouraging women to be independent, and to continue working with children). The Parliament had further eased laws against censorship of sexual material. There had also been, of course, the Lamb/Mackenzie Bill and in 1973 the Parliament passed a motion to repeal laws against homosexuality in the ACT (which was to be implemented in 1976). These are merely a few examples to which the Bishop would have been implicitly referring.

²⁴¹ This is not to say that all individuals in each group respectively hold identical sets of beliefs about sex, etcetera. There is a good deal of diversity within each and different emphases. For example, for some anti-abortionists, sex might be conceptualised within a puritanical, moralistic and punitive framework, whereas others may experience it as 'sacred' and 'transcendent'. Similarly, a pro-abortionist could hold anarchistic or libertarian views on sex and see it as unrelated to either personal or social morals or ethics, whereas another could see it as a matter of individual morality but with its ethics dependent on the avoidance of harm to others.

²⁴² A committee report stated: "Once again, the reproductive system is seen as nasty, evil and utterly unimportant - not because sex is wicked but because the reproductive system is a horrid reminder of the fundamental differences between men and women. The extremists among the Victorians wished they could have reproduction without sex, the extremists among women's libbers would like reproduction without women." (quoted in Gill, 1976: 11)

Baptist wing of the Anglican Communion” [Sadler, 1983: 32]). He came from Adelaide where he had been instrumental in the founding of the Community Standards Organisation (forerunner of the Festival of Light) and became a member of FOL’s Executive Committee in Sydney. Many of those NSW Anglican bishops who took a vigorous and outspoken stand against abortion, and against ‘permissiveness’ in general, came originally from Sydney; individual ministers in the State who were similarly inclined were products of Sydney’s staunchly evangelical Moore Theological College. (Sadler, 1983, 32) The attitude towards abortion typical of the College’s graduates and of clergy in the Sydney Archdiocese is encapsulated in a statement by Shilton:

Unborn children are not merely potential human beings ... they are human beings with potential. They have a right to life. Their right is such that no one - mother, father, doctor or politician - has the prerogative to deny it. (quoted in Gill, 1979: 10)

Shilton frequently and approvingly quoted a statement by Pope Pius XI that abortion was nothing other than “the direct murder of the innocents”. Gill, 1979: 10) On this matter (and in fact on other sexual issues, particularly homosexuality) his position was the same as the hard line Catholic one, reflecting the fundamentalist leanings of the Archdiocese. In this period, then, there is a good deal of agreement between some leaders of the two largest denominations and support for each other’s statements on ‘moral’ issues.

Thus, Anglican Archbishop Marcus Loane, in his presidential address to the Sydney Diocesan Synod, attacked women’s health and crisis centres and berated the NSW (Labor) Government for funding organisations which promoted abortion, promiscuity and lesbianism.²⁴³ He named the Leichhardt and Liverpool Women’s Health Centres as specific examples of organisations whose philosophies and propaganda were calculated “to disturb and destroy the inherited moral standards and values of our nation”. The money should be going to services for the “ordinary woman”, he said, not to groups which advocated “drastic change in normal human relationships ... and the law”, and which aimed to “restructure society ... and promote radical change in social philosophy”. The Archbishop conceded that in a pluralist society any group had the right to promote their views, but insisted that they only had the right to seek government funding “when they are *legitimate*”. (Gill, 1977: 2, my emphasis) ‘Legitimacy’ here would seem to mean adherence to conventional and ‘universal’ moral values and codes of behaviour; thus, in Loane’s view, governments were acting improperly to fund, and therefore sanction, deviations from what were accepted Church norms.

In a sharp retort a Liverpool Centre spokesperson, Margot Moore, replied that as the centres believed that women were oppressed in a male-dominated society they would hardly be likely to encourage them to enter into a “series of exploitative, destructive relationships by promiscuity”. Furthermore, said Moore:

We are totally opposed to Archbishop Loane’s view and those of other community groups who, because of their moral convictions about sexual behaviour, would deny women access to contraception and abortion and force them to have unwanted children.... We make no apology for actively trying to assist women who wish to escape from ... ‘normal family relationships’ which involve mental or physical assaults. We believe it is for each woman to choose her own style of living - be it in a family situation, living alone, or with other women. In practice this means treating women as persons in their own right, capable of making decisions about their own lives and not as pawns on a political chessboard having particular moral, religious or political attitudes forced upon them. (quoted in *SMH*, 6.10.77: 9)

Loane’s attack is a clear expression of an understanding which was taking shape amongst anti-abortionists and which linked the liberalisation of abortion specifically with the advent and activism of the Women’s Movement. Certainly, from the first, women saw abortion freedom as a critical issue and rapidly became the main defenders of the gains made in the early 1970s but, as we have seen, a major part of the battle preceded the inception of organised struggle by women. It is apparent, however, that over time the Women’s Movement came to be perceived as responsible for securing liberalisation. Many feminists themselves, neglecting history, gradually came to share and express this view (see, for example, Ballantyne, 1979: 23). And as far as opponents of abortion were concerned, there was little doubt that ‘women’s libbers’ were to

²⁴³ Loane also criticised the Federal coalition Government which, as a hangover from the Whitlam era, was still supplying funding to such centres. It had, however, just recently cut this back by twenty-five percent but the State government, on the personal instructions of Premier Wran, had increased its contribution to bring total funding up to the original amount.

blame for the calamity; indeed, by the 1980s ‘anti-abortion’, or ‘pro-life’ came to be virtually co-terminous with ‘anti-feminist’. Not only does Loane identify abortion with the Women’s Movement but also sees the latter as promulgating ‘unnatural’ and undesirable forms of sex and sexual relationships. Foreshadowed here is the attack from the moral Right on feminism for its alleged efforts to ‘destroy’ marriage and the family and ‘eliminate’ different roles for men and women. Anti-feminists see women’s defence of abortion as a crucial element to the furtherance of these wider goals: as encouraging pre-marital and undisciplined sexual activity by females and males; as providing a means for men to shirk their responsibilities to women pregnant by them thus undermining the ‘natural’ dependence of women on men both within and outside of marriage; and, by allowing couples to control their reproduction, as promoting women’s independence, ‘forcing’ them to assume an economic role in the family, belittling their childbearing and rearing functions and roles and thereby discouraging in men traditional feelings of obligation towards and protection for women. Further, it supposedly reduces sex to the level of bestial pleasure and diminishes its meaning: if pregnancy can be so easily and carelessly terminated the possibility of conception is robbed of its momentous import and sex of the transcendent quality inherent in it.

As Moore’s rejoinder implied, ‘normal’ marital/sexual relationships and roles only sometimes, or even rarely, conformed to the model idealised by Loane (and by later anti-feminists). Moreover, many women themselves rejected the constraining and oppressive nature of dependence. Hence, feminists saw abortion (and women’s centres and refuges, etcetera) arising from needs created by oppressive marital structures and gender relations. Anti-feminists could not afford, however, to countenance such thinking. Their views of marriage, sexuality and gendered roles - essentially *prescriptive* of the way things ‘should’ be - posed as descriptions of actual normality and of what was being undermined and subverted by the Women’s Movement.

Alternatively, abortion was construed as the product of a wider deterioration in marital and family values. In a radio talk to mark the International Year of the Child Cardinal Freeman stated that the welfare of children (both born and unborn) came down to “sound family life”. Referring apparently to the soaring divorce rate over the 1970s and attributing a causal connection between it and the escalating acceptance of abortion, he called for the “re-establish[ment of] the family as the basic unit of society: save the family and you save the child”, he proclaimed.²⁴⁴ (*SMH*, 29.1.79: 3)

Speaking in 1979, at the end of the decade of liberalisation, Freeman also voiced his abhorrence at the “notorious abortion mentality” permeating Australia, a way of thinking which doomed so many of its children to “slaughter in the womb”. Here, Freeman gave further expression to Church leaders’ dismayed recognition of the creeping institutionalisation and normalisation of abortion. Similarly, at the Episcopal Conference the previous year, the thirty-six Catholic bishops protested against the “ready availability” of abortion in Australia (*Aust*, 28.8.78: 8) and “the steady growth of the abortion mentality among its citizens” (*SMH*, 28.8.78: 9). And when the Royal Commission on Human Relationships released its report in 1977, Cardinal Freeman - appalled by its approach to, and recommendations about, abortion - responded by writing to all priests in his archdiocese calling on them to combat the growing danger that “abortion would become an acceptable part of our society”. He asked them to celebrate mass on the Feast of the Holy Innocents - a date marking the death of all male infants under the orders of King Herod - in atonement for the sins of abortion. (The mass became an annual event thereafter.)²⁴⁵ (*SMH*, 28.12.77: 8)

²⁴⁴ The divorce rate was rising even before introduction of the Family Law Act in 1976. The number jumped from nearly 13,000 in 1971 to almost 25,000 in 1975. It leapt to about 63,000 in 1976 but then fell the next year to hover roughly around 40,000 over the next few years. (Australian Bureau of Statistics, 1984: 32)

²⁴⁵ The Royal Commission on Human relationships was set up by Whitlam partly as a way of dealing with the abortion issue after the failure of the Lamb/Mackenzie Bill but also dealt with contraception, homosexuality and a wide range of issues concerned with women. A major part of the report dealt with abortion and recommended that all legal restrictions on abortion be removed and public hospitals set up clinics along the lines of Preterm to ensure that all women had access to abortion (*RCHR*, V3, *Final Report*, 1977: 252-5). Freeman had little to worry about, at least with the report: Liberal Prime minister Fraser said that a large part of it “filled him with complete horror” and the Government was under no obligation to accept any of it (*CT*, 1.12.77: 1). In fact, the Commission’s report - the most thoroughgoing investigation to date of the matters with which it dealt - sank without trace for all policy or legislative purposes. Its one legacy to the discourse on abortion was its informed estimate of sixty thousand abortions per annum in Australia. This was quoted regularly from then on, particularly by anti-abortionists to highlight the enormity of the number of ‘babies killed each year’.

But the continuing bitter and vocal hostility to abortion by churchmen was increasingly deemed irrelevant by the media and the legitimacy of their political interventions over the issue more and more questionable. Repeatedly, they obviously felt compelled to justify the latter. Hence, during the furore over the Lusher motion Cardinal Freeman delivered a “blast” at secularists who accused the Church of “interfering” in politics and reiterated the claim that the state had a duty to act according to moral law:

The Australian Government has a heavy responsibility before God and man to reinforce and positively promote right morality in the community and to undertake the protection of the unborn. Sweeping claims that morality decisions lie outside its area of competence do not absolve it from its duty nor do world-wide trends provide grounds for it to bow to the ‘inevitable’. (quoted in Gill, 1979: 10)

Significantly, there was no report of this in the news section of the print media, it being confined to the column of the *Herald*’s religious commentator, Alan Gill. On this absence, Gill remarked that “statements by Church leaders on abortion are no longer considered newsworthy by the media”. Nevertheless, “this does not mean that [their] views have mellowed”, he added. (1979: 10) In fact, even during the extraordinary commotion around the Lusher motion the print media carried only the barest of references to any utterances by clergy. Only when the report on Catholic women and abortion was released did the media take any interest and that could only have been a source of deep embarrassment to the Church.

Gill also claimed that despite the outspokenness of clerics such as Freeman and Shilton, others, fearing the familiar taunt that clergyman were “over-preoccupied with sexual matters”, had become shy about raising the abortion question. Their silence did not, however, betoken any manner of acceptance of the practice, he stressed: overwhelmingly, they regarded the foetus at least as a potential human being, even the most “liberal” considering abortion only justifiable under certain narrow circumstances (whereas “conservatives” rejected it outright as murder no matter what).

Yet, a letter responding to Gill’s article from the Moderator of the Uniting Church in Australia, Rev. R.B. Sparkes, shows that there were clergy whose attitude towards women having abortions was very tolerant and compassionate. Sparkes said that whilst he believed that life was God’s gift and deplored any casual attitude to either its creation or wanton destruction, one nevertheless needed to take a responsible attitude to the availability of abortion services. Personally, he said, he had a “very clear mind they should be available for those who require them”: the risks of abuse inherent in easy access to abortion through properly set-up clinics were “to be preferred to the risks associated with illicit ‘backyard’ abortions”. Sparkes pointed out that the Uniting Church had non-moralistic counselling services for people involved in making decisions about abortion and also for those suffering any trauma after the event, something usually not taken into account, he said. (*SMH*, 23.3.79: 6)²⁴⁶

The Uniting Church comprised most former Methodist, Presbyterian and Congregational parishes, denominations which had tended to a more moderate but low-key approach to abortion policy. Presbyterians, whilst essentially opposed to abortion on demand, nonetheless maintained that it was up to the woman and her medical practitioner “to act in good faith”. They took social factors into consideration and conceded that it was preferable to abort a pregnancy than to bring into the world an unwanted child. The Congregational Union was even more liberal, taking the view that abortion should be removed from the Crimes Act and that the woman concerned should be the one to make the decision. They considered it preferable, however, if pregnancy could be avoided by the use of contraception and, in the longer term, more extensive sex education. (Jobson, 1976: 11) But whilst stressing this, their position did not really differ from that of pro-abortionists in general, very few of whom would have advocated abortion as merely an alternative to contraception as a form of birth control. The Anglican Synod of Canberra and Goulbourn had moved a resolution that all abortion laws should be removed from the statute books and that abortion be considered a matter of private consultation between the woman and her doctor. (Downie, 1977: 4) And as early as 1974 Victoria’s Anglican Synod, although rejecting the concept of abortion on demand, had moved to accept

²⁴⁶ Perhaps the latter remark was intended as a subtle reprimand to the Catholic Church. Sparkes’ letter was published only eleven days after the release of the research study showing that Catholic women having had abortions often suffered considerable feelings of guilt and spiritual torment. This was itself followed by some discussion of the Church’s punitive attitude towards and the lack of spiritual aid offered women after abortion. (see Gill, 1979: 10; *CT*, 12.3.79: 9)

abortion and to recommend that the law be changed to allow it in cases where the woman's health was at risk, where rape or incest was involved and in circumstances of socio-economic hardship. (*SMH*, 9.10.74: 15)

Thus, church policies on abortion spanned virtually the whole spectrum, from the Catholic 'no abortion is justified' (the right-to-life) position, to what amounted, in essence, to an abortion on demand stand (although, presumably, Congregationalists would not have specifically labelled their policy as such). Perhaps the degree of liberalism is not as surprising as it first appears: it had been, after all, a Presbyterian minister, Roberts-Thompson, who was one of the earliest proponents of abortion reform. In fact, in the late 1960s, newspaper reports gave an impression of a greater degree of diversity amongst clergy in attitudes to abortion than they did in the 1970s, by which time Catholic dogmatism dominated, echoed by its somewhat less vocal but nonetheless similarly anti-abortionist fellow-traveller, the Sydney Anglican Archdiocese. An observer unfamiliar with the policies of most of the Protestant churches (and certain variations between States and dioceses) could be forgiven for assuming that all the churches in Australia were conservative and totally opposed to abortion. Basically, once the smaller Protestant denominations clarified their positions there was no further mention of them in the print media. Only when there were divisions and articulated disagreements within a Church, or when prominent clerics were outspoken on the issue, was there anything for the media to report or comment on.

The Catholic women and abortion report did prompt a certain amount of reflection by at least some leaders in the Church on the effects on women of its doctrine and the way it was presented. Their reaction to its results, which Gill says sent a "shockwave" through the Church, was subdued and was accompanied by a recognition that the emphasis on the sinfulness of abortion ignored the actual difficulties and anguish of women with an unwanted pregnancy. A lecturer at St Patrick's College concluded an article in the *Catholic Weekly* by admitting that "something is obviously quite wrong" when a woman, despite knowing that abortion was sinful and wrong, feels that she has no other choice. (Gill, 1979: 10)²⁴⁷ There was agreement that the Church needed to provide caring organisations for a woman contemplating abortion to turn to so she could be shown that there were alternatives; and further, that the Church needed to put in place counselling services for post-abortion women in which the emphasis was on forgiveness.²⁴⁸

Whilst the report may have engendered a new compassion on the part of clergy, no doubt more pragmatic considerations were also present. The official face of the Church was stern and punitive towards abortion, a position which must have provoked guilt, alienation and/or anger in many practising women who had aborted unwanted pregnancies. For them, the petition repeated each week at Mass - "We pray that the sacredness of human life may be everywhere respected and that the slaughter of the unborn may cease" - must have been a continuing source of unease. Faced by declining attendances, Church leaders must have been concerned that such women would withdraw from religious practice.

Thus, the following year, the Bishops Conference issued a statement emphasising the Church's compassion and understanding for the pregnant women. The Church would be straying from the "spirit of Christ if [it] were judgemental, censorious or harsh", it said, or "if [it] simply proclaimed the rights of the child and ignored the pressures on the mother". (quoted in Bolton, 1980: 1) The statement also announced the building up of "professional and dedicated" pregnancy-help services to help women "through pregnancy and birth and

²⁴⁷ There was no inference here that what was "obviously quite wrong" might be any aspect of Church doctrine. Rather, it was an admission that the Church's reliance on emphasising the sinfulness of abortion was an inadequate deterrent and that more positive measures were necessary.

²⁴⁸ When the report came out, Pregnancy Help, the RTL agency which counselled women to continue their unwanted pregnancies and offered support, said that whilst the Catholic Church should set up a ministry of priests specialised in reintegrating women into the Church after an abortion, there was no need for it to have a special counselling unit as Pregnancy Help could fulfil this need. It said that it was specialised in dealing with the grief, anger, and pain that some women consciously felt after abortion. Other women, it said, blocked out their guilt and anguish only for it to re-emerge later with long-term consequences. (Williams, 1979: 1) Apart from expressing its desire to act as the post-abortion counselling facility for the Church (which would have involved referrals and perhaps funding) what is apparent here is the assumption that every woman suffers guilt, pain and anguish from an abortion and if that is not apparent to her at the time, this is merely because it is suppressed. In its statement, Pregnancy Help was indicating that its counselling could 'help' women to unearth and go through the guilt and pain they *must* be experiencing at some level or another. (By definition of having killed their child? Because of their maternal instinct?)

beyond”. (Bolton, 1980: 1) More significant, though, was a declaration that there was forgiveness for women who did have abortions and everlasting life for the aborted baby:

Abortion denies it the decades of normal conscious development on earth, but it does not blot it out of existence.... [T]hese little ones go to be cradled in the everlasting arms of a loving God. And we are not forbidden to hope that they may spend eternity with their parents who, if they have repented and received God’s ready forgiveness, will be free to love them forever. (quoted in Gill, 1980: 7)

With this statement the Bishops, “doctrinally, might be said to [have been] breaking new ground” in that they were abandoning the doctrine (which dated back to St Thomas Aquinas and St Augustine) that the souls of unbaptised babies cannot enter the Kingdom of God but remain forever in Limbo.²⁴⁹ (Gill, 1980: 7) Previously, Catholic women who resorted to abortion would have lived with the ‘knowledge’ that in so doing they had barred the souls of their unborn babies from ever entering heaven, an awesome burden of guilt for a believer to carry. In abandoning the doctrine of Limbo - and in doing so explicitly in the case of the souls of those aborted - the Bishops were extending spiritual comfort and relief to those many troubled women.

This was a remarkable advance spiritually. But in the rest of their announcement - “one of their most strongly worded statements issued against abortion” (Bolton, 1980: 3) - the bishops adhered resolutely to their traditional stand of categorical denunciation. Somewhat ironically, this particularly sharp attack appears at the very close of the era when clerical pronouncements had news value and stands as a final and concerted protest against normalisation: “A sour and negative philosophy is trying to propagate the attitude that pregnancy is simply a nuisance and parenthood nothing but a burden”, lamented the bishops. Comparing the 3,500 deaths caused annually by road accidents to the total of 60,000 abortions performed each year they concluded that “statistically, the most dangerous place for an Australian in 1980 is a mother’s womb”, deliberately inferring that the status of the foetus was no different from that of any other human being. More explicitly, they claimed that:

Every human being has an inviolable right to life...: born or unborn: every human life is sacred. The directly intended killing of any innocent human being whatsoever is always wrong: nothing can ever justify it.... Unborn children should be fully protected by the law. (quoted in Bolton, 1980: 1)

Here, the bishops were pre-supposing that the foetus is a human being - not just, as moderate clerics expressed it, a *potential* human being - and on this basis they declared abortion to be “the *greatest human rights issue* confronting our society at the start of the 1980s” (quoted in Gill, 1980: 7, my emphasis). Gill described this as “a clever tactical move” on the part of the bishops: shifting the discursive frame of reference onto the same ground as the Women’s Movement, which justified abortion by appeal to women’s right to control their own bodies, “throws the ball in the court of the opposition”. From conceptualising and articulating the issue in terms of a foetal right-to-life they had moved discursively to the much more powerful ideological terrain of *human rights*. Over time, then, there was a subtle shift in accent in the discourse of the Catholic Church on abortion from, on the one hand, sexual immorality and sin and on the other, foetal rights, to a focus on *human rights*.

This mirrored a change in anti-abortion discourse generally, except that organised resistance groups, from their inception, always avoided reference to immorality in terms of sexuality; rather, they maintained that the wrongfulness involved in abortion was in the act of foetal murder. Nevertheless, critics have claimed that their proclaimed emphasis on the foetus is a tactical veil masking their more basic concern with sexual immorality and a device which they believe will have more political currency. Hence, it is pointed out, right-to-lifers have shown no interest in encouraging more extensive and careful use of contraception as a way of reducing the toll of abortion.

Is it because most of its members are constrained by religious and moral scruples (so lacking in their tactics) [that they eschew advocacy of contraception]? Is their view that sexual relations are legitimate only within marriage, preferably with the intention of procreation, and that involuntary pregnancy is the penalty for sin or lack of restraint? If so, then it is understandable why the Right to Lifers prefer to campaign for changes to the civil and criminal law under the trendy and somewhat deceptive banner of

²⁴⁹ Whilst this doctrine did not derive from any Papal *ex cathedra* pronouncement and was therefore, in fact, not an absolute article of faith for Catholics, it would have been learnt by them through the catechism and presumed to be immutable truth.

human rights rather than to exhort their fellow citizens to return to a moral code that is no longer fashionable. (Forell, 1980: 8, my emphasis)

Certainly, the organisational linkages and personal interactions between RTL and moral missionary groups such as FOL - which belie the formal demarcation in concerns - would lend support to this contention.

Nineteen seventy-eight marked the last intervention in electoral politics by the churches and the last time that abortion and 'moral' issues were important elements in an election in Australia. Thereafter, anti-abortionists concentrated on targeting particular candidates. A week before the NSW election the front pages of newspapers announced that Cardinal Freeman, supported by Dean Shilton and some other church leaders, had called on the State's political leaders to disclose their attitudes on a number of 'moral' issues.²⁵⁰ A recent report by the Anti-Discrimination Board, set up by the Wran Government, had recommended that *de facto* relationships be given the same legal status as marriage, that homosexuality and homosexual unions be legalised and that statute law on abortion be repealed. When it was released Premier Wran had said that the Government would allow six months for public discussion of the proposals before deciding what action to take. Freeman identified these three issues as being "at the forefront of matters to be resolved in the life of the next Parliament". He demanded that all party leaders state their intentions regarding the recommendations as they raised "basic questions about the direction in which our community is heading". There could be no mandate on these issues, he claimed, without each party disclosing its intentions. In his press statement, Freeman placed particular emphasis on abortion:

Many of the current proposals being considered on these issues are completely unacceptable to all who regard the family as the basic unit of society and who reject as abhorrent the killing of the unborn for social reasons. The legitimate claims for freedom from discrimination have to be measured against the loss of freedom of choice in other areas. The protection of the unborn is proclaimed by our laws. We look to our leaders to proclaim what steps the next Parliament will take either administratively or by legislation to guarantee that protection and to see that the causes of abortion are relieved. (quoted in *SMH*, 30.9.78: 1)

Here Freeman was asking party leaders to either tighten the statute on abortion and/or to ensure that the law as it presently stood was enforced. Opposition leaders were quick to reply that they had no intention of acting on the recommendations on *de facto* relationships or homosexuality and that the present abortion law, "a good law" as one called it, would be enforced under a Liberal-Country Party Government.

Freeman's statement had the instant effect of pitchforking 'moral' issues, and the Wran Government's stance on them, centre stage in the last week of the campaign. It was reported that immediately after Freeman raised the issue, the Liberal Party was "gearing up to force the morals question out" as a critical election factor. It rushed out a new pamphlet containing the views of churchmen and an extract from the *Catholic Weekly* which said that whereas the coalition leaders had made their views plain, Mr Wran had failed to do so. On television the Opposition Leader stressed that several days later Wran had still not replied to the Cardinal's call, but said he himself was "keen and willing" to take part in a televised debate on moral issues as suggested by a leading Methodist clergyman. (*SMH*, 2.10.78: 1) Other prominent clergy organised a public meeting at the Lyceum Theatre at which Dean Shilton listed ten questions which electors should ask of candidates before deciding their vote.²⁵¹ The Family Action Movement - the political arm of FOL - denounced both the

²⁵⁰ He also expressed concern about a proposal by the Wran Government to set up a Schools Commission which would make certain decisions regarding government *and* non-government schools without representation from the latter sector.

²⁵¹ The questions were:

1. Does the candidate profess belief in God?
 2. Does he [sic] attend church regularly and do his children attend Sunday School?
 3. Does he drink heavily and is he in favour of Sunday liquor trade?
 4. Does he want gambling facilities extended?
 5. Does he want the use of marihuana legalised?
 6. Does he favour abortion on demand?
 7. Does he take a firm stand against pornography?
 8. What is his attitude to the proposals in the anti-discrimination report on the status of de-facto relationships?
 9. What is his attitude to the legalisation of homosexual acts?
 10. What is his attitude to the legalisation of brothels?
- (quoted in *SMH*, 2.10.78: 1).

Government and the Opposition as untrustworthy on moral issues because neither had effectively protected the family. (SMH, 3.10.78: 1)

Four days after Freeman's call Wran responded. The Government would disregard the Anti-Discrimination Board's recommendations on legalising *de facto* relationships and homosexual unions and it would not change the law on abortion, he declared. Legalising homosexuality had never been contemplated and it wasn't Labor Party policy, he insisted, and in any matter concerned with abortion all ALP members had a conscience vote. This statement was seen as a definite retreat from the more positive approach adopted by Wran at the time of the report's release. Various groups such as the NSW Council for Civil Liberties, Gay Solidarity and WAAC condemned him for caving in to the churches and the Liberal Party. In fact, his alleged back down was more apparent than real. Prior to the commotion about it, Wran, himself a Queen's Council, had publicly speculated about the vexed legal problems involved in any attempt to legalise *de facto* relationships. Also, he would have been well aware that he would not have won caucus support for homosexual law reform, a cause which he in fact supported.²⁵² In regard to abortion, he could do no more than articulate Party policy. But his insistence that the law would not change was actually ambiguous. Whilst the Church leaders were reassured that the statute would not be reformed it could also be read as flagging a continuation of the *status quo*: in effect, a situation of abortion on demand.

The State Ward Case

In 1982 that *status quo* came under serious threat. In a cabinet reshuffle the previous year Wran had appointed Kevin Stewart, a Roman Catholic well known for his anti-abortion views, as Minister of Youth and Community Services. The portfolio gave Stewart legal guardianship of all State wards. The previous minister, Rex Jackson, had made it his practice to approve abortions for wards when (apparently as a formality) they were recommended on medical or health grounds. (Bossi, 1981: 2) On several occasions when Stewart had been acting for Jackson, he had refused his permission, introducing a no-abortion policy even during those temporary and limited terms of office.²⁵³ (Casey, 1982a: 1) His appointment as Minister alarmed pro-abortionists. To test his position the Union of Australian Women wrote to him requesting that he state the Department's policy. In a personal reply, Stewart wrote that whilst he would consult with the relevant officers and authorities, in all cases he would exercise his own judgement but, he stated, "I do not expect that the circumstances would arise where I would approve a request for a termination of pregnancy". (quoted in McCarthy, 1982: 5)

Several months later such a request was made. It concerned an abortion for a fifteen-year old intellectually and emotionally disabled State ward and was supported by a Departmental and a private medical practitioner, a private psychiatrist and the superintendent of the girl's residential institution. The girl's mother also supported her daughter's desire for a termination, partly because she herself had borne two spinabifida babies, and because she said the girl couldn't look after herself, let alone a baby. (Wilkinson, 1982: 5) Stewart refused to allow the twelve-week pregnant girl an abortion, and the mother sought the help of the Marrickville Legal Centre. Feminist lawyers at the Centre applied to the Supreme Court for an order ruling that the Minister's consent was not required and the girl be permitted an abortion. (Dare, 1982: 16) When Wran became aware of Stewart's refusal he urged him to revoke the decision. He was reported as "having a terrible row with him" but the Minister, "leader of the Catholic-Right group in Cabinet, and no friend or supporter of Mr Wran", instructed the Crown Solicitor's Office to brief counsel and fight the Supreme Court application. (Halpin, 1982: 9)

At the time it was generally assumed by political commentators that Wran's resignation was imminent and that he intended to shift to federal politics. There was a strong likelihood that Stewart and his Catholic-Right

²⁵² Whilst Wran was Premier three attempts to reform the law on homosexuality were made. The first, a private member's bill introduced in 1981 by George Petersen, was unsuccessful, as was another in 1982. In 1984 reform legislation was finally passed. Ironically it emanated from, and was pushed through, the Upper House by the determined efforts of Barrie Unsworth, a Catholic who, as Secretary of the Labor Council, had so vehemently opposed abortion reform as union policy. Wran, a very astute politician, would have known that it was pointless to pursue the issue in 1978.

²⁵³ On one such occasion, when Jackson was overseas for a month, Departmental officers had intercepted him at an airport to obtain his signature for a ward's abortion in order to overrule Stewart. (Casey, 1982a: 1)

faction would win a consequent battle for succession and take “total control of the Government”. (Wilkinson, 1982: 5) If this were to happen some Labor MPs and ministers feared that a dramatic tightening of the abortion law “would have priority in the legislative pipeline”. (Halpin, 1982: 9)

But a more immediate consideration was sending “shock waves through the Government” (Wilkinson, 1982: 5). If Stewart won - as seemed likely because there was a high court precedent which ruled that the court could not interfere with the actions of a minister in relation to his or her power to make decisions about State wards (Chisholm, 1982: 142) - the decision could overrule the Levine judgement and thus remove the entire justification for the availability of abortion in NSW. This would put enormous pressure on the Government to legislate for reform, something which Wran had consistently resisted doing despite pressure from women’s organisations to whose concerns he had shown himself to be favourably disposed. The balance in caucus between ‘liberals’ and ‘conservatives’ on abortion had not altered sufficiently for a reform bill to get the necessary support. Furthermore, Wran and other liberals in Government had always been concerned that the “Catholic old-guard” would have turned around any attempt at reform to impose much tighter restrictions than existed under the Levine ruling.²⁵⁴ (Wilkinson, 1982: 5) Stewart’s challenge brought all of these matters to a head. An adverse decision would have made it very difficult for Wran not to act. Quite apart from the implications for the availability of abortion, failure to do so would have amounted to a public victory for the anti-Wran Catholic faction in caucus at a time when there was a jockeying for power anyway.²⁵⁵ Conversely, an attempt to push through reform would have opened up bitter divisions in the Party as well as giving the Government’s opponents an opportunity to dredge up the perennial accusation of Labor disunity.

As a measure of how seriously liberal MPs and ministers regarded Stewart’s actions, the Attorney-General, Frank Walker, was preparing to join with the Marrickville Centre in support of its application. This would have provided the extraordinary situation of the Solicitor-General, acting on behalf of the Attorney-General, fighting another Cabinet minister in the court. When Stewart heard of this he went to Wran to complain that Walker was trying to undermine him and that as the Party had no policy on abortion, he had no right to interfere. Shortly after, Wran called Stewart, Walker, and the Deputy Premier to his office. After a “bitter confrontation”, Stewart gave his assurance that he would not use the case to challenge Levine’s ruling, and Walker agreed then not to become a party to the case. (Steketee, 1982: 2) The potentially disastrous consequences of the case were thereby averted and it became then simply a test of the power of the Minister of Youth and Community over State wards.

The case aroused a good deal of public attention. A pro-life Q.C., acting on behalf of the RTL, made application to the court to appear on behalf of the unborn child, but was refused permission by the presiding judge, Justice Helsham. (*SMH*, 17.4.82: 7) A rally of one thousand people organised by the RTL was held in Hyde Park to express support for Stewart. It was addressed by the Rev Fred Nile, leader of FOL and, since the 1980 election, a member of the State Upper House. He urged people to write to Stewart expressing their support, and told the crowd that the case showed that “abortion is not a dead issue”. Triumphantly, and probably in anticipation of an anti-abortion victory in the courts, he declared:

The radical women’s movement thought they had won the day... I am not attacking the women’s movement - I love women! (quoted in *SMH*, 19.4.82: 2)

Nile was assuring pro-lifers that with perseverance, the process of normalisation could be turned-around. Also addressing the rally was Dean Shilton:

If Jesus had been born in the twentieth century, he probably would have been aborted.... Abortion is to destroy not what is the woman’s, but what is God’s. (quoted in *SMH*, 19.4.82: 2)

²⁵⁴ This suggests that those activists who had continued to press for legal reform, and even saw Wran as ‘ducking’ the issue, failed to understand the internal politics of the NSW Labor Party, nor to appreciate that any such attempt could have an outcome the very opposite of what they wanted. Nevertheless, continued pressure on the Government presumably served as a reminder of how important the issue of abortion was to women.

²⁵⁵ In the event, Wran did not move to federal politics. Presumably, once Bob Hawke won leadership of the Federal Parliamentary Party and then the next election at the end of 1982, it would have been clear to Wran that he could not aspire to the Prime Ministership, the position it was assumed he had in mind when he was considering the move.

After the rally, the crowd marched through the city streets to Parliament House. They were met by a small group of pro-choice protesters, who they surrounded and jostled. The pro-abortionists carried posters saying, "Save a baby ... kill a mother", and accused Nile of using a State ward to gain political kudos. They said that right-to-lifers were inconsistent because they opposed sex education and contraception. (*SMH*, 19.4.82: 2)

In a surprising and "ingenious" decision, Justice Helsham ruled that the girl be allowed an abortion. Firstly, he satisfied himself that her particular situation and the medical evidence fulfilled the requirements of Levine's ruling. More difficult was the matter of whether the court had the power to intervene in a decision of a minister regarding a State ward in his or her care. Helsham ruled that the High Court precedent²⁵⁶ made it clear that the court had no jurisdiction when the power of the minister was specifically enshrined in statute (such as custody cases) but, in a clever move, he ruled that the precedent did not apply when it came to decisions of the minister acting in his or her capacity as guardian. He found that the minister was no more above the court than any other parent, and had an obligation to act in the best interests of the child. In any parent-child relationship the court could intervene to protect the child's welfare, and in this case the weight of medical and other informed advice made it clear that an abortion was in her best interests. (Slee, 1982: 2) According to Chisholm (1982:142), the Minister might well have won on appeal, but it was fruitless to pursue the matter as the judge had given permission for the abortion to be performed immediately, and legal counsel advised Stewart to accept the decision (Casey, 1982a: 1).

Pro-lifers were disappointed, if not furious, at the decision. Patrick Darcy of the Brothers of the Mother of God issued a statement accusing Judge Helsham and Stewart (because he didn't appeal) of being accessories to felony under the sections of the Crimes Act covering abortion, and demanded that the Minister resign. (Chisholm, 1982: 141) The NSW Branch of the RTL immediately made application to the Court of Appeal to make the unborn child a party in proceedings for leave to appeal against Helsham's order, and also sought an urgent injunction to prevent the abortion being carried out. (Slee, 1982: 2) The Chief Justice and two other judges dismissed the application. The Association then went to the High Court asking it to clarify the legal status of an unborn child, and requesting leave to appeal against the Supreme Court decision. The Q.C. acting for the RTL argued that although the abortion had taken place there was a need for the court to lay down principles, because a similar situation would undoubtedly recur. He said that the High Court was the only appellate court in the common law world which had not addressed itself to the issue of the legal status of the unborn child. For several technical reasons (unrelated to the specifics of abortion) the Court dismissed the application. (Blunden, 1982: 7)

A spokesperson for the Catholic Church declared that Helsham's decision could not be justified. He said that the circumstances of the case showed that the Minister had acted reasonably,²⁵⁷ and accusations that his judgement was influenced by the fact that he was a Catholic and publicly known to oppose abortion were unwarranted. (Casey, 1982a: 1) In all, the decision was a double blow for pro-lifers: it not only permitted an abortion; it also overruled the absolute right of guardians/parents to decide such matters regarding a child. To those on the moral Right, the latter constituted state interference in the private realm of the family and an attack on the authority of parents. Conversely, the decision was hailed as a victory for children's rights (Jopson, 1982: 15), for commonsense (*SMH*, Editorial, 20.4.82: 6) and for the pro-abortion cause.

Stewart didn't take his defeat kindly. He said if a similar situation arose again he would act just as he had "done in the past" and added:

People [conservationists] have been talking a lot about [the slaughter of] baby seals lately. I am just as concerned about baby humans.... She [the State ward] is slow, but otherwise a very normal girl. I would hope that some day she will fall in love and have babies. (quoted in Casey, 1982b: 16)

He set about relentlessly to 'de-liberalise' his Department, removing from positions of influence and policy-making the more progressive people there, along with senior officers who had been involved in trying to get

²⁵⁶ See Chisholm (1982: 141-2) for details of the High Court case in question and how Helsham interpreted it to allow for the girl's abortion.

²⁵⁷ He was referring to what he called "conflicting medical evidence". One obstetrician, appointed by the Department, said that as the girl was several days more than twelve weeks pregnant an abortion could be more dangerous than continuation of the pregnancy.

the girl an abortion. (Williams, 1982a: 6) The main ‘offender’ was sent on leave for two months and then forcefully seconded to another Department. (Williams, 1982b: 2) At the same time he brought back to prominence the ‘old guard’ of conservative officers, including many Catholics, who had been previously pushed sideways by the ascendancy of progressives under the previous minister. (Williams, 1982a: 6) In an obvious attempt to prevent a repetition of the girl’s case, he issued a directive instructing officers to notify Regional Directors (which in effect meant himself) immediately of any State ward’s pregnancy, before taking any other action. Prior to receiving instructions from the Regional Director as to the course of action to be taken, neither the girl’s natural parents were to be informed, nor any medical practitioners or psychiatrists were to be consulted. The Council of Civil Liberties condemned the move, claiming that it was designed to steer pregnant wards to medical practitioners of the Department’s choice (and presumably ones opposed to abortion) and to keep parents “in the dark” so they would have no say in whether their daughter should have an abortion. (DT, 2.8.82: 7) Eventually, Wran got rid of Stewart by offering him the position of NSW Agent-General in London, and liberal Frank Walker became Minister for Youth and Community Services.

One crucial factor about the State ward case was the weight of evidence required by Helsham to agree that the girl’s situation did indeed fall under the criteria laid down by Levine as justifying abortion. The same emphasis was apparent in the Skinner, Smart and Liverpool Women’s Health Centre cases and further supports the contention that the vast majority of abortions in NSW do not meet these conditions and, consequently, are theoretically illegal. The continued attempts by some women’s groups to press for legislative reform indicate an awareness that the structure of *de facto* abortion on demand stood on shaky legal ground. They feared that the judgement, being only a District Court one, could be so easily overturned by a higher Court, the danger which arose with the State ward case.²⁵⁸ While an assumption of legality is an element of normalisation, then, key actors ‘know’ that the edifice of abortion freedom is potentially very vulnerable. To anti-abortionists it was also apparent as shown by statements emanating from Catholic clergy from time-to-time, and from the Opposition Leader in the 1978 election, claiming that the law on abortion was not being enforced.

The Claim to ‘Father’s’ Rights

In one other case an attempt was made to prevent a particular abortion. It ended with a High Court decision that forestalled any further actions of the kind. Quite apart from their absolute aversion to abortion, it has always outraged anti-abortionists that a girl could have an abortion without the permission, or indeed even the knowledge, of her parents, or a woman without that of her husband or the ‘father’ of the ‘child’. A British High Court decision of 1978 which refused the right of a man to prevent his estranged wife’s abortion brought forth a barrage of condemnation in Australia from the Catholic Church, the Council of Churches, the RTLA and FOL (SMH, 26.5.78: 9) and prompted a discussion of the pertinent legal questions in *The Australian Law Journal* (“The right of the father to prevent an abortion”). The issue of whether or not the man in question should have rights was canvassed in length in a number of articles, for example, one in the *National Times* (Lewis, 1982) and, given that it has always been a salient issue in the American abortion debate, it seemed only a matter of time before it surfaced in Australia.

In March, 1983 a ‘potential father’, David Kerr, was granted a temporary injunction by the Brisbane Supreme Court preventing a woman from aborting her pregnancy.²⁵⁹ The couple were unmarried and in fact, had only had intercourse together once but (as she lived in the country) she had approached him for two hundred and fifty dollars so she could go to Brisbane for an abortion. He had told her he had strong views against abortion and offered to keep her until the baby was born, when it could be adopted. (SMH, 24.3.83: 2) When she refused, he began proceedings on the grounds that she intended to commit a criminal offence by having an

²⁵⁸ Leone Miller, one of the solicitors from the Marrickville Legal Centre involved in the case, told me in 1986 that they wanted the case to test the Levine judgement as they were confident of winning. If Helsham had specifically upheld Levine, the availability of abortion would have been much more secure, being established then by a Supreme Court ruling. It was Wran’s fear of the consequences of an adverse finding that averted this.

²⁵⁹ We have no terms other than father and mother for the people who have been partners to a conception. To say ‘mother’ or ‘father’ when referring to a pregnancy implies that there is indeed a child, exactly what pro-lifers claim. The language has not as yet evolved terminology which takes account of abortion.

abortion, forbidden under Queensland law except to save the life of the mother. At the first hearing Kerr's application for an order to restrain the woman from having an abortion was dismissed but the injunction was extended. Immediately, he appealed and was joined in the action by the Queensland Attorney-General, an expression of the Queensland Government's anti-abortion sensibilities. The case was heard by the Full Court of Queensland and after a hearing which took only two- and one-half hours - during which the Deputy Chief Justice remarked that the proceedings were "an utter futility" - the appeal was dismissed. The Court said that what was being asked of it was to issue an order forbidding the commission of a crime. But such an order was already written into the law itself. The Court could hardly "tie up or confine [her] somewhere - lock [her] up", if she were determined to have an abortion. If she did, then in the normal course of the law she would be charged and brought before the Court. (*SMH*, 30.3.83: 2)

Nevertheless, the Court further extended the injunction to allow appeal to the High Court of Australia where it was also rejected. In so doing, the Chief Justice made a strong statement about privacy and the limits of the law:

There are limits to the extent to which the law should intrude upon personal liberty and personal privacy in the pursuit of moral or religious aims. These limits would be overstepped if an injunction were to be granted in the present case. (quoted in *SMH*, 31.3.83: 3)

Moreover, to grant an injunction was to act on a presumption of guilt prior to any offence and to anticipate the findings of a jury, the proper arbiter of criminality. It was quite unreasonable to assume that a jury would convict her, said the Chief Justice, and in the meantime to interfere with her liberty. (*SMH*, 31.3.83: 3) The Court also found that the unborn child is not included in the subjects of the Crown who come under its protection nor that the 'father' had a right in law to prevent the woman from obtaining an abortion. (McVey, 1983: 39)

The judgement, by the sovereign court in the land, effectively forestalled any further attempts to claim a paternal right of intervention in a woman's abortion decision, at least when the parties aren't married. It may remain to be seen if the ruling applies also in the case of a married couple.

"They Vote to Kill"

By the late 1970s it must have been apparent to the RTL that, despite all their efforts, the decade had been disastrous for their cause. Margaret Tighe could still only point to the ACT ordinance prohibiting abortion clinics as the movement's "greatest victory" - little indeed to show for her own twelve years pro-life activism.²⁶⁰ Rather than this history of failure and frustration quelling her determination, it seems to have heightened it and convinced her of the need for a change in tactics. The failure of the Lusher motion provoked her to single out those politicians to whom she attributed the failure and throw all the energies of the Victorian RTL (and later RTLA) into concerted campaigns directed at their electoral defeat. The purpose here was twofold: to avenge the defeat and to intimidate pro-abortion politicians. RTL had been active in election campaigns for several years but its efforts had been much more low-key, and concentrated on a 'positive' role of supporting pro-life candidates. Its leaders emphasised that they saw the function of the Association as primarily one of educating the public about the reality of abortion. Their efforts to influence MPs had been concentrated more on lobbying them forcefully whenever an unborn life matter was before Parliament, flooding them with mail, and determinedly seeking personal interviews to both evaluate their views and to convince them of the importance of the issue. In contrast, Tighe's stated intention was to refine election targeting to a sharply honed political weapon to "elect ... pro-life legislators while disqualifying from office those who can properly be judged anti-life". (quoted in Grattan, 1980: 13) She was reported as being particularly impressed by one speaker at a convention she attended during one of her many trips to the USA who told delegates: "The only way you people are going to achieve your goals is through the use of the ballot box or through violence." (quoted in Grattan, 1980: 13). In one interview she told a journalist:

²⁶⁰ Tighe had been deeply involved in anti-abortion activities since 1968 and there is no doubt that she is a woman of considerable energy and resilience. She is qualified as a pharmacist and has a family of four children and has been reported as spending some forty hours each week on her political activities.

You can't go into abortion clinics with machineguns shouting at people to stop killing babies. So you must use the democratic process. (quoted in Veltman, 1982: 13)

Veltman - writing after the electoral defeat of Barry Simon (1982: 13) - said that Tighe observed with satisfaction that politicians were afraid of the Right to Life movement in Australia. "The reason for this fear is clear:" she continued, "Mrs Tighe and her organisation use votes the way political terrorists use guns. They vote to kill."

Immediately prior to the Lusher debate, the Victorian Premier, Mr Hamer, wrote to all Victorian Liberal members of the House of Representatives urging them to vote against the motion on the grounds that abortion was a State matter. (*SMH*, 21.3.79: 1) Whether this had any effect on the outcome is dubious but as far as Tighe was concerned Hamer had confirmed the RTL's suspicions about him. "We always knew Mr Hamer was in favour of abortion on demand", she said, and vowed that his opposition to the motion would be an election issue six weeks later when Victorians were due to go to the polls. (*Age*, 24.3.79: 1) The Association sent questionnaires to all candidates, rated sitting candidates on these and their past performance and interviewed as many others as would agree to it. Interviews were carried out by several pro-lifers in the candidate's own electorate plus a senior member of the organisation. The ratings were then advertised in the press and used to devise pro-life 'how to vote' cards for each electorate and pamphlets for letter-boxing.

The use of these methods certainly had an effect on politicians. Grattan (1980: 13) said that "members often feel trapped and harangued on an issue they believe should be for their own consciences". RTLA was accused of "rough" and "scurrilous and intimidatory tactics" (Hewett, 1980g: 2), of misusing "democratic means to achieve an undemocratic end" and of being unfair and dishonest "zealots" (Forell, 1980: 8). Tighe dismissed such criticisms as "idealistic" and retorted that it was abortion which was "repulsive". "It is the epitome of violence", she declared. (quoted in Veltman, 1982: 13) She maintained that all candidates for office had a duty to disclose their views on a wide range of issues and because abortion was "a civil rights issue ... electors have a right to know these views". (quoted in Grattan, 1980: 13). One Melbourne Age journalist commented that "perhaps because the ethics are so questionable, the Right to Life group now presents abortion as an issue, not of morality, but of human rights" (Forell, 1980: 8).

In the 1980 Federal election the primary target of RTLA's wrath was Barry Simon who, by then, had thwarted pro-lifers twice. Simon would have had to suffer a swing of 4.9 percent for him to be unseated: not a safe seat but not dangerously marginal. Other anti-life candidates in marginal seats were also being targeted while strong pro-life candidates whose opponents had low or indifferent ratings were supported.²⁶¹ Nonetheless, Simon was undoubtedly the major focus of the RTLA's efforts. Its newsletter quoted an unnamed Government backbencher (Martyr?) as saying "It doesn't matter what you do elsewhere but you must defeat Barry Simon if you want people to take notice of you in the future". (Grattan, 1980: 13) The organisation spent twenty thousand dollars alone on the Simon campaign and another sixty thousand dollars was distributed amongst other electorates. (Cater, 1980: 17) This money, Tighe insisted, was donated by the public. She claimed that they could influence five percent of formerly pro-Simon voters in his electorate - enough to unseat him - and send a strong signal to other MPs about the dangers of taking a pro-abortion stance. About ten percent of politicians had very firm convictions against abortion, Tighe estimated, and about the same proportion was firmly in support of it; the rest, she said "were up for grabs". (Hewett, 1980C: 10) Simon's defeat would deliver a salutary warning to those in marginal seats: if they didn't want to die a political death over a principle to which they were not firmly committed anyway, they should support pro-life measures.

To make matters worse for Simon, the RTLA publicised the fact that on many occasions the Prime Minister, Malcom Fraser, "probably the staunchest pro-life campaigner in the Federal Parliament", had written to the Association assuring its members of his complete support for their cause. It was considered that Fraser's letters could well provide the RTLA with any extra ammunition it needed to seal Simon's fate. (Lynch, 1980: 8)

²⁶¹ In all this involved eight Victorian seats (RTLA being based there), two in Tasmania and one in Queensland.

In an attempt to counter harassment of candidates by the RTLA, WAAC surveyed election candidates on their views on abortion, and claimed that seventy-six percent supported abortion rights, eight percent were against, and sixteen percent were undecided. The survey included questions on support for women's right to abortion, and opposition to any moves to restrict abortion access or medical benefit funding for it.²⁶² (*SMH*, 14.10.80: 10)

Tighe and the RTLA had good reason to be well satisfied, even outright jubilant, with the election results. Whilst pro-abortionists tried to play down their success - Simon said he only lost as many votes as he gained in protest at the RTLA campaign, and Bertram Wainer called its campaign a "complete fizzer" - prominent psephologist Malcom Mackerras claimed that the anti-abortion vote was "absolutely crucial" in Simon's electorate and of some effect in the results in several other seats. (Cater, 1980: 17) Simon lost on a 6.2 percent swing to the ALP while the overall swing to Labor in Victoria was 6.5 percent. Absolutely critical in his loss, however, were DLP preferences: he received only twenty percent whereas at the previous election he got eighty percent.²⁶³ These were the very electors most likely to change their votes on an issue such as abortion. In La Trobe, another seat in which the RTLA was very active, the sitting Liberal member had the highest pro-life rating of candidates in the electorate. He lost to an ALP candidate with a low rating. But the swing to Labor was only 3.1 percent, that is, 3.4 percent less than the average State swing, suggesting that the pro-life vote may have minimised the degree of his loss. More clear-cut was the result in Holt, where the low rating sitting Liberal member lost to the high rating Labor candidate by a huge swing of 9.2 percent. In Tasmania, the two high rating Liberals retained their seats with swings away from them of less than two percent; the vehemently anti-abortion Michael Hodgman suffering a swing of only 1.3 percent. (Cater, 1980: 17)

RTLA's seven thousand members inundated Parliamentarians with five hundred letters a week, the Prime Minister alone receiving over five thousand. Full-page advertisements were taken out in all newspapers using the slogan: "This time we're voting to save Australia's babies". In McMillan, Simon's seat, thirty-thousand personally hand addressed letters were delivered to electors and at every campaign venue masses of pro-life supporters rallied and handed out how-to-vote cards. After his defeat Simon said that its campaign against him had been "filthy"; his wife and family had received "filthy letters" and "filthy phone calls". Anonymous callers would ring and say things like: "What a pity you hadn't been sucked out in bits". Tighe simply shrugged off suggestions that this sort of abuse had anything to do with her or her organisation. (Cater, 1980:17) Other MPs thought the RTLA attack on Simon so vitriolic that even an anti-abortionist like Lusher assisted in his campaign. (Grattan, 1980: 13)

Buoyed by this apparent success, RTLA approached the 1982 Victorian elections with a budget of 200,000 dollars. It threatened to be "very hard" on the State Liberal Party because it had no clear policy on abortion apart from its support for the Menhennitt ruling and nor did it specifically allow MPs a conscience vote. (Veltman, 1980: 13) Certainly, by this stage RTLA had any candidate in a marginal seat who wasn't pro-life 'running scared'. One parliamentarian, left with a majority of only 0.3 percent after being targeted in 1979, was so anxious to placate right-to-lifers that he replied individually to the 670 constituents who sent him a pro-life petition. He explained that whilst he personally believed life began at conception, there were many people who didn't and strict adherence to the Menhennitt ruling was the best counter to unlimited abortion on demand. But any attempt to sidestep the issue in this way cut little ice with the RTLA which saw the Menhennitt provisions as allowing abortion merely on a women's whim. (Hurst, 1982: 4)

RTLA decided not only to campaign in the Monbulk electorate against the Health Minister, Borthwick, because he was responsible for abortions in public hospitals, but to actually field its own candidate against

²⁶² These results are completely out of synch with the views of politicians as represented by voting on the Lusher motion and the Human Rights Bill. If the results were legitimate, it would indicate 1) that candidates aspiring to office held *much* more liberal views than those already in Parliament, or 2) that the votes of a good few politicians on those two occasions, or their answers to the survey, were not accurate indications of their true positions, or 3) that those who didn't reply to the survey were overwhelmingly anti-abortion, or 4) a mixture of the above.

²⁶³ Whilst in most States and in politics generally the DLP was by then an anachronism it still fielded a few candidates in Victoria, the State where it had always been strongest. It was some years, however, since it held any positions in any Parliament or had been able to wield any influence.

him and direct their preferences to Labor, even though the ALP candidate, like Borthwick, had refused to answer their questionnaire. Bertram Wainer, who was then vice-president of the National Association to Repeal Abortion Laws, had always maintained that the influence of right-to-lifers at the polls was highly exaggerated. To test the power of the pro-life vote he decided to run too, realising that the outcome in that seat was critical for perceptions of the RTLA's power in elections. "Make no mistake", he said, "if Right to Life defeats Borthwick they will be able to intimidate just about all politicians who, after all, are not noted for being brave". (quoted in *SMH*, 31.3.82: 7)

Wainer got over three thousand primary votes, more than four times the number of the RTLA candidate, and even outpolled the combined vote of RTLA and the Australian Democrats. He issued a special pamphlet explaining preferential voting, showing electors how they could direct their preferences to the party of their choice. Despite voting for him being more complicated only ten Wainer votes were informal. When Borthwick lost to Labor Tighe tried to claim credit. But scrutineers said that RTLA preferences did not favour the Labor candidate and, in fact, went all over the place, some of them even to Wainer! Jo Wainer, Wainer's wife, said after the result that they had "always believed that Right to Life had no electoral clout at all, [but] this was the first time we could prove it." (quoted in Summers, 1982: 152) Journalist Anne Summers suggested that the Monbulk result might make candidates less fearful of the Right to Life in the future, and less intimidated about voicing a pro-abortion view. Nevertheless, Tighe refused to concede that the result constituted a setback, arguing that Borthwick's defeat paralleled that of Simon: "Politicians who believe that the influence of the Right to life is declining because of the vote for Dr Wainer in ... Monbulk are dangerously deluding themselves", she warned. (*SMH*, L.E., 30.4.82: 6)

Monbulk had more direct implications for the Victorian anti-abortion movement. Another group calling itself Pro-Life Victoria was set up in opposition to Tighe's RTL Victoria.²⁶⁴ Its President was a man, twenty-seven-year-old Alan Baker, who claimed that Pro-lifers were deserting Tighe's RTL "in droves" because it had "been wasting time, money and effort ... concentrating on disastrous and ill-conceived political campaigns". The people joining Pro-Life Victoria did not want to appear as "hardline, radical and harsh" as RTL Victoria and so the new organisation would be using different methods to "stop the killing", said Baker. Whilst conceding that Monbulk "was a disaster", he maintained that it did not reflect the true degree of opposition to abortion in the State. Many pro-lifers voted Liberal or Labor as a protest against the methods of RTL Victoria, he claimed. Taking a moderate position much more akin to the RTL Federation, he said that because politicians lacked the courage to "move ahead of public opinion" the most appropriate course of action was public education. (Carbines, 1982: 10)

Contrary to Tighe's protestations, Monbulk spelt the end of her electoral successes.²⁶⁵ Once the group was no longer *perceived* as wielding the power to unseat pro-abortionists its effect on politicians and its ability to draw media coverage was markedly diluted. The founding of an alternative organisation suggests that the same perception affected many its own adherents. Monbulk became, then, by virtue of the way in which it was interpreted, a disaster rather than a one-off failure, the defeat cancelling out the impact of former successes. The ignominy too, of being thrashed by an arch-enemy like Bertram Wainer would have magnified the loss. Embarrassing too, must have been the disclosure that pro-lifers could not even follow their own how-to-vote card.

²⁶⁴ At the time of the original split RTL Victoria had affiliated with Tighe's RTL (Australia), not the Federation of RTL Associations which represented the pre-split, anti-Tighe forces. Tighe was the leader of both RTL (Australia), the new, purportedly 'national' body, as well as of RTL Victoria.

²⁶⁵ An even uglier variation on the tactic was employed, possibly with success, in the 1984 State election by Patrick Darcey and the Brothers of the Mother of God in the Sydney electorate of Bligh which covered the Preterm clinic. The unseated Labor member, Fred Miller, blamed his 655 vote loss on leaflets distributed just before the election wherein Darcey claimed that two clinics in the electorate did abortions up to seven months into pregnancy and referred to Miller as "the abortionist's friend". An accompanying American brochure included a photograph allegedly showing a nineteen-week foetus killed by a "salt-poisoning" abortion and another of a garbage bin filled with recognisable foetuses captioned "the result of one morning's work at a Canadian teaching hospital". (Roberts, 1984b: 12)

The American Connection

Tighe learnt her militant tactics from her American counterparts who had been able to achieve formidable status as an electoral pressure group in congressional and even presidential elections. (Baker, 1985: 7) In the USA, however, usually less than half the eligible voters turn out to the polls. A single-issue group can create a stronger impression and carry far more clout than its actual representation in the population warrants merely by being able to turn its zealous constituency out to vote. But this tactic can't work nearly so well in a system of compulsory voting as prevails in Australia. In adopting methods which have been successful in America, as the New Right (both its 'moral' and 'politico-economic' arms) have frequently tried to do, they have failed to take account of differences in political and social structures or of cultures of meaning and understandings which exist between the two countries. The Lusher motion, for example, lost because it was seen as discriminating against poorer women. Many MPs who may have voted against a straight anti-abortion motion, couldn't countenance one which, if enacted, would have hurt the poor, but been little more than an inconvenience to women better-off financially.²⁶⁶ In the States, the Hyde Amendment was aimed *specifically* at women on welfare (who happen to be mainly black) so apart from being about abortion it dovetailed neatly with growing anti-welfare (and perhaps racist) sentiment there, a mood captured neatly by Phyllis Schlafly: "If you are going to sin, sin on your own money."²⁶⁷ (Schlafly, 1983a)

As one element of their ongoing strategy the moral-Right generally, and pro-lifers in particular, has consistently sponsored visits to Australia by prominent spokespeople of American (and less so British) moral-conservative and right-to-life organisations. Tighe herself has made a practice of regularly and frequently visited the US. The visits of overseas activists are presumably seen as an opportunity to secure media attention for Moral Right organisations and their aims. The more prominent, unusual or, as in the tour by Scheidler, even bizarre, the more media coverage is likely to be obtained. For example, Dr Bernard Nathanson, the reformed former 'abortion king', who came here twice as the guest of the pro-life Foundation Genesis, drew wide coverage. (*SMH*, 28.1.81: 10) His second lecture tour, in 1984, coincided with the release here of the graphic, indeed gruesome, anti-abortion film *The Silent Scream*, which Nathanson himself had conceived and made, to 'demonstrate' the fully human status of the foetus and the barbaric horror of abortion. The film was sensational enough to attract press attention, so Nathanson's visit on top of it was a double plus for publicising the right-to-life cause. He advocated showing women contemplating abortion an ultra-sound image of their foetus, and cited a study in which women going to an abortion clinic decided not to terminate their pregnancies after being shown such an image. The study concluded that there was "significant bonding" between the women and their (unborn) 'children' on the screen. (West, 1984: 13)

No doubt too, these visits by pro-life luminaries invigorate the morale of Australian right-to-lifers, providing a focus for organising a range of political activities, and giving a highlight to their calendar. Demonstrations or rallies were organised to coincide with these visits, presumably in the knowledge that they were more likely to be reported in the media if they were addressed by prominent overseas 'experts'. For the press, the presence of such people provided them with a 'story' which a 'run-of-the-mill', non-violent rally ordinarily lacked.

Lastly and importantly, they hope to learn from their American counterparts, tactically, organisationally and in terms of improving and raising their public image. The primary reason for Tighe's shift to more militant and even outrageous tactics has doubtless been her perception that the movement must capture the attention of the Australian public. Certainly, American right-to-lifers have done this to a degree which could only be envied by their Australian counterparts, which implies they have much to teach in the way of organisation and activism. Whether there is a relation between the strength of pro-life activism and the degree of public acceptance, however, is dubious. The level and public profile of pro-life activism is higher in the USA than in

²⁶⁶ Tighe herself realised this afterwards and saw that any future move against abortion in the Parliament shouldn't have the "money element". Thus, the amendment to the Human Rights Bill seemed ideal (but she reckoned without the electoral independence of the Senate).

²⁶⁷ Whilst this sort of discrimination was unacceptable in Australia in the late 1970s the 'normalisation' of much New Right anti-welfare thinking during the latter 1980s could suggest that a Lusher-type motion would have more chance of success in the future. Indeed, during 1990 a group of anti-abortion MPs has been apparently organising itself with a view to just such a measure if an appropriate occasion presents itself.

Australia and public acceptance of abortion is lower than here. It could be concluded that concerted and overt resistance to abortion has minimised, or 'stalled', normalisation to some degree. But it is equally possible that a lower level of public acceptance has promoted more volatile resistance. Another relevant factor is the presence in America of a very high level of church affiliation and religious belief and observance and, in particular, adherence to 'born-again' and fundamentalist Christianity; phenomena which are present in Australia to a much smaller degree.²⁶⁸ Whilst individuals of a religious persuasion are much more likely to be anti-abortion the hard core of any pool of constituents for the moral-Right and pro-life movements is drawn largely from evangelicals and fundamentalists. Thus, it is likely that the degree of public opposition to abortion and the level of active resistance against it are both related to the proportion of the population which is religiously observant, and to that which is 'born-again' or fundamentalist. Pro-lifers in Australia (and the moral-Right too) certainly believe that the movement has been more successful in the USA and therefore that it has lessons for its Australian counterparts. It may very well be, however, that its constituency is largely limited to people already in these groups. If this is so, then regardless of tactics, methods of organisation or means of propagating its message, it is unlikely to win much support from people outside of them.

Abortion in the 'Deep North'

If Christian fundamentalism is indeed a key factor in the potential for success of moral-Right politics and programmes for social change then the State of Queensland would be the most propitious breeding-ground in Australia. For liberals from the southern States Queensland, under its long-entrenched Premier Sir Joh Bjelke-Peterson, had long conjured up mirth, because so much of public life there seemed bizarre, and alarm, because of its arrant disregard for democratic processes. For those at the other end of the political spectrum, however, it was seen as a bastion of morality in government, maintaining a determined resistance to the processes of social decay already entrenched in other States.

Queensland is often referred to as the 'Deep North': a pun on the WASPish moral conservatism of the American South. Under Bjelke-Peterson, creation theory had to receive the same time in school teaching as evolutionary theory; *Playboy* magazine was banned; police raided university campuses to destroy condom-vending machines installed in response to the AIDS scare; vasectomies are illegal; street marches and demonstrations (at least those critical of the *status quo*) were banned; the school literature curriculum was painstakingly censored of 'unwholesome' texts and sex education or personal development classes prohibited.²⁶⁹ The Bjelke-Peterson Government declared 1985 the 'Year of the Family' to castigate extramarital relationships and homosexuality (only to be immediately embarrassed by the release of the latest ABS statistics showing that the State had twice the illegitimacy rate of births than those 'immoral' States to the south, NSW and Victoria [Loane, 1985: 7]). They also indicated "that the State with Australia's highest Bible sales" had the highest rate of violence within marriage (*SMH*, 9.12.84: 5) The government gave no funding to women's refuges, an abysmally low level to Marriage Guidance centres but generously endowed Pregnancy Help - that part of the Right to Life Association set up to dissuade women from abortions - with \$200,000 per annum.

Between 1968 and 1987 Queensland was ruled by the Country (now National) Party Premier, Sir Joh Bjelke-Petersen, who had firmly stamped the State with his own (increasingly eccentric) brand, and who came

²⁶⁸ Lipset and Raab (1982) accept the results of a 1978 Gallup Poll which found that an astounding *forty percent* of the American population could be classified as "fundamentalist" or "evangelical" and "a little over a third" as 'born-again' Christians, with some overlap between the two classifications (that is, some people were 'born-again' fundamentalists). The first category was characterised by a belief in the literal word of the Bible and the belief that Jesus is divine and the only hope of personal salvation; the second by a personal experience of religious conversion in which believers took Jesus as their "personal saviour". These figures are so high that they may reflect a different set of understandings amongst Americans of the concepts tapped by the survey questions from what would be the case in Australia, and/or a different status for religion in people's lives. By the latter I am suggesting that religious observance, etcetera, may be perceived as a particularly desirable quality there and respondents might wish to stress its importance to them. To my knowledge, no comparable data is available for Australia but even figures on church attendance suggest a massive difference between the two countries. For example, a National Social Science Survey in 1985 found that only 18.2 percent of Australians attend church at least once a week. (cited in McCallum, 1987: 414) We could justifiably assume that the great majority of fundamentalists and 'born-again's would be amongst these and that they would comprise a minority of the group. Thus, their representation in the Australian population is probably much less than ten percent and possibly even less than five percent.

²⁶⁹ In the last few years they were allowed, but only out of school time.

closest in the Australian political scene to personifying the moral absolutism of the protestant New Right coupled with the rhetoric of *laissez-faire* economics.²⁷⁰ Despite agitation for abortion reform in the early 1970s there had been little real hope of liberalisation; anti-abortionists were quick to react there and formed the first RTL group in 1970. When abortion became easily available in NSW, Queensland Women's Liberation activists formed Children by Choice, an organised service which referred women to Sydney clinics and arranged air-travel and escorts. The organisation became the biggest single user of domestic airline services in the country. Ansett provided it with discounted fares which allowed it to assist women or girls with little money and under Whitlam it received government funding. One third of the women came from country areas of the State, some travelling in all up to six thousand kilometres for an abortion. Most stayed overnight in Sydney at hotels with which Children by Choice had negotiated special deals. The cost from Brisbane in 1975 was a minimum of three hundred and eight dollars, which didn't take account of any travelling or accommodation for parents or partners who might accompany them or of travelling costs to Brisbane for country women. None of this went to Children by Choice, which was run and staffed by volunteers. (Johnston, 1975: 19) Two-thirds of the centre's clients were referred by medical practitioners, some on normal referral forms, others on bits of unsigned paper bearing nothing other than the necessary information to allow the woman to get in touch with the centre. Ninety-six percent of women who came proceeded on to an abortion. Children by Choice had referred four over to Pregnancy Help, the RTL organisation set up to assist women or girls with unwanted pregnancies who had decided not to abort. (McGregor, 1975a: 16) In the three years since its beginning in November 1972 the organisation had counselled 13,553 pregnant women. (Johnston, 1975: 19) An average of eighty women per week made the trip to Sydney, in groups of eight to twelve accompanied by a counsellor from the centre. On arrival at the centre's premises, all women were counselled to ensure they knew exactly what the procedure involved, that they had made the decision themselves without duress and that they were in an appropriate emotional state for the trip and the abortion. (McGregor, 1975a: 16)

In 1978 an abortion clinic was established at Greenslopes in Brisbane²⁷¹ and later, in 1983, another in Townsville, staffed by medical practitioners Peter Bayliss and Bruce Errey, who had formerly worked with Bertram Wainer in Melbourne. Another clinic had also started at Tweed Heads, just over the border in NSW. By 1979, Children by Choice had assisted eighteen thousand women to Sydney for abortions. Greenslopes knew it was vulnerable and only accepted women referred by medical practitioners who affirmed, in writing, that continuation of the pregnancy would be detrimental to the patient's health. Girls under eighteen needed to have a consent form signed by a parent or guardian. These conditions meant that Children by Choice could refer only a third of its clients to Greenslopes. Approximately another third went to Tweed Heads, which only provided a local anaesthetic, and the remainder (about fifty a week) to Sydney. (McGregor, 1979: 16) Early in 1979 the clinic was visited by the police, but no action was taken. In a reply to the *National Times*, the then Police Commissioner Terry Lewis said that after an inspection of the clinic by his officers he was satisfied that it was operating within the law and no further action was proposed at that stage. (McGregor, 1979: 16)

From the moment the clinic opened an outraged RTL had fiercely lobbying parliamentarians for action. The Parliamentary Leader of the ALP, Ed Casey, *himself a member and patron of RTL*, presented a petition demanding that the clinic be closed, accompanied by a speech decrying the 'massacre of innocents'.²⁷² (Anderson, 1980: 8) He persistently asked questions of the Police and Health ministers as to why "this child murder" was being allowed (to the acute embarrassment of his Labor colleagues who didn't want abortion to be raised at all because of the divisions within their own ranks about it). (Stewart, 1980: 13) A Liberal backbencher, Don Lane, actually a *founder* of RTL and a former Special Branch detective, demanded to

²⁷⁰ The public hearings of the Fitzgerald Inquiry into Corruption instigated in 1987 indicate that this rhetoric has been a smokescreen veiling cronyism, corruption of politicians and high-ranking police officers, protection of prostitution and large-scale and environmentally disastrous development involving corruption for the benefit of Government supporters.

²⁷¹ It was actually at the beginning of 1979 that Bayliss began doing abortions and this became publicly known.

²⁷² At that time Casey was facing charges within the Party that he belonged to an organisation - the RTL - which opposed the principles of the ALP.

know what action the Police Minister had taken about complaints made to him by the RTL.²⁷³ (*CT*, 5.9.79: 4) Simultaneously, all MPs were being bombarded by anti-abortion telegrams orchestrated by the RTL. (Stewart, 1980: 13) Confronted with this, the Government, “not to be upstaged in reactionary politics by its own opposition” (Anderson, 1980: 8) or even its own marginally more moderate Liberal coalition partner, announced that it would draft legislation to restrict abortions to public hospitals. The Minister for Health, Sir William Knox, said after the Cabinet decision that “abortion on demand is not on [and] this law will make it more difficult” and in a typical piece of Bjelke-Petersen doubletalk the Premier vowed that the new law would “get away from the backyard situation that now exists”. (*Aust*, 25.9.79: 5)

The drama which unfolded over the next nine months took place against a backdrop of increasing dissatisfaction within the Liberal Party generally and amongst younger dissidents of the Parliamentary Party (as opposed to its leadership) with Bjelke-Petersen’s style of government and his treatment of the junior coalition partner as a “doormat”. The Party had already decided, “as a matter of sheer self-respect”, to stand Liberal candidates in National Party held seats (*SMH*, 23.9.79: 7) a move certain to provoke Bjelke-Petersen and cause “bad blood”. (*SMH*, Editorial, 22.4.80: 6) Queensland politics were notoriously undemocratic.²⁷⁴ The contents of bills were often kept secret until after the second reading stage so that as legislation was often pushed through in all-night sittings and didn’t then proceed to an Upper House, bills could become law before the public or press were even aware of their contents. Some recent pieces of draconian legislation passed in this way had caused a number of Liberals to cross the floor to vote with the Labor Opposition, for example, amendments to the Police Act which allowed police to compile dossiers on individuals and pass on information to other Government authorities. This disaffection on the part of some Liberals and their readiness to publicly breach Coalition unity was to be decisive to the outcome of the projected legislation.

The Government’s announcement that it would act to tighten the law prompted the formation of a coalition of feminists, liberals, unions, socialists and students calling itself the Women’s Campaign for Abortion. (Anderson, 1980: 8) Mobilisation was difficult, however, because other than the reference to public hospitals no details of the bill were known. For months nothing more was heard of it and concerns about it subsided. Behind the scenes, Bjelke-Petersen was counselled by the National Party Executive to simply leave the issue alone, the Party’s policy since 1970 being not to change the existing legislation. Apparently, he acquiesced but then changed his mind again and decided to go ahead with the drafting of the Bill. (Stewart, 1980: 13) Why this was so will become apparent below.

In March 1980 Don Lane moved a private member’s motion which, as amended, called on the Government to make certain that the lives of unborn children were protected. Debate on the motion took a full day with “accusations of ‘murder’ and ‘Nazism’ ... hurled across the Chamber from both sides of the House”. (*Aust*, 14.3.89: 3) Lane said the purpose of the debate was to “strengthen the resolve of State Cabinet to introduce [the] legislation”.²⁷⁵ (*SMH*, 14.3.80: 10) One of the most vocal opponents of the motion was Liberal backbencher, Rosemary Kyburz, who told the House that abortion was a reality that no amount of legislation could stop. The motion was passed by forty-six votes to twenty-three, indicating that the legislation would be certain to become law when introduced. After the debate Kyburz agreed: “[i]ts obvious there is going to be a hardening of abortion laws”, she said. She attacked the (almost completely male and elderly) Parliament for being out of touch and ignorant of women’s needs:

²⁷³ In 1983 Lane resigned from the Liberal Party and joined the Nationals. (*CT*, 15.5.89: 3) Problems within the Coalition had escalated and Bjelke-Petersen went to the polls in 1983 refusing to countenance a continuation of the Coalition. The Nationals narrowly won Government in their own right. In 1987, as a Minister in the National Government, it was alleged by the Fitzgerald Inquiry into Corruption that Lane was deeply implicated in graft related to prostitution and he was forced to resign. He denied these allegations and disclosed that unexplained sums of money came instead from ministerial expenses used for personal purposes. He was subsequently charged on these grounds, found guilty and sentenced to gaol.

²⁷⁴ For example, successive Governments had gerrymandered electoral boundaries, a technique developed to full effect by Bjelke-Petersen, and the Legislative Council - the upper house of review - had been abolished in 1922.

²⁷⁵ The Government was probably quite happy for a full day to be spent debating the motion. Firstly, as two-thirds of members were in favour of it the debate demonstrated the Parliament’s support for the proposed legislation. Secondly, the Queensland Parliament is notorious for the minimal number of days it sits per year, as debate on contentious matters is consistently gagged (and many laws are made by regulation). It would have suited the Government to have a sitting day preoccupied with a motion with which it fully intended to comply anyway.

Women should have the right to make decisions about their own body rather than a group of men who have not made any practical input into pregnancy for a long time. (quoted in *Aust*, 14.3.80: 3)

A Draconian Bill

When the draft Bill went to Cabinet it was sent back to be reworked, being considered not restrictive enough and “too liberal”. But the provisions were kept secret, the Deputy Premier saying only that it had to be brought into line with the Government’s policy which was “that we believe in the importance of human life”. (*AFR*, 18.3.80: 8) A Government spokesperson said the new laws were aimed at making abortion “a less attractive form of contraception”. (*Aust*, 12.4.80: 6)

No one, it seems, was prepared for the enormity of the measures in the Bill and if not for Kyburz the legislation would have been passed into law before anyone found out. On 15 April Knox presented the Bill to the Parliamentary Health Committee, of which she was a member. It was to be called the *Unborn Child Protection Act*, and defined an ‘unborn child’ as any foetus or embryo from the time of implantation. Under its provisions all abortions other than those to save the life of the ‘mother’ would be illegal, and it provided fourteen years gaol for anyone attempting to procure an abortion, and three years for any woman attempting to procure her own miscarriage. There were to be no exceptions for pregnancies which occurred as a result of rape or incest or for indications of any foetal abnormality. Any medical practitioner referring a woman for an illegal abortion would be guilty of ‘frustrating the objects of the Act’ and would be reported to the Medical Assessment Tribunal (the body with the power to strike a practitioner off the registered list). Perhaps most draconian of all, it provided penalties for anyone advising a woman to travel interstate for an abortion. The Bill had been drafted with the assistance of a New Zealand lawyer who had visited Queensland at the invitation of the RTL and who, at a recent world congress on medical law, had presented a paper paralleling abortion with the medical ethics of the infamous Nazi doctors. (McGregor, 1980: 4)

Knox intended to introduce the Bill *the next night* so it could be pushed through into law before the public was even aware of its contents. In a twelfth hour effort to prevent what was almost a *fait accompli*, Kyburz - technically breaking the law by releasing confidential parliamentary material - went on national radio early the next morning and revealed some of the more bizarre contents of the Bill. To stir public indignation, she disclosed that Cabinet had seriously considered subjecting women going over the border to pregnancy tests at the tick gates.

The revelations provoked a stunned public outcry - by nine-thirty that morning demonstrators spontaneously flocked to Parliament House. At a meeting inside which went on until after midnight Bjelke-Petersen was confronted with heated resistance from within his own Party and from his Liberal coalition partners. The President of the National Party, Sir Robert Sparkes, intervened immediately and revealed to Bjelke-Petersen that the National Party’s Central Council had, only two weeks previously, adopted a new policy on abortion.²⁷⁶ The policy, of which Bjelke-Petersen was unaware, was more liberal than the present law.²⁷⁷ The reaction to the Bill was so intense (and in Queensland politics almost unprecedented) that Bjelke-Petersen was forced to concede amendments allowing abortion in the case of rape or incest but he still resisted the justification of foetal abnormality. Furthermore, he refused National Party members the right to a conscience vote, insisting that they must support the legislation. The next day Sparkes wrote to all National MPs asking that they treat abortion as a conscience issue, a request “which many ... interpret[ed] as a directive”

²⁷⁶ Ironically, given the nature of the Queensland National Party, Sparkes was something of a liberal on ‘moral’ or social issues. Winifred Egan, founding member and later secretary of the Queensland RTL, claimed that the organisation, the first such in Australia, was formed not to combat ALRA or the more general move towards liberalisation, but Robert Sparkes specifically, who was thought to be preparing a liberal abortion policy for Queensland. (McGregor, 1980: 14)

²⁷⁷ I have found no record of how this policy change came about, nor of why it happened at this particular time. It is unlikely that it was coincidental. It is probably safe to assume that Sparkes had a hand in it and actually engineered it for the purpose of heading off Bjelke-Petersen.

(McGregor, 1980: 4). In so doing he was directly pitting his authority as Party President against that of the Premier.²⁷⁸

Redrafting the Bill took several weeks and it wasn't introduced until 29 April. The furore over it, both in and outside Parliament, was so intense that Cabinet was forced to allow several weeks between the second and final reading. During this time a massive campaign was waged by RTL (already well organised in Queensland with 200 branches) which paid to have one hundred city buses plastered with 'pro-life' advertisements, and for radio ads with the sound of foetal heartbeats. (McVey, 1983: 83) With its member Don Lane being the "prime mover" of the legislation (McGregor, 1980: 4) and its involvement in bringing in the anti-abortion lawyer to help draft it, RTL was well prepared for mobilisation. It was able to organise rallies of up to five thousand supporters through city streets, the largest since the pro-Whitlam marches of 1975. Children by Choice was at the fore of resistance to the Bill but the task demanded mass public opposition. The Women's Campaign for Abortion, formed only after the Government announced that it intended to legislate and hampered initially by a degree of public and media disbelief that even Bjelke-Petersen would enact such repressive legislation, had no organisational structure in place and no formulated strategy for resistance

According to one writer (Anderson, 1980) WCA's efforts were plagued too by internal disagreements. These divisions over aims, strategies and tactics are worth mentioning because they were typical of the internal dissension that characterised the pro-abortion campaign in Australia in the early 1970s. The pivotal issues of disagreement revolved around differences in philosophy (and hence strategies) towards women's issues in general and abortion in particular; differences which, for feminists, were often encapsulated in the tension between the terms 'abortion on request' and abortion on demand'. The first, the liberal view, saw abortion as a single and discrete issue and all women as one group or class. The second and more radical position demanded women's right to abortion free from the interference of state regulation. This analysis extended to women's reproductive and bodily freedom and incorporated the whole range of issues pertaining to women's sexuality in male-dominated society, stressing economic class, ethnicity and race and the different and even opposed interests of groups of women divided along these lines. Linked to these were disagreements over alliances with (mainly male-dominated) trade unions and the inclusion or otherwise of male supporters. All of these differences were reflected in disagreements over appropriate tactics between those advocating only traditional and legal methods (lobbying, letters, petitions, influence of prominent supporters) and militant activists stressing the need for 'shock' or 'guerrilla' tactics' and, if necessary, civil disobedience (illegal marches and demonstrations, invading Parliament House). The need to mobilise and not alienate mass popular support made the questions of tactics and public alliance with groups - like militant trade unions, for example, - important issues in organising resistance. (Anderson, 1980) For radicals, these difficulties were compounded by the fact that Kyburz, a member of the vehemently right-wing Government, was the public leader of the campaign and yet had herself in the past expressed markedly undemocratic views.

Despite these differences opposition to the Bill was so emphatic and widespread that it left Parliamentarians in no doubt as to the unpopularity it was generating. The Queensland branch of the AMA condemned the Bill outright, pointing to a survey which showed the majority of medical practitioners in the State favoured relaxation of the laws. (*Aust*, 18.4.80: 6) The Bar Association and the Law Society criticised it and, along with the AMA, met with Knox in an attempt to water-down some provisions of the Bill (*SMH*, 13.5.80: 11) Clergymen, academics, medical professors, businessmen and social scientists addressed a large meeting in the Brisbane Town Hall called to rally support against the proposed legislation. (McGregor, 1980: 14) Outrage against it wasn't confined to Queensland. In Sydney over three hundred people marched through the city in a demonstration organised by WAAC. (*SMH*, 8.5.80: 13) WEL called for a boycott on tourism to Queensland and on products from there and asked women's organisations and other community groups not to make the State their venue for conferences or other functions. (*DT*, 30.4.80: 6) Bertram Wainer took out a half-page national newspaper advertisement urging support for the WEL boycott, and accusing the Queensland

²⁷⁸ For many years Bjelke-Petersen and Sparkes worked together harmoniously to maintain National Party dominance in Queensland but eventually differences between them developed and escalated into virtual warfare. In the end Sparkes was instrumental in the Premier's forced resignation in 1987.

Government of attempting to rewrite the Australian concept of democracy. He announced that if the legislation was passed, he was ready to mount a High Court challenge to it following legal advice that it was in breach of the Constitution. (*Age*, 1.5.80: 7) Opposition came not only from organised groups or the politically aware:

Hardliners asking for abortion on demand were joined by a mass of 'ordinary' women who in letters, talkback [radio] shows and public meetings supported Mrs Kyburz' contention that 'the Government is attempting to go into the bedrooms of every woman in Queensland'. Parliamentarians, particularly Liberal and Labor, reported that 'ordinary' women who had never attended party meetings or raised their voice at a politician were noisily protesting against the Bill in an unprecedented number of letters and telephone calls. (Stewart, 1980: 13)

Typically undaunted by the public uproar, Bjelke-Petersen contemptuously dismissed all the opposition as "a farce" (*Age*, 1.5.80: 3). The Bill, incorporating the changes thrashed out in a record sixty hours of heated argument in joint-Party meetings (Stewart, 1980: 13) and renamed the *Pregnancy Termination Control Bill*, was finally introduced on 29 April.²⁷⁹ In his speech Knox proclaimed the new laws as "humane and progressive". (*DT*, 30.4.80: 6) In response to claims that the legislation would result in an increase in backyard abortions, he stated:

I am not aware of any backyard abortions in Queensland and I don't see that they would occur with this legislation. *Why would women want to have abortions anyway, let alone backyard ones?* (quoted in Stewart, 1980: 13, my emphasis)

Opponents of the Bill demanded that the Government should at least introduce sex education and counselling to reduce the need for abortions. Puzzled, Knox asked, "What's family planning or sex education got to do with abortions?" (Stewart, 1980: 13)

One commentator drew attention to Knox's statement that the Bill reflected the very high standard of debate in the joint parties room and, citing the following examples, declared that supporters must have been exhausted by the time of the Parliamentary debate:

Ratbag, motley mob exhorting us to kill our young ... seeds of disaster for this nation ... Kam-pooch-eee Kam-pooch-ia [an apparent reference to the 'killing fields' of Kampuchea]. (quoted in McGregor, 1980: 14)

If Sir Winston Churchill hadn't been born wouldn't that have changed the course of history? (quoted in McGregor, 1980: 14)

Kyburz claimed that the Bill failed to face the realities of life, and that even most Christians would concede that abortion was a necessary evil. In a speech replying to her a National Party member who supported the legislation said he was:

... fed up with the sobbing women of this Parliament who burst into tears and use their womanly wiles in the joint parties room. (quoted in *SMH*, 30.4.80: 2)

Labor's spokesperson on health, Bill D'arcy, pointed out that under the proposed legislation about ten percent of Queensland women would be liable to go to gaol. He said the proposed laws were aimed at limiting the freedom of many Queensland women.

²⁷⁹ The new Bill permitted abortions in the following instances:

- Where two medical practitioners were satisfied that the pregnancy resulted from rape and had obtained a certificate from police confirming that the woman had been raped with the proviso the rape was reported to the police within 14 days and the abortion performed before the woman was 60 days pregnant. Cabinet later agreed to change this to allow 14 days for reporting the rape and 12 weeks within which the pregnancy could be terminated.
- Similar conditions were to prevail for incest, except there would be no time limit for reporting.
- In cases of "a serious risk, clearly demonstrated, of major foetal abnormality or disease".
- Where there was a serious risk of the women's death.
- Where there was a serious risk of the woman's suicide or of her causing herself grievous bodily harm because of the pregnancy.

Procuring an abortion would carry a penalty of 14 years gaol, as would counselling a woman on where to obtain an abortion. A woman procuring her own abortion would be liable for 3 months gaol. (*CT*, 30.4.80: 7; *CT*, 13.5.80: 11; Boccabella, 1980: 132)

This legislation is an attempt to subjugate the women of this State to the will of a minority group of outdated bigots. It is uninformed, unworkable, and amounts to political opportunism. (quoted in *DT*, 30.4.80: 3)

D'arcy's reference to 'political opportunism' introduces another, and very familiar, dimension to the whole state of affairs. As mentioned, after Bjelke-Petersen's initial announcement in September of his intention to legislate, the whole issue died down for six months. In the meantime, factional squabbling within the State's Labor Party had erupted and reached such a pitch that the ALP Federal Executive had intervened in an attempt to stop the brawling. 1980 was an election year and Bjelke-Petersen had every interest in capitalising on and fuelling the very public disunity in the ALP. The matter of anti-abortion legislation was conveniently lying to the side, ready to be resurrected and fashioned into a potent tool to further divide the Labor ranks.

Fifteen of the Labor parliamentarians were Roman Catholics and Casey had already drawn flak in the Party for his membership of RTL. By not allowing a conscience vote for National MPs and with Lane prevailing on Knox as Liberal Leader to sponsor the Bill, the stage was set to highlight and exacerbate inevitable divisions in the ALP over any anti-abortion legislation. Stewart (1980: 13) argues that this was the reasoning behind Bjelke-Petersen's decision to legislate and that the appearance of a united Government was an essential element to the plan. In the voting on Lane's motion in March (intended to strengthen Cabinet's resolve to legislate) all Coalition members voted for the motion and all ALP MPS, bar one who crossed the floor, opposed it. The unity of the Government at that point gave no indication of the revolt which was later to erupt. Equally, Labor's opposition demonstrated its reluctance to deal with the issue. But the Premier's plan for a unified Coalition stand came hopelessly unstuck when Kyburz went public with the contents of the Bill and Sparkes urged National MP's to vote on it according to conscience.

The Bill passed the first reading stage by forty-nine votes to sixteen. All Coalition members supported the motion except six Liberals (including Kyburz) who had earlier crossed the floor to vote against its introduction, who abstained. Three Labor members, including Casey, voted in favour of the Bill.²⁸⁰ (*SMH*, 30.4.80: 2) Although three weeks was allowed between the first and second reading stages because of the furore over the issue the voting on the first reading indicated that the Bill's passage into legislation was seemingly a foregone conclusion. This apparent inevitability did nothing to quiet public opposition nor dissension amongst Liberals and even some Nationals; on the contrary, opposition from all quarters intensified. The Liberal Party's State Executive called on the Government to withdraw the Bill and instead produce a white paper for public scrutiny and comment. This was supported by Sir Robert Sparkes. The Government replied that it would not be dictated to by Party organisations. (*SMH*, 5.5.80: 9) The National Party's Management Committee reaffirmed its stand and passed a resolution also advocating the Bill's withdrawal. Failing that, it demanded a secret ballot in the joint party room and even in the Parliament to avoid intimidation and duress. (*SMH*, 17.5.80: 3) Several times Cabinet made minor and technical amendments to the Bill in attempts to placate dissenting backbenchers. (*SMH*, 13.5.80: 11) Throughout the three weeks the Bill was the subject of intense lobbying both amongst Parliamentarians and by concerned pressure groups. Supporters and opponents waged intensive campaigns in the Queensland media. (*SMH*, 17.5.80: 3) Street marches and rallies for and against it intensified (*SMH*, 17.5.80: 3; 19.5.80: 9; *Age*, 20.5.80: 6) and numerous arrests of pro-abortionists were made under the law which prohibited public demonstrations, the authorities being much more forthcoming with permits for RTL rallies than they were for demonstrations against the Bill (*SMH*, 21.5.80: 3). The day before the second reading two Ministers indicated they would exercise conscience votes. The Premier's grand plan was rapidly unravelling into a potential disaster. He called an emergency Cabinet meeting in an attempt to secure support and salvage the operation or at least avoid a major personal and political defeat. (*SMH*, 21.5.80: 3)

Unable to bring the dissidents to heel, the Government, "in a last-minute recognition of reality", was driven to a "transparent face-saving manoeuvre" (*SMH*, Editorial, 23.5.80: 6): it withdrew the Bill and had Knox reintroduce it as a private member's bill. Rejection of a Government bill on the floor of the House would have obliged the Government to resign. The Bill was rejected by forty votes to thirty-five, with four Liberal ministers, eleven Liberal and four National Party backbenchers crossing the floor to vote with the Opposition.

²⁸⁰ Several other Liberals and a Labor member abstained and eight members were absent from the Chamber. (*CT*, 30.4.80: 2)

Conversely, only one ALP member supported the Bill, with even Casey voting against it, allegedly because it was not strong enough. (*SMH*, 22.5.80: 2) The defeat was an unprecedented rejection of the Queensland Government's authoritarian and puritanical approach to moral issues. Ironically, the Premier's actions had the effect of "politicising a large section of normally conservative and quiescent Queensland against his views" (Walsh, 1980: 48):

One lesson for Mr. Bjelke-Petersen is that persuasive lobbying from anti-abortion groups does not necessarily represent community feeling. (*SMH*, editorial, 23.5.80: 6).

In fact, it was a lesson for all Australian politicians. If repressive abortion legislation could be so soundly rejected in Queensland - the most anachronistic of Australian states on questions of sexual morality, the family and women's rights - it would receive even less support elsewhere. Moreover, according to one political commentator, the implications were even wider:

It (Queensland) was a most unlikely battleground for the 'right to life' lobby to be routed - and will doubtless cause a reassessment of the strength and volatility of the 'women's vote' in other parts of the nation. (Walsh, 1980: 48)

More immediately, instead of accentuating Labor disunity Bjelke-Petersen's arrogant determination to ignore all the signals within his own Government "outraged his own Party machine, split his Cabinet" (Walsh, 1980: 48) and "placed the Coalition in one of its worst crises in 20 years of office" (*SMH*, 22.5.80: 2). Further misjudging the rebellious mood amongst his coalition partners, he then publicly demanded the resignations of the four ministers who crossed the floor. Again, he was rebuffed by the Liberal Party which threw its weight behind the rebels, forcing the Premier into another humiliating back-down. The upshot was that the recent "bitter and highly publicised dogfights" within the Labor Opposition, which Bjelke-Petersen had connived to highlight, paled before new and more serious questions about the Government's credibility and even the Premier's leadership. (*SMH*, 22.5.80: 2; *SMH*, Editorial, 23.5.80: 6)

The RTL was bitterly disappointed, especially so since at the outset it had every reason to anticipate unqualified success. There were differences within the movement, however, as to how to respond. More militant activists formed a new group, Electors for Life, to pursue a vitriolic campaign at the next election against certain politicians who had thwarted their hopes. From amongst those who had crossed the floor EFL selected for punishment four Liberals in marginal seats, including Kyburz. It employed 120 paid canvassers and positioned thirty in each of the four seats to campaign door-to-door. Fortunately for Kyburz, who held her seat by only 214 votes, they withdrew from her electorate on discovering that her Labor opponent was equivocal on abortion. (Brooks, 1980: 7) The virulence of their assault was such that they shocked even the RTL which was itself campaigning for the election of pro-life candidates. It swiftly condemned the Tighe-like tactics and disassociated itself from EFL. (Sturgess, 1980: 8) Kyburz claimed that the Liberal Party had evidence that the group was being funded by the NCC. (Brooks, 1980: 7) Judy McVey (1983: 39) cites a document produced by an organisation called the Committee for Liberal Independence which made the same allegation and further suggested that the NCC was instrumental in actually setting up EFL to aid the National party in three-cornered contests against 'small-l' Liberals. On the basis of its analysis of the election results it also claimed that not only was the campaign unsuccessful but its tactics provoked a negative reaction which, if anything, aided those Liberal candidates.

The Queensland Clinic Raids

It was another five years before the Queensland Government moved again to suppress abortion. The first indication was the sensational news reports of the grotesque police raids on the two clinics with which this chapter opened. They were staged as flamboyant spectacles designed to demonstrate the Government's vehement opposition to moral decadence and to reinforce its image as the bastion of Christian ethics in the domain of Australian government. To most non-Queenslanders the raids were another example of the antiquated but iron-fisted moralism of Bjelke-Petersen's Government and his bizarre style of politics and were totally out of step with the normalisation of abortion practice in other Australian States by 1985. But for the instigator of the raids, Attorney General Neville Harper, they were intended to display the Government's moral integrity in refusing to bow to the pressures of permissiveness and sexual laxity and as a reassuring sign to its most avid supporters. For the RTL, they augured the first substantial victory against the evil of

abortion to be achieved in the country. Success would reinvigorate any flagging sense of weariness amongst its members and supporters by showing that the tide was about to turn in its favour; it would be proof that the creeping normalisation of abortion could indeed be subverted given the unflagging resistance of its opponents.

The way in which the raids were carried out - "part military operation, part media circus" - prompted an enormous outburst of condemnation and disgust. Fifty-two police converged on Greenslopes alone and the medical files of forty-seven thousand patients who had attended the clinics, not only for abortions but for a range of fertility and gynaecological problems, were seized. (Seccombe, 1985: 7)

Women's organisations, the Civil Liberties Council, the AMA, (*Aust*, 22.5.85: 5) the General Practitioner's Association, the Doctor's Reform Society (Seccombe, 1985: 7), the Human Right Commission (*Age*, 1.6.85: 9 amongst others, all protested vehemently. Leaders of both the ALP (Casey) and Liberal Party (Knox) - hardline anti-abortionists themselves - expressed outrage at the mass violation of civil liberties. (*SMH*, 22.5.85: 1) The Federal Attorney-General, Lionel Bowen, protested at the appalling interference in the medical practitioner's obligation of secrecy. (*SMH*, 24.5.85: 11) Newspaper editorials and numerous articles were unanimous in their expressions of condemnation and even disgust at the seizure of the medical records in particular, and at the police's intention to use these as evidence in the prosecutions. This was magnified when the architect of the raids, Attorney-General Harper, announced that fourteen women had been selected on the basis of the records and would be forced to testify. Children by Choice were besieged with telephone calls from all over the country pledging support. Women marched on the Government's Executive offices, in single file so as to avoid arrest for illegally demonstrating. (*Aust*, 22.5.85: 7) Bertram Wainer immediately flew to Queensland and attended talks with Brisbane medical practitioners on ways around the Government's attempts to close the clinics. Referring to the 1980 debacle, he pointed out that it had been the only attempt at legislation that Bjelke-Petersen had ever lost. Wainer thought that the Premier had "been smarting over that ever since". (*SMH*, 22.5.85: 1) The next day he announced that he had taken leave of his Melbourne practice for six weeks and was setting up practice at the Greenslopes Fertility Control Clinic. His purpose was to show that it was possible to perform legal abortions in Queensland and, if necessary, he would stay as long as that took. He said he would operate within the law and if a woman did not fall within those parameters, Children by Choice would charter buses to take women to Tweed Heads, an "exercise which [would] highlight the State Government's cynical disregard for the needs of women". (*SMH*, 23.5.85: 3) Wainer's intervention prompted Margaret Tighe and four others from Victoria to follow him to Brisbane where they staged a sit-in at the clinic where he was performing abortions. When they refused to leave, Wainer served them "tea and sweet biscuits", locked them in and called the police. They were arrested and charged with trespass but the charges were dropped on a technicality. (*SMH*, 25.5.85: 11) They then flew to Sydney where they staged a demonstration outside the Pre-Term Clinic which again resulted in their arrest for offensive behaviour. (*SMH*, 29.5.85: 9)

Wainer pointed to a statement made by the Police Minister several weeks before the raids in which he commented that it was virtually impossible to obtain a conviction against a medical practitioner for performing abortions. He said that assessing the risk of continued pregnancy was something that could only be done by the practitioner in private consultation with the woman involved. It was for this reason that the charges laid against Bayliss and David Grundmann of the Townsville Clinic were for *conspiracy* with persons unknown to procure miscarriages, rather than for offences directly related to those sections of the criminal code dealing with abortion. Legally, conspiracy is a notorious charge in that to gain a successful prosecution it is sufficient to prove that two or more people collaborated merely with the intention of committing an offence.²⁸¹ In this case, acceptance of a referral by one medical practitioner from another was being posited as conspiracy. Attorney-General Harper had even gone so far as to suggest that practitioners who referred women to the clinics could themselves be charged with conspiracy. If nothing else, this assertion was likely to act as a deterrent in the future. Assisting and advising Harper was the Director of Public Prosecutions, Des Sturgess, a Queen's Council regarded as one of the country's "great criminal law advocates". Observers

²⁸¹ This is a similar problem to that recognised by prosecutors in NSW in the mid 1970s who also attempted to overcome it by using the device of alleged conspiracy.

discerned his hand in the manoeuvre to circumvent the usual obstacles to convictions for abortion. (Reinhardt, 1985: 12) Sturgess' legal and moral philosophy would have made him admirably suited to his position as far as the Bjelke-Petersen Government was concerned: on the one hand he favoured wide-reaching extensions of police powers in ways which are generally agreed to violate civil liberties; on the other, he attributed rising crime rates to a hitherto unparalleled decline in moral standards:

What we are facing is the destruction of informal social restrictions that have evolved over thousands of years and up to now have served to keep society in check. (quoted in Reinhardt, 1985: 12)

His zealousness did not always sit well, however, with political reality. In no time at all what might have been a great victory for pro-lifers and a legal coup for the Government soured into a source of excruciating embarrassment with condemnation flying from nearly all quarters. In an effort to divert blame for the debacle Cabinet members were suddenly explaining that Harper had "misunderstood" a directive to him. Harper said that Cabinet had instructed him the previous year to take action to close the abortion clinics after it had received several petitions from the RTL including one with ten thousand signatures. (*Aust*, 21.5.85: 3) A week after the raids it was apparent that the whole business, but especially the seizure of the files, was turning into a political nightmare. Sir Robert Sparkes castigated Harper for his inept bungling and moved to minimise the damage and divorce the Government from the affair. To "make the best of a bad business" (Reinhardt, 1985: 12) he favoured dropping the charges to get the whole matter over with as quickly as possible. (*Aust*, 5.7.85: 4) With the Government the centre of nation-wide condemnation and ridicule Harper's colleagues maintained that he had misconstrued an understanding within Cabinet that an "overt police presence" and intermittent visits by police would "discourage" women from seeking abortions and "appease" the RTL lobby. (Reinhardt, 1980: 12)

It seems reasonable to doubt the veracity of this account and to see it as an effort on the part of the Government to distance itself from the affair. The actual raids came almost a year after the Cabinet discussion and there was no police harassment of the clinics in the interval. Queensland RTL Secretary, Winifred Egan, who claimed access to "most politicians in all parties", certainly kept up the pressure for action - there was an article in *The Sunday Mail* not long before the raid where she complained about the lack of police action (Loane, 1985: 7) - so it is reasonable to expect that over the year some minister lobbied over the matter would have queried Harper about it, especially since a decision had been made in Cabinet. More relevant is Harper's apparent *perception* that the sort of action he took would raise his stocks in the National Party and be popular with much of the public. With Bjelke-Petersen well into his seventies there was continued speculation about his retirement and Harper was a leading aspirant for the Premiership. (Reinhardt, 1985: 12) As it turned out, he seriously misjudged the effect of the raids both on the public and within the Party. But it was not the raids and prosecutions against abortion which damned his actions so much as the seizure of private medical records, his announcement that, based on them, fourteen women would be dragged into court, his refusal to rule out the possibility that medical practitioners who had referred women for abortions would be charged, and the arrant contempt for civil liberties and medical confidentiality that all of this represented. The spectre of police officers poring over the private and personal details of forty-seven thousand women and men who had attended the clinic was consistently raised in the media and, to a degree, this concern overshadowed the attack against abortion. But it was to put an end to the abortion clinics that the operation was aimed and, on the basis of Sturgess' advice, Harper was confident of successful prosecutions. He apparently believed that pulling off such a coup would bring him credit in the National Party and within its electoral constituency. His orchestration of the 'media circus' at the raids and his triumphant press conference immediately after it bears witness to this.²⁸² It has long been a commonplace that the attitudes of Queenslanders to sex trailed behind most other Australians. Sociologist Paul Wilson remarked that the raids were typical of the Government's continuing efforts to stamp out permissiveness. But its attitude that sex was "a bit dirty", in combination with its puritanism and 1950s moralism, was not out of step with that which prevailed amongst much of the population, said Wilson:

²⁸² When he finally announced that the charges would be dropped he made a feeble attempt to shift blame for the failure of the exercise onto the media. He said he was not proceeding because the publicity given the raid had made a fair trial impossible, and that he had asked the Police Minister to investigate who had 'tipped off' the media. (*Aust*, 6.7.85: 4) There was no further mention of this 'investigation'.

The Queensland view of sex is [that it is] very much for procreation - not for fun.... On the other hand, Queenslanders are titillated by sex, often in a less sophisticated way than [people from] other States. (quoted in *SMH*, 29.5.85: 5)

Bjelke-Petersen was certainly a consummate practitioner in the art of mobilising this wowserish streak to lend moral legitimacy to the Government and to his leadership of it. Perhaps Harper thought that being the man to end the open performance of abortion in the State and bulldozing through the niceties of the law in a way reminiscent of his mentor would confirm his moral credentials and make him, in the public eye, a worthy heir to the Premier's mantle.

Bayliss and Grundmann challenged the validity of the warrants used by the police to enter the clinics. (*Aust*, 3.6.85: 7) Five weeks after the raids a full bench of the Supreme Court quashed the warrants and ordered the return of all the files. The three judges said that police had exceeded their powers of seizure and had invaded the privacy of patients and transgressed their rights in taking medical files from the clinics. (*Age*, 26.6.85: 9) The indiscriminate removal of records *en bloc* was an indication of just how far the police had gone beyond their legitimate powers to seize material for evidence, they added. (*SMH*, 26.6.85: 5) This decision put the prosecution against the two medical practitioners in jeopardy. (*AFR*, 26.6.85) But Harper hung out for another ten days while Sturgess attempted to devise alternative charges which could be substantiated without evidence from the files. (*Age*, 27.6.85: 11) Finally though, he had no choice but to concede defeat. (*Aust*, 5.7.85: 3).

The announcement that the charges were to be withdrawn was met by the RTL with furious denunciations of the Government's "moral cowardice". In particular, Sparkes was singled out for his role in wanting the case dropped, Egan denouncing his performance as "absolutely disgraceful". (*Aust*, 5.7.85: 10)

The episode appeared to be over. Then, seven weeks later, Bayliss and another Greenslopes medical practitioner, Dawn Cullen, were charged with unlawfully using force with intent thereby to procure the miscarriage of a woman the previous January. Bayliss was also charged with causing grievous bodily harm to the same woman. (*Aust*, 22.8.85: 3) The case was remanded to the District Court in November where both were acquitted on all charges. (Thornton, 1986: 9)²⁸³

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Queensland was the one State where pro-lifers had reason to believe that a determined Government would score a resounding defeat against the pro-abortion forces. It was seen as a bastion of resistance where the tide of normalisation could be rolled back and other Governments and pro- and anti-abortionists alike shown that the provision of abortion on demand was not invulnerable, where pro-choice advocates would be put on the defensive at last and the terrain of struggle and the terms of discourse transformed. Yet the result of each attempt was a disastrous confirmation of the *status quo* and, in effect, a further entrenchment of women's right to abortion access. Every time an initiative aimed against abortion failed, and especially when the failure left a Government with 'egg on its face', the likelihood of future attacks by governments in any State receded. It could hardly go unnoticed by any political party that the Bjelke-Petersen Government, unaccustomed to defeat on any issue, suffered two humiliating debacles in its attempts to repress abortion.

The effects of formal political action to enforce the pro-life agenda need to be seen as complex and ambiguous. They have left the situations established in the 1970s untouched but in doing so have unintentionally strengthened them, each successful defence by the advocates of choice operating to further

²⁸³ In a separate incident occurring only several days after the charges were laid against the Greenslopes pair, Bjelke-Petersen and the Police Minister, apparently undeterred by the clinic raids debacle, sent detectives to the clinic to persuade an eighteen-year-old woman not to have an abortion. A National Party backbencher had contacted them after he was approached by the mother of the woman's boyfriend who alleged that she was being coerced into the operation by her parents. According to the Police Minister, the three detectives gave "moral support" to the woman to "resist pressures" and change her mind, even though she was in the process of receiving pre-operative anaesthesia. (*Aust*, 29.8.85: 5) The woman's father denied having pressured her and complained that the police intervention and the ensuing publicity had added to her psychological distress. (*CT*, 29.8.85: 4) Bayliss said that she still wanted the abortion and he would go ahead with it (*Aust*, 29.8.85: 5) despite the police warning clinic staff that it was illegal as there were no medical grounds (*CT*, 29.8.85: 4). The following week the woman returned to the clinic and her pregnancy was terminated. (*Age*, 7.9.85: 11)

entrench and legitimate their position and the discursive practices justifying it. Conversely, pro-lifers have managed only to salvage the gain of having the issue of abortion, and questions about its legitimacy and ethics, publicly aired. Nevertheless, this has been, and will continue to be, crucial in maintaining any momentum to their struggle. Even a defeat, if it is sufficiently publicised, can have the effect of conveying to the populace that there is a formidable group seemingly representing a large slice of public opinion which is adamantly opposed to abortion. This operates to leave a question mark hanging over the process of normalisation.

Thus, the consequences and effects of each altercation are contradictory but so far they have resoundingly favoured pro-abortionists. For their opponents, perhaps the most negative outcome is the gradual whittling away of each possible avenue of attack. Defeated on a diversity of fronts, they face the task of formulating new tactics, tapping different resources and maintaining the viability of discursive points of opposition. Their resistance continues.

CHAPTER EIGHT

SEXUALITY, MORAL ABSOLUTISM AND THE NEW RIGHT

Past generations accepted that children needed special care, guidance and protection from moral and physical harm, that men and women had complementary roles in marriage and society, and that a child needed a male and female parent. It was accepted that temporary and casual sexual relationships, adultery, sodomy, sexual assault, prostitution, sexual intercourse in early adolescence, homosexual relationships and induced abortions without medical and ethical reasons were all factors that operated against the ability of a man and woman to establish the kind of lasting relationship best for a family.... These attitudes are now in the melting pot. The Women's Liberation Movement has ... demanded the same standards for men and women. (Isbister, 1975: 6)²⁸⁴

The new 'liberation' philosophies are clamouring for abrupt and bewildering changes in life styles and in social roles and competing groups are demanding their so-called rights, which are often in conflict. Law and order are under challenge, and authority is held in disdain. There is, however, general agreement that a major factor for our present disorder is the breakdown of the family.... For generations parents have taught their children moral responsibility, and gave them the foundation on which to build their own families. [This] system ... gave children reasons for preserving their chastity, and it supported them in doing so until they were mature enough to make responsible use of their sexual faculties.... [Some] parents are still doing it, in spite of the general permissiveness around them. But if parents are to be effective in giving their children the moral training they so desperately need, they will have to be supported, not undermined by their Churches, schools, government agencies and the medical profession. The philosophy behind recreational sexuality is simply that of secular humanism, which is concerned with fulfilling the desires and drives of human beings without imposing any moral value of human accountability or social responsibility.... The responsibilities of care and nurture of children, associated with the formation of their values, behaviour and personalities consolidate the role of the parents. The resulting family is the basic social unit - a natural social welfare group - with duties bridging several generations - permitting the human psyche to develop in a balanced way when children are reared by pair-bonded parents who set examples of femininity and masculinity to be imitated by their offspring. (Hume, n.d.: 1,3)²⁸⁵

The Moral Right, Sex and Social Change

In terms of electoral politics anti-abortionists have commonly been referred to by politicians and media commentators as 'single-issue' campaigners. This perspective in fact misses the point. Although right-to-life organisations are tightly focused on abortion, they are merely one division - albeit a very important and highly symbolic one - of a coalition of various pro-family and anti-feminist groups with aims, philosophy and enemies in common. By demonstrating these organisational linkages and analysing the frameworks of understanding within which adherents of these groups make sense of the social world and act in it, it will become apparent that abortion is a linch pin in a wider politics of resistance centred on sex and sexuality:

The nitty-gritty of the abortion debate is not life but sex. (Ellen Willis, quoted in Petchesky, 1985: 263)

In this sense, the politics of sex is distinct from, although inextricably related to, the politics of gender. Further, in forging links with elements of the 'New Right' emergent in the 1980s, pro-family and anti-feminist ideology has been amplified to encompass dimensions of class politics. Pivotal to the philosophical and organisational conjunction of these various concerns are, on the one hand, assumptions about the fundamental natures of human beings, and in particular, men and women, and on the other, normative claims about the relation between the state and society, the family and the individual. Thus, the alliance between moral, political and economic arms of the New Right embraces the assembling and articulation of a 'totalising' theory of society and a concomitant programme for political action and change.

²⁸⁴ Clair Isbister is a paediatrician and leading spokesperson for Women's Action Alliance, the Festival of Light and Call to Australia.

²⁸⁵ Kevin Hume is a medical practitioner and a regular speaker on teenage sexuality, sex education, AIDS, etcetera, at Festival of Light conferences and meetings. FOL has published a number of booklets written by him.

The primary emphasis here, however, will be on the Moral Right²⁸⁶ and the pivotal significance of sex and sexuality to its framework for making sense of society and of social change over the last three decades. It will soon become apparent how gender relations, and more latently, inequalities based on class, fit into the Moral Right's schema of the 'natural' and 'proper' organisation of the social world and social relations. These are not conceptualised as separate dominions, then, but as necessarily and inevitably interlocking components of social order. This is not to suggest that there is only one Moral Right perspective; to see all Moral Right thinking as comprising a homogeneous whole would be to parody reality and ignore diversity, faults which the Moral Right itself exhibits in the extreme in, for example, its version of what constitutes feminism or a homosexual life style.

At this juncture, it is worthwhile pointing out that, unlike Left theorising, moral puritans don't involve themselves in internecine disputes about the fine points of differing explanations. In large part, this is because their arguments are not academic (in the sense of being properly researched or rigorous) although they are fond of pointing to, and inflating, 'scientific' evidence and the academic qualifications and expertise of any of their adherents who claim them. More to the point, however, is the fact that *they 'know' basically what is wrong and what needs to be achieved to right it*. Their conferences, lectures and literature are aimed at spreading the word, inflaming the indignation of the already converted, showing them the magnitude of what is involved, and inciting them to action, even when they take the guise of 'objective' information. Thus, it is of little consequence if various arguments are fraught with contradictions or highly selective in evidence.

Whilst acknowledging diversity and contradiction the following accounts are accurate representations of typical Moral Right discourse drawn, as they are, from their own statements both written and spoken. Listening to what they say, rather than imposing on them an interpretation of what a critical opponent might maintain is 'really' meant, enables us to see how they perceive the social world, how it operates, why it is the way it is, and the meanings which all of this holds for them. We are then in a position to appreciate their stake in particular forms of social organisation and relations, the logic of their actions and responses, and the rationality of their political agenda. Adherents of a Moral Right perspective are engaged in making sense for themselves of changes which genuinely trouble them. The last several decades have confronted them with a social world which engenders in them a distinct unease. The sexual, Women's and Gay Liberation Movements have presented challenges to truths which define and order society and social relationships, melting and clouding formerly precise and secure boundaries around what is permissible and what is not. Ways of living and behaving which transgress those allegedly 'natural' rules of social organisation - and the apparent condoning of them by the formal authority of the state - threaten not only their values; more fundamentally, they threaten to undermine their existential sense of being and living. Little wonder that they react with vigour and even viciousness. It is this understanding which is lacking from many analyses of the Moral Right by feminist and/or Left critics which sometimes tend to treat them as mere reactionaries or dismiss them as 'fascists', although fortunately this appears to be changing.

I have chosen to concentrate on two Moral Right organisations: the Festival of Light (FOL) and Women Who Want to be Women (WWWW). It might be thought that because abortion politics is central to the thesis it would be most appropriate to study the RTL. I rejected this alternative for several reasons:

1. In terms of their discourse, pro-lifers have already been dealt with in some depth in preceding chapters. Moreover, right-to-life groups deny that their opposition to abortion stems from anything to do with sex, and hence their public documents emphasise foetal rights and child murder, etcetera. If Moral Right hostility to abortion is indeed grounded in the politics of sex, rather than that of 'life', this is most likely to emerge from a study of organisations more generally oriented to pro-family and anti-feminist concerns.
2. FOL is oriented to a wide gamut of subject matters which it sees as related to preservation of the traditional family and a morally decent society. Conversely, the focal target of WWW is feminism which it maintains is undermining the status of *women*, and damaging children, the family unit and

²⁸⁶ Numerous other terms have been used to refer to the Moral Right, such as moral conservatives, moral puritans, the moral purity movement, moral absolutists (Weeks) or social authoritarians, the last being a term coined by David Edgar to refer to Britain's new moralists (Edgar (1983: 19). I will use some of these terms interchangeably.

society as a whole. By examining the discourses of these two organisations, one general and the other specific in its programme, we can see how sex and sexuality mesh into the politics of the Moral Right.

The Festival of Light

The range of issues with which FOL has concerned itself encompasses a diversity of ‘social ills’ which it sees as caused by family breakdown, ‘moral pollution’ and permissiveness. Thus as well as campaigning against abortion, pornography, homosexuality, no fault divorce, sex education, anti-discrimination legislation, non-sexist parenting and other directly ‘sexual’ or family issues, it has also addressed corruption and crime, drugs, kid’s homelessness and, somewhat surprisingly, the plight of Aborigines.²⁸⁷ The latter, however, are more in the order of ‘secondary’ issues, construed as symptomatic of a general decline in the family and traditional community values, and the failure, and lack of respect, of authority. Possibly, attention to them may be an attempt to demonstrate FOL’s relevance to contemporary problems and to substantiate its assertion that, contrary to what is often alleged, it is not “obsessed with sex” (*ST*, 28.6.81: 126). The policy objectives of the 1984 Call to Australia team - an electoral arm of FOL - for the NSW Upper House elections neatly encapsulate FOL’s main aims:

- To uphold traditional Christian marriage.
- To encourage stronger patterns of family life.
- To foster community attitudes supportive of a higher Australian birthrate.
- To uphold the right to life of the unborn child.
- To defend traditional male and female sex roles.
- To affirm the heterosexual lifestyle and resist efforts to dignify homosexuality.
- To uphold the existing Australian flag and promote healthy and positive Australian patriotism.
- To stimulate a cleaner, purer and more creative community thoughtstream, featuring stronger resistance to pornography and indecency.
- To restrict usage of addictive drugs, including marihuana.
- To help minimise corruption and eliminate organised crime.
- To promote a stronger Australian work ethic.
- To undergird all the churches and help them capitalise on the coming Renewal. (*Australian Christian Solidarity*, Nov, 1983: 13)

FOL was named after its British counterpart which was launched by Mary Whitehouse, Malcolm Muggeridge, Cliff Richards and others in 1971. It was established in Australia in May, 1973.²⁸⁸ (FOL, n.d.) Its initial public rallies, featuring Whitehouse herself, were held in October in all capital cities and drew large crowds. More demonstrations the next year were successful in attracting thirty-five thousand people in Sydney and fourteen thousand in Adelaide. Speaking at these were FOL’s National Co-ordinator (then and now) the Reverend Fred Nile, Adelaide academic Dr John Court, paediatrician Dr Clair Isbister and the Anglican Dean of Sydney Lance Shilton - all of whom have continued their close association with the organisation. These events were attended by major Church leaders, including the Anglican and Catholic Archbishops of Sydney. (Sadler, 1983: 5) A Sydney rally in 1976 with Malcolm Muggeridge as guest speaker drew a similar crowd, but from that point onward FOL switched the focus of its activities to campaigns directed at securing or preventing legislative change. For example, it strenuously resisted the three bills proposing homosexual law reform and has fought for tighter censorship controls, especially on videos, and for a law to outlaw abortion. In coalition with WWW it has campaigned against federal sex discrimination and affirmative action legislation.

Under the “electoral guise”²⁸⁹ of the Family Action Movement (FAM) or Call to Australia (CTA) FOL has fielded teams of its prominent members in most elections for the Federal Senate since 1974, and in all those

²⁸⁷ A concern with the latter appears to stem from some understanding on the part of the Reverend Fred Nile, FOL’s national co-ordinator, of the devastation wrought on Aborigines by the destruction of the spiritual element in their culture.

²⁸⁸ In fact, FOL was an amalgamation of a number of pre-existing groups: The Community Standards Organisation in South Australia and various *ad hoc* groups such as one formed in Sydney to protest against the stage show *Oh Calcutta*. (Sadler, 1983: 5)

²⁸⁹ Both the FAM and the CTA purport not to be political parties and to be separate organisations from FOL. Even technically, however, it has been difficult to sustain these claims. Regarding CTA’s claim for public funding after the 1981 election, the NSW Election Funding Chairman contended that the organisation was hardly distinguishable from a political party. (See Sadler, 1983: 9)

for the NSW Legislative Council since 1978 (the first-year members were elected, rather than appointed by the Assembly). In 1981 Fred Nile was elected to the Council with over nine percent of all votes cast, well over the necessary quota. In 1984, Jim Cameron, an ex-Liberal MLA, was also successful and joined him there although eight months later, following a coronary, Cameron resigned and was replaced by the organisation's nominee, Marie Bignold.²⁹⁰ Elaine Nile was also elected in 1988, giving the three CTA independents the balance of power in the Upper House.²⁹¹

FOL has always put a lot of energy into securing media attention so as to impress on the public the need for moral action to combat the decline of those traditional values which have safeguarded the family and children, and to highlight 'unwholesome' and dangerous influences spreading throughout the community. It has distributed weekly press releases designed for maximum impact. For example, in a press release and a question in the Legislative Council Nile drew attention to 'pornographic' posters of Prince Charles and Lady Di which were selling in City shops just prior to a scheduled visit to Australia by the pair, a move nicely calculated to outrage a sizeable section of the public. This effort gained FOL front-page newspaper coverage. (*DT*, 15.3.83: 1) For nearly two years Nile had a regular column in the *Sunday Telegraph* and since 1981 a talk-back show on radio station 2GB called the Sunday Light Show.²⁹² The organisation distributes two magazines to members, *Light* and *Australian Christian Solidarity*, as well as producing a vast array of various resource materials available at nominal cost. Many local churches are affiliated to FOL, mainly those of a conservative or evangelical persuasion, including many Catholic and Baptist churches, Anglican parishes in the Sydney Archdiocese and country ones where the minister was trained at the evangelical Moore College in Sydney. (Sadler, 1983: 32) Nile does regular speaking tours to these and attempts each time to set up local committees to carry on the work. These also provide a core of supporters to campaign on behalf of CTA at election time and to collect signatures for the numerous petitions it presents to Parliament.

From large rallies the emphasis shifted to conferences and seminars. There is an annual FOL Conference as well as yearly Conferences on education and a Women for the Family and Society Conference, first held in 1980 and annually since 1983. Women for the Family ("the Christian alternative to Women's Electoral Lobby") is a sub-organisation of FOL directed to women's issues and the family. Although it doesn't specifically declare itself as such, WFF is anti-feminist and therefore deals with numerous sexual issues which it sees arising out of Women's 'Lib' activity. Its President is Elaine Nile.

Although FOL is non-denominational, its primary appeal is to Christians of a fundamentalist or evangelical orientation, although it is also heartily supported by conservatives in the Catholic Church hierarchy.²⁹³ Nile

²⁹⁰ Cameron had a heart transplant and by 1989 was well enough to want his seat back. Nile demanded that Bignold resign to make way for him but she refused. The incident blew up into a bitter public confrontation, the first open indication of any internal dissension within FOL or its allied groups. The media had a field day over it, FOL, and Nile in particular, being a favourite figure of jokes and parody. It also showed another face of Nile: a vicious intolerance at any flouting of his authority.

²⁹¹ Since the confrontation with Nile, Bignold has taken an independent line on issues, apparently evaluating each on what she sees as its merits and voting accordingly. By splitting the CTA vote and siding with the ALP and the Democrats she has been instrumental in blocking several very important and hotly debated pieces of Government legislation.

²⁹² This was the subject of numerous complaints to the Australian Broadcasting Tribunal, particularly by homosexual groups. Eventually the station cancelled it and Nile moved to another slot on the FM band.

²⁹³ A leaflet enclosed with FOL's August 1986 annual appeal pamphlet had messages supporting FOL's aims, the work it did, and its appeal for donations from:

The Very Rev. Lance Shilton, Dean, St. Andrews (Anglican) Cathedral, Sydney;
 Rev. Keith O.D. Nagel, President, Lutheran Church of Australia;
 Kevin E. Crawford, Secretary, Churches of Christ in NSW;
 The Most Rev. Edward Clancy, Catholic Archbishop of Sydney;
 Commissioner Harry Read, Australian Eastern Territory, Salvation Army;
 The Right Rev. Ray Walder, Moderator, Presbyterian Church of NSW;
 Rev. R.F. Pope, President, Baptist Union of NSW.

Noticeably absent is support from the moderate Uniting Church. Presbyterians, Methodists and Congregationalists who elected not to join the Uniting Church tend to be of a more conservative persuasion; leaders of these Churches often publicly align themselves with FOL.

has declined to disclose membership details - even to sympathetic researchers - which would make possible any analysis of members' socio-economic backgrounds, age, sex, or religion.²⁹⁴ (Sadler, 1983: 29) The impression I received during participant observation was that the actual membership was very strongly Protestant, a characteristic noted by a number of commentators on Moral Right, particularly pro-family - as distinct from specifically anti-abortion - groups elsewhere.²⁹⁵ The prayers that are offered at its meetings and the appeal to biblical proofs also point to a heavily fundamentalist Protestant leaning. Photos and reports in *Australian Christian Solidarity* and *Light* and in press photos and television coverage of FOL rallies and marches suggest that members are middle-aged to older couples with most of the more active membership being women of this age group; for instance, FOL's office appears to be always staffed by the latter. The audience at the 1983 Women for the Family Conference was almost exclusively comprised of women from about fifty years of age and upwards.²⁹⁶ The heavy reliance on such women within Moral Right groups has been noted by, for example, Luker (1984: 145) and Petchesky (1985: 274). It is notable, however, that most of the more public figures in the organisation, as well as many of its authorities on particular areas of interest, are men.²⁹⁷

Women Who Want to be Women

WWWW was formed on 22 March 1979, the day the Lusher motion to restrict funding of abortions was lost. A number of women gathered together discussing its failure decided to do something positive to try and reverse the successes of the Women's Movement, and voice the needs and desires of ordinary Australian women. Present on a visit was a member of the Canadian WWWW organisation, Phyllis Boyd, which presumably explains the choice of name for the group. (WWWW, c1979) The organisation quickly began producing a newsletter which, by naming co-ordinators in most states and a number of regions, conveyed the impression that it was a national body. In fact, WWWW activity has been confined primarily to Victoria and Queensland and most of it has been due to the efforts of two of its founders, Babette Francis (National and Overseas Co-ordinator) and Jackie Butler (Queensland Co-ordinator). One or both of them have figured in virtually all activities undertaken in other States, such as lecture tours by overseas visitors, or in conferences which are always held in association with other organisations. Regular meetings and talks are advertised in the newsletter and consist of dinners held at a Melbourne member's home. As these are open to all to attend, regular activist membership must be very small, and exist mainly in Melbourne. Despite this, WWWW have been reasonably successful, both in gaining media attention and in some of their lobbying efforts, at least when the Fraser Government was in power.

It operates in close cooperation with a number of other Moral Right associations and has informal links into the National Party - Butler having herself held a formal position within the Party - and the Liberal Party.²⁹⁸ One other founding member, the Victorian co-ordinator, was an office bearer in Women's Action Alliance (WAA), a group with similar principles and aims formed in 1975 - International Women's Year - in reaction against what it saw as the devaluing of homemakers by Women's Liberation and the implication that only women in the paid workforce were fulfilled (WAA, n.d). WWWW has worked closely with FOL, notably in jointly organising Women for the Family and Society Conferences, in supporting CTA at elections, and in presenting submissions to Government bodies and petitions. For several years the NSW report in its

²⁹⁴ This would seem to be policy amongst all Moral Right organisations; Webley encountered a similar difficulty with WWWW. (Webley, 1980: 1)

²⁹⁵ When asked my own religion I professed to Catholicism, feeling safer that I would not be 'caught out' by awkward questions about shared religious knowledge or assumptions. My reply elicited slight (but pleased) surprise, indicating that despite official Church support few individual Catholics are drawn to FOL, although they would be welcome.

²⁹⁶ My age (mid-thirties) and the fact that I was single, prompted one Committee member (of Women for the Family) to declare triumphantly to others, "See, we can attract young, single women".

²⁹⁷ A detailed account of FOL's organisational basis and its activities is peripheral to the present work and has been dealt with elsewhere (Sadler, 1983). The purpose here is to acquaint the reader with the nature of the organisation and to demonstrate that it is the most prominent of Australian Moral Right groups oriented to sexual issues in general.

²⁹⁸ Butler was Women's Section Zone President of the Queensland National Party. Francis' husband was a Victorian Liberal Parliamentarian until expelled in 1977 for criticising the way the Party dealt with allegations of land corruption. (Webley, 1982: 140)

newsletter was written by Fred Nile and at various times other prominent FOL members have reported from other States, for example, Alan Barrow from South Australia, an officeholder there and author of a book endorsed by, and distributed through, FOL. Its *Light* magazine has reprinted articles by Francis and regularly reported activities involving WWWW. The NSW WWWW co-ordinator, Leone Hay, is also Secretary of CTA and is based at Nile's electoral office in his Ryde home (Sadler, 1983: 9) She was also secretary of the first Women for the Family and Society Conference in 1980. Both organisations were involved in sponsoring Phyllis Schlafly's Australian visit and FOL, amongst other groups, organised public lectures for Michael Levin when he visited Australia as a guest of WWWW. In Victoria WWWW ran a coalition ticket, headed by Francis, with RTL and other Christian women's groups for election of delegates to the National Women's Advisory Council (NWAC). (Webley, 1982: 139)

Apart from supporting the CTA, newsletters advise voters to ascertain the RTL rating of each candidate in elections, pointing out that this is a litmus test of a candidate's position on the whole range of concerns shared by members of WWWW. References in the Newsletter to office bearers of RTL - for example, a letter published in the *Canberra Times* written by ACT RTL President Kathleen Wolf in which she acknowledged her association with both RTL and WWWW - also indicate not only a similarity of concerns but a degree of personal interaction. On overseas trips (particularly to the USA) Francis and Butler have made high-level contacts with numerous other Moral Right groups, notably a wide range of pro-life ones, including Joe Scheidler's Pro-Life Action League. (WWWW, 1980b: 16)

One very telling indication of the range WWWW's links with other Moral Right organisations is provided by the itineraries of Levin's Australian tours in 1983 and 1984, which were sponsored by WWWW. Groups to whom he spoke and/or who provided organisational backup and venues varied from Catholic to Protestant Church based associations, from those with pro-family and pro-life orientations to industry and business organisations and political parties and New Right groups.²⁹⁹ Clearly, WWWW has numerous affiliations and membership linkages to a vast range of sympathetic groups spread all over the country which enables it to mobilise large numbers of people for letter writing and for the collection of signatures on petitions. For example, WWWW had 199 and 152 petitions presented to the Federal Lower and Upper Houses respectively in the years 1979 and 1980, all calling for the elimination of the NWAC. (Webley, 1982: 141) WWWW claimed that these were signed by almost three-quarters of a million people. Even allowing for some exaggeration this is a considerable effort, and indicates the degree of close cooperation the organisation has with others of a like mind who they could call on for the gathering of signatures. There are some indications, including various remarks in its newsletter, that WWWW has much stronger Catholic links and membership than FOL has been able to develop. For example, one of the first dinner speakers WWWW had after its formation was an NCC official; its brand of Christian rhetoric differs considerably from the fundamentalism

²⁹⁹ These included, *inter alia*:

- Council for a Free Australia (in both Queensland and Victoria): Founders include Jackie Butler;
- National Civic Council (Queensland): The Catholic lay organisation;
- Pro-life Victoria: The right-to-life group formed in reaction to Tighe's electoral militarism, President, Alan Baker;
- Australian Family Association (W.A., ACT., Queensland [Brisbane, Cairns and Townsville], NSW: Patrons include Clair Isbister, B.A. Santamaria - National Director of the NCC, Prof. Lachlan Chipman, a leading Moral Right figure closely associated with FOL, Kim Beazley Sn., ex-federal Labor Parliamentarian and vehement Catholic opponent of abortion. AFA was formed by Santamaria so has a heavy Catholic influence, and is allegedly linked to the RTL. It promotes the traditional nuclear family and opposes all social welfare measures which serve to remove caring and nurturing from the home;
- Knights of the Southern Cross (Victoria [Melbourne, Wodonga and Bendigo]): A conservative organisation of Catholic men;
- Australians for Commonsense, Freedom and Responsibility (NSW): A group formed in the early 1980s to further "basic values and ideas" such as "free-enterprise", "limited government", "private property", "freedom", "respect for authority", "the work ethic", "commonsense and tradition". ACFR believes that "destructive values and undesirable current developments in education, media and society are slowly undermining the system ... [of] representative democracy and free enterprise" (ACFR, n.d.);
- RTL (W.A.);
- FOL/Women for the Family (W.A., NSW);
- Catholic Women's League (S.A.);
- Victorian Employers Federation;
- Confederation of Australian Industry (Queensland);
- Liberal Party Women (W.A.);
- National Party (Federal caucus and Malvern-Toorak Branch, Victoria).

of FOL; and meeting halls on tours include a large number with names like St Joseph's Hall, Sacred Heart Centre, St Francis Xavier Hall.

Although WWWW was founded on the day of Lusher's defeat, Webley argues that it has played down its opposition to abortion in an effort to project a wide appeal to women concerned about the 'excesses' of 'radical feminism', particularly WEL's success in infiltrating Federal Government bureaucracies and influencing Government policies. The existence of a strong Catholic influence in WWWW would support this, giving it reason to avoid being publicly associated with the anti-abortion movement which is seen by many people as Catholic inspired; WWWW wanted to present an image with which all 'ordinary' (read non-working and financially dependent) wives and mothers could identify. Any identification of it as narrow and sectarian would have militated against this.

Its opposition to the damage done to the homemaker role crystallized in a long campaign against NWAC, established by the Liberal-Country Government in 1977. This was interpreted by WWWW as capitulation to the destructive influence of 'women's libbers'; as formal recognition of their claim that women were discriminated against and that their status in the workforce and community needed to be improved. As far as WWWW was concerned, attempts to give women equality with men in the public sphere were disastrous for the cause of women as they could never compete successfully with men in what were properly male activities. In the process of minimising the differences between the sexes women's very special role and status in private life would be discounted and devalued and they would end up losing on all counts. The details of WWWW's vendetta against the NWAC have been very ably covered by Webley (1980; 1982) and the substance of her work confirmed by Francis herself (WWWW, 1980b: 4,5) and by the contents of WWWW newsletters over the period.

Although essentially similar in their frameworks of meaning, different emphases and aims mean that FOL and WWWW tend to highlight different aspects of the way things are and the way they should be. They have generated a theorisation of society and social relations underpinned by a theological (natural) foundation, the latter providing certitude of the knowledges they inhabit and endowing their actions with an incontestable rationality. A systematic view of the world firmly rooted in religious truth leaves no room for doubt or reflexivity and provides a reservoir of energy to motivate them in their political programme. Any contradictions in their system of truths or between it and realities which confront them can, up to a point, be disregarded as irrelevant in the sure knowledge of an underlying given truth. Nevertheless, whilst assuming such a system they work to consolidate its truths both politically and personally. That is, they are engaged in an ongoing process of making and strengthening their own identities at the same time as they are actively seeking to realise specific social aims, a point elaborated in Chapter Two.

The 'new' Moral Right has its origins in the social (and sexual) changes which they see as beginning in the 1960s - changes which in their acceleration have undermined an alleged 'golden age' existing hitherto. This mythical age the new social purists see as characterised by a moral and practical consensus about sex - illicit in all contexts other than marriage, and geared primarily to procreation;³⁰⁰ by a strict, 'natural' division of labour in the home and the workplace; by a complementary reciprocity of independent man and dependent woman and children which spurred into play the male sense of protectiveness, motivation and responsibility; by a separation between the private and public spheres of life, the male dominating the latter and earning income sufficient to support wife and family, the female passing momentarily through low paid work on her way to marriage and family.

³⁰⁰ When speaking of sex, many moral authoritarians will also emphasis the role of sex in promoting intimacy between the married couple. Any form of contraception other than abstinence, however, 'degrades' this relationship. In a large number of in-depth interviews with American right-to-life activists, Luker (1984) was repeatedly told that, for them, sexual intercourse heightened the close intimacy between husband and wife because it always retained the possibility of conception of a life. This view or experience of sex is probably valid and idealised at the same time; Fred Nile has referred to the beauty of sex between husband and wife. What it can't countenance are economic barriers to childbearing, the fact that many people's marriages are not as idyllic as the picture they paint, and indeed, as we now know, sex for many women is far removed from the experience those women relate. FOL, for instance has strenuously resisted the concept of rape within marriage quite explicitly on the biblical grounds of the husband's *right* to sex with *his* wife (implicitly relying on notions of the male's superior sex drive - his *need* for sex - and/or on the husband's *ownership* of the wife and her body). Also, we know that some right-to-lifers do have recourse to abortion, muddying somewhat this idealised representation.

As far as the state was concerned, the Moral Right saw its role as bolstering the family and assisting it to perform its necessary functions: functions which, in their interrelationships, served society, the family, and individual citizens. Properly, the state encouraged fertility by providing 'baby bonuses' or maternity allowances, child and then family allowances, a tax structure geared to the needs of the family. It policed sexually active or uncontrollable children, fathers who deserted their families, men who were responsible for illegitimate births, and by its divorce laws kept marriages together or, in the last resort, punished the guilty party financially. Through industrial law and the Arbitration System it ensured a living wage for a man and his family. It provided pensions for widows on the understanding that they hadn't and couldn't work for a living. Its education system was designed to reinforce the values and sex-role models which the family had inculcated in its children. In a myriad of ways, the state reinforced women's dependence on men, and organised other aspects of society on the assumption of this dependence, and on the dependence and proper rearing of children. In return, the state expected the family to perform a "policing role" (Weeks, 1985: 43); to regulate sexuality, especially that of children and adolescents, and instil discipline and a socially appropriate sense of morality and regard for authority. According to the Moral Right, then, the state has a (God-given?) duty to actively support the family as the basic unit of social order and reproduction; one which it had hitherto recognised and fulfilled more or less properly. Conversely, it has no right to act in ways antithetical to traditional family organisation and processes. Yet, over the last two decades the state has introduced numerous measures which moral authoritarians see as directly 'anti-family'. Amongst other things it has legislated for easy divorce laws and pensions for unmarried mothers; promoted permissiveness by allowing abortion, pornography and access to contraception; given recognition to women and children as individuals in their own right rather than as members of families and encouraged the independence of the former; downgraded marriage and promoted immorality by removing legal discrimination against *de facto* relationships and illegitimacy. Thus, for the Moral Right, the state has become an object of suspicion and hostility, having in many ways contributed to what they regard as the breakdown of the family and marriage and the values and morals underpinning those institutions.

Perhaps most importantly, this idealised family form and women's dependence - both of which moral authoritarians consider to be God-given and natural - provided women with the ready-made trappings of a socially condoned and expected identity into which they could 'step' and 'recognise' themselves. The identity of wife and mother afforded them the existential security of knowing who they were and where they fitted in the schema of things. It gave them shelter from insecurity and protection from the uncertainties of independence. It named them, placed them and assigned them a lifetime of functions, thereby assuring them and others who and what they were, and laying out a pattern of activity to follow. It gave them an absolute and prescriptive set of values and norms of behaviour to enable them to be good and successful wives and mothers.

The era preceding the advent of permissiveness is idealised by the Moral Right as the golden age of asexual children and adolescents, of adult sex (or at least female adult sex) confined to marriage, of the 'traditional' nuclear family unbothered by notions of intergenerational conflict, of men and women cooperating together harmoniously according to naturally defined sex-roles, of the happy relationship between the institution of the family and the state; this was the age seriously threatened by 'sexual liberation' and 'permissiveness': thrown into chaos by Women's Liberation, and into moral anarchy by Gay Liberation. In less than one generation moral absolutists witnessed those truths which had functioned to make sense of society - which gave order, certainty and security to the process of living - not only contested but often even discarded as irrelevant, or worse, as 'wrong' or oppressive.

That this 'traditional' family with its idyllic and complementary sets of sexual and social relations existed only in the writings of functionalist sociologists, in the idealised rhetoric of New and Moral Right ideologues or in their distorted memories, and in the isolated experience of a minority of the white middle-class is beside the point. Its power as the focal point of Moral Right discourse lies in its symbolic value - its representation of sexual restraint, moral rectitude, reciprocal gender divisions and hierarchical order - counterposed to a "unisexual" society, characterised by "recreational sex" and moral decline.

Moral purists are correct in their insistence that family form and gender relations have been subject to quite profound transformations over the last few decades, and that there is a far greater tolerance for sex outside of

marriage, and for diversity in sexual behaviours and relationships. What is distinctive about moral purists though, are the sorts of explanations they give of the nature, causes and significance of these changes. Their explanations of change are not only attempts to make sense of the social world for their adherents; they also serve as pointers for a programme of political action. Generally, moral authoritarians have a linear view of causality. The object is to locate those phenomena which were instrumental in subsequent upheavals, to reverse them and restore the *status quo*. They pinpoint two factors as decisive in moral decline: birth control and attempts to alter natural sex-roles.

For moral puritans, the contraceptive pill was the key agent in heralding the sexual permissiveness beginning in the 1960s. Prior to then the likelihood of “pre-nuptial pregnancy acted as a strong restraint”. (O’Sullivan, 1987: 4) The pill opened the way for ‘casual’ or ‘recreational’ sex - sex indulged in basically for any reason other than procreation, be it pleasure, lust, to please a partner or even, according to one self-proclaimed former “active radical feminist” turned fervent Christian, for the “self-centredness” of “intimacy in marriage” (Pride, 1987: 9)³⁰¹. With safe contraception permissiveness flourished, and the natural link between sex and procreation was broken. But the pill wasn’t always effective. Unwanted pregnancies were still occurring. Women missed taking a pill, or they took a break from it for several months. A girl who wasn’t taking it met a boy with whom she wanted sex or who expected it of her once the former taboos were undermined. Women started to argue that they shouldn’t be forced to bear babies they didn’t want, and men ceased taking responsibility for their paternity. Gripped by the ‘pill mentality’ people came to believe that they were entitled to have sex without suffering the consequences of unwanted pregnancies. This ‘right’ was articulated in political action for abortion on demand. Easy abortion was the one way to guarantee that individuals could indulge in sex without any sense of responsibility but not have to pay the cost. Once abortion on demand became a reality there was no longer any material barrier to indiscriminate sex. The ‘fact’ that sex was a matter of morality was swept away by the tide of permissiveness, decisions becoming merely a matter of personal desire and preference.

Festival of Light Discourse

The Evil of Secular Humanist Sex Education

Nowhere is this clearer to moral puritans, and its effects more destructive, than in sex education/personal development classes in schools, and in teenage sexuality. Under the guise of so-called ‘objectivity’ and freedom from value judgements students are taught not only the most intricate and ‘private’ biological details of sex, but it is taught without its necessary relation to reproduction or to morality. Children, they say, are encouraged to feel good about their sexual feelings and attractions, even those of a homosexual nature. FOL claims that since discrimination against homosexuals was made unlawful in NSW in 1983, schools were to be used to “break down the community’s resistance to homosexuality”, and to teach that it was a “valid lifestyle”. Worse, homosexual teachers would be allowed to “proselytize” and act as role-models to help students ‘discover’ their gay sexual orientation” and be happy with it! (Hicks, 1983: 3)

FOL claims that the emphasis in sex education and personal development teaching is on eliminating any sense of guilt children might experience about sex or sexual thoughts. Yet guilt arises from a proper moral aversion to sin, they maintain, and consequently, programmes which aim to eliminate it are immoral, rather than ‘neutral’. Even masturbation is promoted as normal and enjoyable and as a means to explore and understand one’s body, rather than condemned for arousing premature sexual feelings in children which, on the one hand, are likely to provoke further curiosity and exploration, and on the other, lead children to believe that sexual pleasure (and especially that from solitary sex) is a legitimate end in itself. (WFF, 1983: 9)

What finally emerges [from sex education] is a physiological conception of sex as a bodily function, to be practised in the interests of good health like eating and drinking. Sex between human beings is to be regarded as a simple biological function serving the interests of self-gratification, physiological release and recreational pursuits, without the obligation of any commitment or danger of procreation. (Hume, n.d.: 2)

³⁰¹ This is an example of the sort of variation in perspective which is happily tolerated and not even remarked on amongst moral puritans. As previously mentioned, pro-life women interviewed by Luker (1984) spoke of the importance of sexual intimacy in marriage, and Fred Nile himself has remarked on the beauty of sex between marriage partners, implying that it both expresses and promotes marital intimacy. For Pride, intimacy between married couples is “us-centred” and is likely to lead to divorce.

The basic resistance of moral puritans to sex education rests on their conviction that children are sexually innocent and that knowledge of sex provokes sexual activity and licentiousness.

To see sexual knowledge as essential to children of all ages is to ignore the natural psychodynamics of maturing.... This is a complex process by which sexual awareness develops naturally, parallel to the developing sexual capacity, as the primordial psychosexual faculties grow with the primordial physical sexual system. Sexual awareness in the natural order marks maturity and readiness for sexual union, and readiness for sexual union occurs in the natural order when humans are ready for parenthood. (Nesbitt, 1983: 2,3)

As Weeks observes, “appeals to ‘Nature’, to the claims of the ‘natural’, are amongst the most potent we can make” (1985: 61). Left alone without the influence of external corrupting interference from sex educators (or other morally polluting agents such as pornography or homosexuals - two of FOL’s most loathed targets) children and adolescents will evince no interest in sex or their own sexuality. The former are “asexual”, whilst the latter are passing through the “latent period” in which their sexuality is “sublimated” or redirected towards the “higher ends” of learning and curiosity. (Nesbitt, 1983: 3) It follows that sexual knowledge in children and adolescents is an active encouragement to promiscuity, whereas a healthy ignorance promotes chastity. But worse still:

To oppose the natural is to court disaster.... If the child is made sexually aware during this period, compassionate love for parents and others may be displaced and cruelty dominate, developing later into sado-masochism, the impulse to master others by inflicting pain or to suffer bondage by enduring it. Because sex instruction during latency is unnatural, it disturbs and may even destroy normal psychodevelopment. (Nesbitt, 1983: 4)

Trendy, or ‘secular humanist’, sex educationalists operate on the assumption that the innocence of latency indicates “hang-ups” in the adolescent; hang-ups from which they will be freed by adequate knowledge. Children are taught that as long as the relationship is non-exploitative and “meaningful”, and sex is “responsible”, then “sex is great for everyone”. In sex education language “responsible” means using contraception to avoid pregnancy, “when in fact this takes the responsibility *out of sexuality*”. (Nesbitt, 1983: 8, emphasis in original) Anyway, contraceptives are not used all the time even by those who have full knowledge of and access to them; “recreational genital sex is not without its problems in spite of ... so-called ‘reliable’ contraceptives.” (Hume, n.d.: 3) The inevitable result is a spiralling increase of teenage pregnancies as more and more young people become sexually active.

Family planning organisations, concerned about this but unwilling to recognise it as the result of the promotion of their own philosophy, energetically push contraception for teenage girls. Yet, according to FOL there is “powerful evidence that *contraceptive education programs actually increase teenage pregnancy* - the very opposite of the stated aim” (FOL, 1981: 8, emphasis in original). Leading FOL members point to American studies evaluating publicly funded campaigns by Planned Parenthood (a favourite target of the American Moral Right) to promote the use of contraceptives by sexually active girls, studies which they say show:

... that increased exposure of teenagers to contraception ... has led to more premarital pregnancy, more illegitimacy, more abortions, more promiscuity, more venereal disease, and more cervical cancer. The obvious cause of all these problems has been the enormous increase in sexual activity among teenagers.... The only way these problems could be curbed would be by reducing the rate of sexual activity among teenagers.... Indisputably, [however,] more teenagers are engaging in premarital sex and beginning their sexual activity at an earlier age than ever before, *because they are given the means to avoid the most apparent consequences of their sexual activity*. (Ford & Schwartz, 1981: 10, my emphasis)

As the moral puritan argument goes, then, contraception leads to increased teenage sex, which in turn leads to higher levels of contraceptive misuse and failure, and thus to increases in teenage pregnancy. The consequence of this is more and more recourse to abortion. Moves by Federal Government ministers to allow girls fourteen and over to have their own Medicare cards enraged FOL, which interpreted these as encouraging teenagers to engage in sex by enabling them to obtain the pill and abortions without their parents’ knowledge or consent. (WFF, 1983: 1:) As well, many parents, despairing of their ability to maintain their daughters’ chastity by discipline and moral values, encourage contraception anyway, and when that fails either pressure their daughters into having an abortion, or cooperate in them doing so. (O’Sullivan,

1987: 4) The easy availability of abortion acts as a positive incitement to sexual indulgence, because whether or not contraception is used, it guarantees that girls won't have to face the consequences of their actions, nor boys the responsibility.

Conversely, if a girl doesn't resort to abortion, the state encourages her not to adopt the baby out by supplying her with a Supporting Parents Benefit. The result is an ever-rising number of single-parent 'families' in which children are brought up without a father figure. The social costs of this are incalculable, but include disturbed children, poor performance at school, more delinquency and a huge increase in welfare expenditure. (Goodman, 1983: 6) Along with abortion, it has also meant a severe shortage in the number of babies available for adoption to childless families.

The Evil of Easy Divorce

FOL complains that public acceptance of the so-called 'alternative' one-parent family form has served to discourage in marriage partners the traditional qualities so essential to stability in families: self-sacrifice and patience in women and responsibility and protectiveness in men.³⁰² Whereas formerly, marriage was accepted as a lifelong commitment and difficulties were either overcome or endured, these days, when problems arise partners take the easy solution of divorce (strongly opposed by most on the Moral Right for both religious and moral/social reasons). FOL blames the Family Law Act (the "Family Destruction Act") introduced in 1975 by the late Lionel Murphy, for a "trail of broken families". (Nile, 1986: 1) Two facets of the Act incense it in particular.

First, it "penalises the innocent", by which is meant that one party to the marriage, through no fault of his or her own, can be divorced by the other against his or her wishes. (FOL, 1986: 3) Marriage is a lifelong contract, and the Act allows one partner to break that contract at will. Previously, only the 'wronged' party could sue for divorce and FOL wants that situation restored by legislation. It points out that Australian divorce statistics show that "over 84% of divorces were *forced* on the other partner" and that sixty-five percent were caused by the wife's decision and only nineteen percent by the husband's (with only sixteen percent a matter of mutual agreement). (FOL, 1987a: 4, my emphasis) Thus in almost three out of four cases the husband is the 'innocent' party and the wife forces divorce on him. There is a distinct sense here in which 'fault' is conceptualised as *the decision to divorce*, not, for example, as the cruelty, violence or neglect which might lead to that decision.

FOL's second objection to the Act is the encouragement it gives to "the irresponsible to simply walk out of a marriage, creating an environment of easy divorce with no protection for the family whatsoever". (FOL, 1986: 1) It cannot countenance marriage breakdown as sufficient grounds for divorce. In its terms that is merely an excuse for partners lack of commitment and for irresponsibility; a situation actually encouraged, and even brought about, by easy divorce.

There is an analogy here between easy divorce and availability of contraception and abortion, in that each is seen as creating its own need: freer access to divorce promotes attitudes and situations in marriage which lead to divorce; contraception and abortion promote immoral and irresponsible attitudes to sex and therefore increase illicit sexual behaviour, leading to unwanted pregnancies and to the 'need' for abortion. It follows from these teleological arguments that the solution is to make all of these avenues difficult or impossible to get legally. There is little recognition of any casualties of such a course of action, although one writer in *Light* points out that in the U.K. before abortion was legalised, 'only' about forty women died annually from back street abortions, and asks if this is too high a price to pay each year for the hundreds of thousands of babies who would be saved if the legislation were rescinded. (He says that official statistics which show this mortality rate as about one hundred per annum in the mid-sixties "must have been considerably exaggerated".) (Livingston, 1986: 10)

³⁰² FOL resents the term "family" being used to describe single parents or divorcees with children. Similarly, it rejects the concept of a de-facto 'family'. It defines the family as "a man and a woman bound by marriage, living together with their children by blood or adoption". It says if this "re-definition process" is allowed to continue, the concept of family will be lost to our language. (*Light*, Feb., 1985)

For FOL, easy divorce has contributed to the dramatic escalation of familial breakdown, and so it is partly responsible for the threatened destruction of the very institution most central to social order. For the Moral Right there is a definite causal correlation between the alleged breakdown of the family and what it sees as a host of social problems plaguing Western countries. On the one hand, then,

[t]here is ... general agreement that a major factor for our present disorder is the breakdown of the family. [On the other hand t]here is no such agreement on the measures that should be applied to overcome the problems resulting from the disintegration of the family, because there are fundamental differences of opinion about human sexuality. (Hume, n.d.: 1)

This is a theme common to much of the literature associated with FOL and arguments advanced by their spokespeople: that sexual permissiveness and changes in naturally (and indeed divinely) ordained male and female sex roles - and the generalised abrogation of responsibilities that has accompanied the latter - have *caused* family breakdown (as well as easy divorce itself). At the same time they see these problems (and a host of others including violence, drugs, contempt for authority, demise of the work ethic, 'moral pollution' and a widespread 'decline' in values) as themselves *caused by* familial disintegration. There is a circularity here as well as a plethora of contradictions which makes it difficult to be clear about what they see as causing what, and what concerns them most: sexual permissiveness or the weakening of the family unit. What is clear is that FOL, following the lead of anti-feminist organisations in the USA and here - influenced presumably through its close association with WWW - has incorporated into its framework of explanation an emphasis on the damage done by Women's 'Lib' to traditional values and family organisation. Feminism has become a major *bete noir* of the Moral Right, providing it with an identifiable enemy or scapegoat which can be blamed for the disruption to the family and, in large part, for the collapse of sexual standards.

The Evil of Secular Humanist Government

During the 1980s, FOL has increasingly incorporated into its concerns issues central to the politics of the New Right which has itself been successful in seizing the mainstream political agenda, and showing how these interrelate with moral and family issues. This shift is apparent in certain questions pertaining to welfare, taxation and the role of government. An editorial in *Light* shows succinctly how FOL is drawing together these issues, and it is worth quoting from at length.

Australia is faced right now with a choice between two fundamentally opposed views of society: atomism or familism.

An atomist society is highly individualistic. It is characterised by weak bonds between individuals but strong bonds between each individual and the state. Consequently, life is impersonal and bureaucratic. In an atomist society, the state provides (at great cost) a wide variety of social services: day care for preschool children, sex education for school pupils, pensions for single mothers, pensions for divorcees. Heavy taxes are levied on the remaining stable families to meet the massive cost of social welfare spending.

A familist society is based on the traditional family: a married man and woman with their dependent children. It is characterized by strong bonds between family members - including grandparents, grandchildren, aunts, uncles and cousins. Each family relates to the state as a unit, rather than as separate individuals. Primary welfare is provided lovingly and at minimal cost by relatives. Friends or relatives look after preschool children when necessary, parents teach their children moral values, single mothers give their babies up for adoption to childless couples, and parents are responsible for their children whether married or divorced. State welfare spending is low and consequently taxes are moderate.

The choice between atomism and familism, therefore, is a choice between big government and small government. An atomist society requires big government to provide a vast array of social services that would otherwise be provided by the family. And big government - with a large number of public servants and large welfare payments - inevitably means higher taxation. Small government, on the other hand, implies a small efficient public service and minimal welfare payments. Only then is it possible to achieve a real reduction in the total tax burden on the average family. Only then is each family free to determine its own spending priorities. (August, 1985: 1)

Whilst this implies that FOL believes that most welfare should be shifted out of the public sector to become the responsibility of a (presently mythical) form of privatised family, there are only certain forms of welfare which it attacks explicitly and perennially: the Sole Parents Benefit ("the tax payer has to foot the one-and-a-half billion [dollar] welfare bill each year - the estimated cost of supporting single parents created by

divorce”, [*Light*, May, 1986: 4]) and child care (working mothers have created “a new and potentially dangerous pattern of childrearing” [Goodman, 1983: 6]).

Conversely, it is not at all adverse to certain types of welfare for ‘proper’ families! Amongst the pro-family policies it has called on the Federal or State Governments to implement are higher family allowances, subsidised low-interest housing loans and top priority on Housing Commission waiting lists for ‘genuine’ families (as opposed to single parent ‘families’), over one hundred percent increase in the dependent spouse rebate, and income splitting (and thus lower income tax) for one income families. (FOL, 1987: 5) Apart from highlighting contradictions in FOL thought and policy, this comparison between its anti- and pro-welfare demands shows the difficulties in *coherently* marrying Moral and New Right programmes. The key word here is “coherently”. Moral and New Right discourses, like ‘commonsense’ explanations generally, appeal not to rationality or the intellect as such, but to a level of reception reflecting a complex amalgam of interests, already incorporated knowledge, and personal identity. Existential investment in certain truths leads to the suspension of critical faculties when what one ‘knows’ oneself to be and how the social world is organised is at stake. Certain knowledge is ‘obviously true’ because it paints a picture which accords with already interpreted explanations of reality, interpretations which confirm and therefore augment successful patterns for the processes of being and living, for sorting out and defining and classifying the world. Contradictory sets of explanations, which may be incoherent if combined into one whole, can be accommodated if the conclusions of each are congruent with already known truths. Alternatively, contradictions can disappear if each is invested with different meanings. So when “feminist activists” encourage women to become “independent” by divorcing their husbands “and taking full advantage of the welfare system”, their so-called independence is really “parasitism” (*Light*, November, 1986) Conversely, calls on the state for fiscal and financial policies to give “support to the family and ... eliminate factors which cause ... [its] disintegration” are justified because,

... the family is the natural and fundamental God-given group unit of our Australian society and is entitled to protection by society and state. (FOL, 1987b: 3)

It is notable that in FOL literature the term ‘welfare’ is used when referring to social security, health and community programmes which FOL wants eliminated, but never to the extensive (and expensive) range of measures which it insists government is (divinely?) obliged to implement to strengthen the family.³⁰³

We can discern a similar selectivity between the rejection of government interference and regulation inferred in the editorial by its condemnation of ‘big government’ (another canon of the New Right) and FOL’s ceaseless demands for government legislation and intervention to bolster the traditional family and outlaw anti-family activities. The following gives some indication of the range of areas which FOL believes the state should regulate:

- the wages of male breadwinners in single income families - it wants them to be sufficient to ensure wives don’t need to work (“wage economic justice”). (FOL, 1987: 3)
- all forms of pornography - one of FOL’s strongest aims is to have pornography banned as it leads to rape (Stevens & Stevens, 1986) corrupts children, exploits women, and breaks down marriages (by inciting husbands to go to prostitutes to do “horrible things” and sexually abuse their wives in ways “promoted by pornography”). (Editorial, *Light*, August, 1984: 12)
- abortion, homosexuality, and brothels and prostitution - areas of perennial concern to FOL which wants them all outlawed and criminalised (*Light*, November, 1986: 4)
- women in the workforce - one prominent FOL member, Alan Barron, author of *The Death of Eve*, an anti-feminist tract distributed by FOL, suggests that legislation should limit the proportion of working women to thirty percent of the total workforce. He says this would reduce unemployment, reduce the number of

³⁰³ Whilst this might appear schizoid, it’s a distinction commonly made by most interest groups: business has no trouble distinguishing between welfare and the tax concessions and various forms of assistance it claims nor the middle-class between welfare and its own superannuation benefits, or the huge cost of tertiary education of which it is the main beneficiary.

abortions and result in a higher birth-rate necessary to increase our population. (*Light*, November, 1986: 4)

- homosexuals and AIDS - Nile has consistently used Parliament as a forum to advocate compulsory HIV blood testing of all AIDS high risk groups, especially homosexuals, prostitutes, heroin users and prisoners (FOL, 1985: 3), a total restriction on all homosexuals traveling to and from Australia, transfer of all practising homosexual teachers away from children to administrative duties, quarantining of all twelve hundred Australian homosexuals attending San Francisco's Gay Pride Week in 1985, and of all homosexuals infected with AIDS (*Australian Christian Solidarity*, March, 1985: 4,5)
- Affirmative action for families - along with WWWW it has urged that breadwinning males should have preference for jobs and promotions.

An ideologically 'pure' New Right wouldn't countenance any of these forms of regulation or interference in liberty or the free market, as we shall see when dealing with the anti-feminism of Michael Levin who attacks the Women's Movement not from the perspective of pro-family morality, but from an exaggeratedly libertarian stance. In the world of *realpolitik* where such ideological purity would be an electoral liability these contradictions have been swept aside. Only those aspects with wide voter appeal - presented under the guise of small government, incentive, and freedom from government regulation - have been espoused or acted upon. This was the case in Reagan's USA and Thatcher's Britain. In Australia, the Liberal Party *Future Directions* document - released in 1988 as part of its strategy for the next federal election - read almost like a caricature of those facets of Moral and New Right philosophy which have the power to lock into, and capitalise on, the hopes and fears of so many people. Its whole approach was premised on a return to an idyllic traditional family and old 'tried and true' family values of independence and 'looking after your own'. Labor Government taxation and welfare were represented as destructive elements intruding into the privacy and autonomy of the family. The cover featured a happy 'Sullivans-style' nuclear family in front of a white picket fence surrounding their old-style bungalow (rather than the typical three-bedroom brick veneer of the 1980s); a blatant appeal to a former era which is nostalgically (mis)remembered as secure, safe, less complicated, and free from government interference.

The Discourse of Women Who Want to be Women

The influence of the New Right is more marked in the case of WWWW than it is in FOL, and is apparent both in the sorts of arguments it musters against feminism and in the rhetoric and/or the credentials of its particular coterie of 'experts'. It has always looked to the USA for inspiration and its approach reflects the particular brand of New Right discourse which has been developed there with its emphasis on liberty from government interference. It is fond of drawing parallels between what feminists have achieved in the USA and the damage they have done, or will do, here as proof of the need to resist them. It equated the Federal Labor Government's ratification of the United Nations Convention on the Elimination of all forms of Discrimination Against Women and its Sex Discrimination Bill with the American Equal Rights Amendment (ERA), and its Affirmative Action legislation with AA programmes there. After its initial campaign against NWAC (Webley, 1980; 1982) most of its energy was directed at these Government initiatives, and then at another (unsuccessful) attempt by the Federal Government to legislate a Bill of Rights. Whereas in its first few years WWWW had some successes under the Fraser Government and was able to project a high profile, since Labor came to power in 1983 it has achieved nothing of note, presumably because of Labor's political commitment to women's issues as part of its strategy of closing the electoral gender gap, and because of WWWW's close identification with the National and Liberal parties.

Because WWWW is dedicated to *resisting* 'progressive' change, and to reversing changes already in play, it is wholly reactionary in its orientation. FOL - reactionary and conservative in most respects - is radical in so far as it wants to alter the *status quo* in accord with some unarticulated vision of a society based wholly on the Judeo-Christian ethic, with all secular-humanist influences excised. Neither paints a canvas of a future towards which they are working. Although with FOL we could glimpse what that might entail, WWWW projects a version of what it thinks has been lost since the 'feminist invasion'. Its discourse is wholly negative, then, being directed against what it opposes, against the damage it alleges feminism has done and what it will do in the future unless resisted.

This negativity of their approach is linked to a patent intellectual poverty. Why things are the way they are - for those who benefit from them, or experience them as the norm - requires little or no explanation, justification or argument. 'The way things are' carries a certain weight and is largely taken for granted as desirable. In this sense, reactionary doctrines have intellectual, social and political inertia on their side. The writings and speeches of WWW's spokespeople often display ludicrous exaggeration, ignorance of the political process, and abysmal confusion about the policies and legislation they attack. This makes it difficult to give a coherent account of their position. These difficulties are especially apparent in their campaigns against the Convention and Sex Discrimination Act and AA legislation. Here, they so often confuse and conflate the three, or leap interchangeably from Australian to American examples, that it is often impossible to know just which is being attacked or how they come to the conclusions they do.

With FOL, because of the huge volume of literature they have produced, I was more able to avoid blatant extremism (of which there is no lack) and that which was simply absurd. In the case of WWW the only sources are its newsletter, transcripts of speeches by its two public spokespeople, Babette Francis and Jackie Butler, and transcripts and writings of (or about) 'experts' - both American and Australian - from whom they draw most of their ideas. The result is that my account of WWW reads somewhat like a parody. WWW consistently caricatures feminism and (deliberately?) misunderstands it, and it could be thought (incorrectly) that I am subjecting it to the same form of ridicule, yet the tenor and the language used here in imparting their ideology is true to the original.

Anti-feminism in Australia is almost wholly derivative from the USA. Such derivativeness helps explain the distortions and incoherencies in WWW's own arguments. They - and their sponsored American polemicists such as Phyllis Schlafly and Michael Levin - simply transpose attacks against, and examples of, American legislation and programmes without seeming to appreciate that they are not dealing with the same phenomena. The arguments that Schlafly put forward against the ERA, for example, are used willy-nilly with regard to the Sex Discrimination Act as if both were synonymous and would have similar effects.

Biology Rules

WWW affirms as one of its main principles that men and women are "*equal but different*, not equal and the same", and aims to "enhance the status of uniquely female roles". (WWW, 1980, emphasis in original) It maintains that what feminists claim is discrimination, especially in education and employment, is not 'sexism' but the inevitable result of natural biological differences between the sexes. What has been negatively identified as sexism, claims WWW, is the practice of *properly* distinguishing between men and women according to their innate dissimilarities: differences in the subjects males and females do in school, in their occupations, in the hierarchy of work organisations and in the distribution of income all arise from the different sorts of choices the sexes make as a direct result of different endowments in capacities and sensibilities, motivations and needs. These natural but "complementary" and "co-operative" differences are apparently 'designed' thus because the family - being "the natural and fundamental group unit of society" - 'requires' them for its vitality and continuation and for the fulfilment of its traditional purposes. The latter includes childrearing, homemaking, and caring for the elderly, the sick and the handicapped. (WWW, 1980) Children in particular need "parental protection and support both before and after birth" and this is the responsibility of parents ("WWW supports the right to life of all human beings from conception to natural death" [WWW, 1980, my emphasis]). WWW does not oppose women's employment in the paid workforce but insists that when their jobs involve physical labour, protective legislation should "respect" their physical difference from men and their "family obligations". The concerns of the working woman, however, are peripheral to WWW; its preoccupation is with the full-time mother and homemaker.

None of this is at all remarkable. Such beliefs pervade a good deal of 'commonsense' thought about women and the family, and show how 'everyday' functionalist theorising and appeals to nature are mobilised politically to foreclose possibilities for change. By declaring forms of social organisation as biologically given their historical construction and the role of human agency is precluded. Reliance on 'functionalist naturalism' excuses its proponents from having to argue why what they wish to conserve should prevail over alternative possibilities of structure and practice: As Connell observes:

[n]aturalization ... is not a naive mistake about what biological science can and cannot explain. At a collective level it is a highly motivated ideological practice which constantly overrides the biological

facts. Nature is appealed to for justification more than explanation. To be able to justify, nature itself must be got in order - simplified, schematized and moralized. (1987: 246)

Because it is defending what people 'know' to be 'obviously true' and right, (by virtue of nature) the rhetoric of WWW is directed not towards that which it supports, but at that which it is against. It sees itself as representing the interests of the traditional full-time wife, mother and homemaker against those forces which are denigrating that role, belittling those who pursue it, chipping away at its legitimacy and putting into place government programmes aimed at 'destroying' it by making it socially and financially untenable. It claims that because feminism is obsessed with 'forcing' women to be independent of men, one of its primary aims is to 'eliminate the homemaker role' by coercing all women into the workforce. It is this strategy which is behind feminist demands for universally available childcare - if all women are to work in paid employment they need to get governments to provide sufficient childcare for all babies and children. WWW allege that like so much else in their programme of social engineering, this is two-edged feminist sword: increased childcare means increased taxation, thus less take-home pay for breadwinners, and consequently, more need in each family for two incomes!

The Feminist "Unisex Society"

WWW claims that financial independence for women is linked to feminism's arch-strategy for a 'unisex' society. It says that the fundamental belief of all feminists is that men and women are identical in their innate abilities and predilections and that what appear as differences are merely the result of a male designed conspiracy of social conditioning. By instituting mechanisms to eradicate sex-role conditioning feminism aims to produce its 'unisex' society: an androgynous society where, because men and women are the same, they will also be equal. By insinuating themselves into government bureaucracies feminists are seeking to initiate programmes in the education system designed to 'brainwash' girls and boys out of their natural sex-roles and into similar behaviours, expectations and ambitions. This process will already have begun, and will build on, the non-sexist conditioning in government run childcare centres.

A network nationwide of baby creches and children's centres is already planned, so that the mothers can be freed to go out to work from the early weeks of the child's life. In the long term, the result would be that the State would have the care and control of the child from infancy to maturity ... to mould its emotional life and its thinking. (Butler et al, 1983)

Anti-discrimination and affirmative action legislation engineered by feminist bureaucrats and politicians (Senator Susan Ryan, Minister for Women's Affairs and Education between 1983 and 1987 personified the latter) has been designed, declares WWW, to ensure equal representation of women with men in the workforce, both in the distribution of occupations and in the hierarchical levels of organisations. These programmes all involve big government and bureaucracies bulging with feminists interfering in the private world of the family and the conduct of its affairs, and regulating the business of employers, tying them up in more red tape and telling them who they can employ.

Given the irreducible fact of sex differences, feminists know that an all-powerful State is necessary to achieve their unisex utopia. Hence, their empathy for totalitarian regimes such as the USSR and Communist China, and their hostility to free-enterprise countries like the USA. Free market policies have the inconvenient result of highlighting the differing choices made by men and women, and this is anathema to the 'wimmin's movement'. (WWW, Editorial, 1985: 1)

All of these measures comprise a total package to negate natural and traditional sex-roles and institute a social order based on sameness between the sexes. It follows that the main groups impeding the changes feminists are intent upon are, on the one hand, men and, on the other, those women committed to the full-time homemaker role. But anti-discrimination and affirmative action legislation go a long way towards negating the resistance of the former; WWW maintain that reverse discrimination and 'quotas' in employment and promotion are ensuring that women take away jobs from men and fill positions of power. Most men, anyway, are cowed into quiescence by aggressive radical feminists and fear having hurled at them the derogatory epithet of 'sexist' if they openly resist.³⁰⁴ As we shall see, this is a theme put by the (few 'brave'?) male

³⁰⁴ WWW make no distinction between feminism *per se*, or radical, liberal or socialist feminism. The two former terms are used interchangeably, 'radical' being employed at times because they seem to think it has more 'scare' value. Their ignorance of the

'ideologists' (Connell, 1987) who supply WWW with their discursive ammunition. WWW implies that the homemaker is a less tractable opponent and resists feminist incorporation on a number of fronts. Because she is at home her children don't go to childcare centres so she can constantly confirm and reinforce their 'natural' sex-typed roles and behaviour at a crucial stage of their development. Those, like Women Who Want to be Women and others on the Moral Right, who 'understand' what is being attempted in government schools, can then send their children to private Christian schools and avoid 'stage two' of the feminist unisex socialisation programme imposed in the classroom (and sex education, personal development and all the other secular humanist excesses). Resisting the social and financial pressures to push her into paid work, the homemaker maintains the traditional family unit and its proper dependency on the husband breadwinner. Both parents, then, provide appropriate role models for their children.

Apart from feminist influenced programmes, there are numerous government policies which WWW sees as penalising the one income family. There are all those welfare costs which, by increasing taxation, decrease the value of a man's salary, and there is a lack of really positive measures by government to encourage and help the traditional family unit. Following a line of Schlafley's, WWW concludes that the Labor Government wants women in the workforce because the more workers there are, the more taxation it can collect.

The Traditional Family and the Birth-Rate

A further concern of WWW is the "disastrous effect" such policies are having on the birth-rate. "Anti-marriage, anti-motherhood policies" coupled with "economic coercion" have "forced mothers out to work making the two-income family the norm", and caused "the provident and moral section of the community" to delay having families and to limit their size. Consequently, Australia's rate of natural increase in the early 1980s was less than half what is needed to merely maintain its population. (Butler, 1983a: 16) To make up the shortfall "natural-born Australians are being replaced by migrants". (Howard, 1985: 14) But Australia is a "baby hungry country", and despite migration we are still "an aging [sic] nation". (Butler, 1984: 14) Almost one in three babies are being aborted in Australia, but despite the critical population problems we face, the Government promotes abortion and family limitation by funding abortion and family planning, and has put into place a "Plan of Action" to move women into the paid workforce. Feminists don't seem to realise the urgency of the population problem, laments Butler,

When we suggest that easing burdens on single-income families would give more women the choice to remain out of the paid workforce to raise families, radical feminists accuse us of trying to keep all women 'barefoot and pregnant at the kitchen sink'.... Leading guru of feminism, Simone de Beauvoir, has argued that no woman should be allowed that choice or too many would make that choice. WWW believes that government policies should make it possible for all married women to have that choice and for a breadwinner's wage to be sufficient to support her and her family. (1983a: 16)

As the trend for married women to stay in the workforce becomes even more pronounced so will Australia's population problem as families become even smaller. This creates a future where there will be ever less numbers of taxpayers to support the aged. (Butler, 1983b) In a society where families don't take responsibility for their own elderly relatives the aged will come to be seen as a useless and expensive burden. Butler warns of a policy of compulsory euthanasia being introduced to dispense with all those who can't care for themselves. This theme - that abortion is the first step on the slippery slope to euthanasia of the handicapped and useless - is common to pro-life thought, which sees abortion as encouraging an individualistic and selfish attitude in people and a devaluation of human life. But Butler gives it her own twist by linking it to working mothers and population. Thus, women who deny their natural vocation of full-time childrearer, and those who are forced by economic circumstances not to fulfil it, are the cause of demographic, and therefore, social upheaval. The elimination of all feminist programmes, including abortion, coupled with implementation of the pro-family government policies advocated by WWW would restore the 'natural' public/private split and the division of labour between men and women. Re-regulating the family so

diversity within the Women's Movement is apparent when they equate WEL with radical feminism (or feminism *per se*) This confusion, deliberate or otherwise, probably stems from the fact that WEL is a readily identifiable *organisation* employing traditional forms of political action, whereas 'feminism' or the 'Women's Movement' is less concrete, and can't be pinned down, classified and observed. The irony of this is that WEL lost most of its influence in the 1980s.

that mother/homemaker is re-inserted (disciplined) back into her natural vocation would allow for the regulation of population necessary to a growth economy, and for a gradual wind-down of the migrant intake. Here discipline of women and population regulation intersect neatly with the New Right aversion to multiculturalism. Comparing herself with Professor Geoffrey Blainey in this, Butler has complained that people just don't seem to understand the importance of what both of them are talking about.

Mobilising Fear and Uncertainty

One way of trying to pull together the threads in understanding what Right-Wing women's groups have to offer their members is to draw out the contrasts between them and the movement to which they are opposed. Leaving aside the differences in the content of their ideology and analyses, when we look at the way in which the Women's Liberation Movement and Right-Wing women's groups organise and mobilise, three major and related differences become obvious.³⁰⁵

The first is in terms of the motivating force behind individual and collective activism. With Women's Liberation what fuelled the movement was anger: individual anger at a range of injustices made visible by discussion, consciousness raising, and trying to change things; and collective anger generated on behalf of women across time and distance, class, race and age. The women in Right Wing women's organisations see that anger and identify it sometimes as anger, more often as hatred and bitterness, and they fear it and the changes it can bring - to their lives, their values, their world. Their leaders play on those fears, orchestrating them into activity. They fear for themselves in terms of changes which threaten the legitimacy of their state of dependent security; and they fear for their children and for their futures and the effects on them of secular humanist doctrine, immoral values and permissive practices. In a world which they perceive as increasingly confused and confusing - with mounting crime, violence, divorce, economic insecurity - at least the home, the private sphere, remained a haven: a sheltered area within which the changes that did occur were at least more predictable and manageable and less beyond their control. Now they are being told that, thanks to feminists, the chaos and the anarchy they once thought they could shut out has already begun to enter that domain. Their husbands may be unemployed or unpromoted because of feminist demands for affirmative action; their sons are not safe from homosexual teachers; their children will become promiscuous and confused about their 'natural' sex-roles through personal development and non-sexist education. They already know what they feel uneasy about. Activists like Schlafly latch onto that unease and transform it into fear, they give identity and form to its cause, and name it - feminism and feminists (synonymous with lesbians, totalitarians, the profiteers of promiscuity, non-sexist education) come to embody the enemy. Rather, then, than "appropriating a range of deeply seated and deeply felt *needs and desires*", as has been claimed (Poole, 1983: 120, my emphasis) the Moral (and New) Right has tapped people's *insecurities and fears*, has given them coherency and a palpable object and direction.

A second major difference between the Women's Liberation Movement and Right-Wing women's groups centres on the question of what they want other women to do. Webley's claim that "Australian groups like WWWW, then, are little concerned with building up grass roots support" (Webley, 1983: 19) is only partially correct. Certainly, there is no effort to reach women as a whole but this, I would argue, is due to a recognition on their part that their constituency is limited and defined along specific lines of religious commitment, age, household arrangements, and probably class and ethnicity. Conversely, at the very minimum they need labour - to collect signatures for petitions (about three-quarters of a million for the abolition of NWAC), to write letters of protest, to complain to MPs. There are calls too for women to tell other women, to get them involved, to relentlessly spread the message to their church congregations. And it is here, through the network of religious affiliation and organisations, that they look for their support. Apart from anything else, because WWWW has consistently argued to government that anything pro-feminist is undemocratic because it doesn't represent the 'ordinary Australian women', the 'homemaker and mother', the 'Christian woman' - groups which it claims to represent - it has had to justify these claims. In recruiting supporters, the emphasis is on convincing them of the need for action, and on getting them to act. WWWW newsletters and FOL and

³⁰⁵ The following characterisation of Women's Liberation should be seen as an ideal type and in part, most applicable to the period of the development of the movement. It is intended to capture the motivating spirit or philosophy of the movement even though, in practice, things may not always be as depicted. Also, there are difficulties in talking about 'the movement', given the development of many different and even opposing 'feminisms'.

WFF bulletins regularly carry reports of some government initiative which 'must' be resisted, or of some proposal which the organisation is advocating. These are followed by instructions on what to do. For example, supporters are urged to write to the Prime Minister, to the minister in charge of the relevant portfolio, and to their own MP. Sample letters are often included or, to give the impression that letters don't just come from members of one organisation, points to make for people to compose their own. They are asked to tell others in their church organisations about the matter and get them to write. Copies of petitions are included, with instructions to photocopy and distribute and on whom to send them to when completed.

This aspect of Moral Right organisation and mobilisation emerged very clearly in an address by Phyllis Schlafly to a joint WWW/FOL conference in 1983. In the second of two talks Schlafly put the whole emphasis on *how* to go about the business of combating feminism. From her own experience in fighting the ERA she cleverly reassured her audience that they didn't have to act with independence or initiative: she had pre-packaged all the arguments her 'troops' needed, she had trained them and rehearsed them, told them exactly what to do, how to do it and when to do it.³⁰⁶ The emphasis in terms of political practice, then, is on getting women to act using very specific tactics and rote-learned arguments worked out by leaders. Schlafly's audience, rather than being insulted at the obviously subordinate role they were being asked to fill, were palpably relieved. She recognised their timidity and the consequences of dependence as a way of life. She fired them with the desire to do something, with the urgency of doing it, and at the same time allayed any fears they might have about themselves having to take the initiative.

Conversely, Women's Liberation ideally aspired to reach other women, to raise their own and other women's consciousness; to encourage them to use their own initiative; to sort out for themselves, but with support, their own path; to develop analyses, incorporating more and more aspects of women's lives and experience; to explore and to expand. This was one aspect of the slogan 'the personal is political': change was conceived not only in terms of society, but also in terms of the self and one's relationships.

The third striking difference emerges with respect to the crucial role played by the need for certainty. Perhaps because of their strong investment in religious belief there is no room for doubt amongst Right wing women's groups. They need not to understand, they need to 'know'. They need the security of a well ordered, hierarchically-organised world; they need clear distinctions between right and wrong, between good and evil; they need leaders (in their organisations and their churches) to tell them what is the truth, what to do and how to do it. Because they doubt their own capacity for judgement, they need reassurances that they have made the right choices with their lives. Because of their fears they are relieved when a concrete enemy is identified and named. In so far as 'need' is involved, then, it is not 'need' related in any way to desire (Poole, 1983: 120) but a need to quell unease by 'knowing' what is wrong and what has caused it and why things are changing; to have a system of order imposed on a chaotic world so that it makes sense. Even if the 'truth' about feminism brings with it new fears, they are identified and named, and this knowledge in itself carries with it a certain comfort.

Conversely, Women's Liberation was born of a questioning of the established order. Its essence was to turn normative certainty on its head, never to trust it, to doubt and question it, to explore different ways of seeing and making sense of things. It was intent on thinking about change and working for it. It blurred previously taken-for-granted distinctions and broke down established boundaries between right and wrong, moral and

³⁰⁶ She told the gathering how she trained women, for example:

How do I go about training women?... We would have a speaking program with a timer and they would give two-minute speeches.... Because you have to learn ... to give your message in two minutes ... in this TV age, you've got to be able to give it clearly and short - that was one important point. Most of these women had never spoken before groups before, but they learned how to do it. They got confidence in speaking. We would have training sessions on how to speak in front of the media ... [using] a camera with instant replay so they could give their little one-minute presentation on television and then see a playback.... Then we would have mock debates and we would have ways of answering the arguments that the other side would present and they all got very good at it. (Schlafly, 1983b)

All the arguments that they needed were pre-packaged by Schlafly:

We communicated through my *Phyllis Schlafly Report* that was constantly presenting the arguments and presenting them in a way that anybody could take them and use them and know that they were reliable.... They could use them for letters to the editor, they could use them in their speeches to the hearings, in their speeches before church groups and community groups and so forth. (Schlafly, 1983b)

immoral. There was always less hostility to anarchy than to order because it saw the order which prevailed as imposed by political interests inimical to those of women. At the same time, its own discursive practice was itself producing new understandings and knowledges as tactical weapons in its resistance to those which regulated and disciplined women.

Importing the Experts

The announcement in 1983 by the Commonwealth Government that it intended to ratify the United Nations Convention on the Elimination of all forms of Discrimination Against Women, and then the introduction of Senator Ryan's Sex Discrimination Bill, gave WWWW precise targets for their anti-feminism.³⁰⁷ Shortly afterwards, Ryan released a Green Paper on proposed affirmative action legislation. For WWWW the timing was fortuitous. The Fraser Government had signed the Convention in 1980 and although WWWW had complained about it then and since, its resistance had been fairly muted. The Hawke Government's announcement that it would ratify it and then proceed to legislate to give effect to certain of its provisions was made shortly before the scheduled April Women for the Family and Society Conference, organised jointly by WWWW with FOL. The key note speaker at the Conference was Phyllis Schlafly, who Francis and Butler had met during a visit to North America in 1980.³⁰⁸

A major problem for Moral Right groups in Australia has been their failure to produce neither dynamic and charismatic leaders³⁰⁹ nor their own "organic ideologists" (Connell, 1987) to articulate their concerns

³⁰⁷ Ryan had first introduced the sex discrimination legislation as a private member's bill in 1982 when still in opposition. After Labor won power an amended version was introduced in 1983 as a Government Bill. It was passed by the Senate in December and by the Lower House in March 1984.

³⁰⁸ Their visit to the USA followed their attendance at the UN Decade for Women World Conference and the Non-Government Organisations Forum in Copenhagen. After it complained bitterly to the Minister for Home Affairs, Mr Ellicott (who was responsible for women's issues) that the delegation to the conference was undemocratic as the views of Australian mothers and housewives were not represented, the Minister made a special grant to WWWW to allow it to send a delegate. In fact, four WWWW members attended. Butler and Francis then went on to the USA visiting and making contacts there. Significantly, the vast majority of these contacts were with *pro-life* activists. A full itinerary of the activists they met and their organisations shows it to be overwhelmingly anti-abortionist rather than merely pro-family, anti-feminist, or more generally Moral Right.

In Chicago:

- Gertrude Naumes, Secretary - Friends for Life
- William Moloney, Editor-in-Chief, *International Life Times* - a weekly pro-life publication,
- Joe Scheidler, Director - Pro Life Action League (who Margaret Tighe brought to Australia in 1985),
- Patrick Trueman, Executive Director-Legal Counsel - Americans United for Life (involved in the two Supreme Court cases over the Hyde Amendment),
- Judie Brown, President - American Life Lobby,
- Sister Paula Vandegar, Editor of the quarterly of the organisation Alternatives to Abortion International, *Heartbeat*,
- Dr Herbert Ratnor, who visited Australia to give evidence against abortion to the Royal Commission on Human Relationships,

In Chicago they met Schlafly, and also attended the Ninth 'Alternatives to Abortion International Academy' and were invited to speak on the final day.

In Atlanta, Georgia:

They stayed with the President of Mothers on the March ("their own contact group") in Atlanta and met the other three directors. MOM was at that point engaged in organising a 'National Day of Intercession for the Unborn'.

In Texas:

Lacking the time to visit they spoke twice on the phone to the President of WWWW there (also known as Pro-Life Family Forum).

In Canada:

They stayed with Phyllis Boyd of WWWW, and met:

- Gwen Landolt, Founder and legal Counsel - Campaign for Life,
- Denise Handler, editor of *The Uncertified Human*, a monthly pro-life magazine.

³⁰⁹ Some might argue that Fred Nile comes closest to this. True, Nile is a household name, but he has become so inextricably associated with fanatical 'wowserism' that few people, other than those already thoroughly converted to his brand of puritanical fundamentalism, can take him seriously. For the media, he has become little other than a figure of fun - a ranting fool carping at the sidelines. Max Gillies, arguably the best satirical comedian in Australia, has a parody of Nile as one of his main characters. Nile lacks the ability to communicate to a secular community, so even when he is dealing with ideas which could have appeal, he is dismissed as extremist. A good example of this was the way he dealt with AIDS, the dangers of which he recognised as far back as 1981. Because his approach was so rabidly homophobic and steeped in Old Testament prophecies of vengeance his message about AIDS was largely ignored even though, buried under the religious verbiage, was a lot of up-to-date information about the disease and its epidemic potential, which he had obviously studied at length.

systematically and in terms capable of galvanising into political action others with similar 'latent' interests. Their constant recourse to overseas activists and intellectuals is prompted to some degree by attempts to fill these lacks. Between 1983 and 1987 WWWW sponsored five visits to Australia by prominent American anti-feminists or members of the Moral Right: Phyllis Schally, President of Eagle Forum and Chairman [sic] and prime mover of the successful STOP ERA campaign, in 1983; Michael Levin, Professor of Philosophy at New York City College and vociferous anti-feminist, in both 1983 and 1984; Pastor John Anderson, author of *Cry of the Innocents*, an anti-abortion book, and a fundamentalist preacher, in 1986; and Eleanor Schlafly (sister-in-law of Phyllis) Executive Director of the Cardinal Mindszenty Foundation and pro-life activist, in 1987. Here, I will concentrate on Schlafly and Levin, being the 'luminaries' visiting when I was intensely studying Moral Right organisations and because they most acutely demonstrate the rationale of anti-feminism, enabling us to see the links between it, Moral and New Right ideology and practice. More latterly, WWWW has been forging alliances with Australian (male) intellectuals since the New Right here began to articulate coherent arguments and to make links with the concerns of WWWW.

Before arriving in Sydney on 29 April, Schlafly was guest at the Press Club Luncheon in Melbourne and delivered several public lectures. Significantly, given that allegations have been made that the NCC helps fund WWWW, she was also a guest there. Just how keen the Moral Right here is to learn from its American counterparts is demonstrated by a three-day National Leadership Conference held, while Schlafly was in Australia, at Lorne, a resort just south-east of Melbourne. Apparently sponsored jointly by WWWW and FOL, it is interesting that all the American Moral and New Right heavies attending came at their own expense (indicating an evangelical preparedness to spread the influence of the Right beyond the USA?). In announcing the Conference Francis said she hoped that

... as many WWWW members as possible will avail themselves of this wonderful opportunity to learn from American experts how to effectively lobby and organise for a Christian representation in politics. (1983a: 3)

Just how much these experts had to teach is illustrated by their credentials. Paul Weyrich - "strategic mastermind of the New Right" (O'Reilly, 1982: 43) - is Executive Director of the Committee for the Survival of a Free Congress, President of the Free Congress Association, former journalist and legislative assistant to several US senators. He has been a key organiser in a deliberate strategy adopted in the late 1970s by America's most powerful New Right groups and individuals: the aim is to consolidate all organisations concerned about the traditional family and moral decline, or opposed to abortion, busing, women's, gay or black civil rights or policies of anti-discrimination or affirmative action for any minorities or groups, and bring them into one coalition "organised around four main planks: 'prolife', 'profamily', 'promoral', 'pro-American', with 'family' as the keystone". (Alan Crawford, in *Thunder on the Right*, quoted in Petchesky, 1985: 256) There is little doubt that Weyrich sees the attack on traditional male and female roles, and particularly on masculinity, as fundamental to what the Right must resist. He is vitriolically opposed to feminism for seeking

... the restructuring of the traditional family and particularly ... the down grading of the male or father role in the traditional family. (quoted in Petchesky, 1985: 271)

And even more to the point, he asserts categorically:

[t]he father's word has to prevail. (quoted in Petchesky, 1985: 272)

But Weyrich recognises that 'moral' and 'family' issues are not discrete; that they must be seen and fought along with wider issues. Thus, the ultimate New Right programme encompasses all features of social and economic life:

What the Right to Life Movement has managed to put together on the abortion issue is only a sample of what is to come when the full range of family and educational issues becomes the focus of debate in the 1980s and the alliance on family issues is bound to begin to look at the morality of other issues such as SALT and the unjust power that has been legislated to union bosses. (quoted in Petchesky, 1981: 221)

What we also glimpse with Weyrich, and will see clearly in Levin (and in the Brisbane-based Hiram Caton) is a reassertion of masculinity and male authority; a determination to restore ‘natural’ male supremacy denied by impudent feminists.

The other experts at the Conference were:

- Connie Marshner, Chairman (sic), National Pro-Family Coalition, Director of the Family Policy Division, Free Congress Research and Education Foundation, commentator on national public radio and specialist in coalition building for electoral and legislative purposes. Marshner assures women that all they need is “to know that somebody will have the authority to make the decision, and your job is to be happy with it” (quoted in Petchesky, 1985: 271);
- Peter Gemma, President, International Policy Forum, President, National Pro-Life Political Action Committee, President of the direct mail advertising firm, Associated Direct Marketing Service³¹⁰;
- Fran Gemma, member of the Ronald Reagan transition team, radio talk-back interviewer, and President, Griffin Communication Public Relations, the firm with most major new Right individuals and organisations as clients;
- Bob McAdam, Assistant Director, Committee for Survival of a Free Congress, a very prominent and respectable New Right organisation;
- Ed Feulner, President, Heritage Foundation, also a high-profile and respectable organisation;
- Dr Ron Godwin, vice president, and Harry Covert of the Moral Majority, both of whom had visited Australia the previous year with Jerry Falwell.³¹¹

Phyllis Schlafly: “The Sweetheart of the Silent Majority”³¹²

As the first Women for the Family and Society Conference since 1980, it is likely that many of the women there had not previously been initiated into knowledge of the evils of feminism, although no doubt they were highly suspicious of it given, amongst other things, its support for abortion. WWW had not been involved in organising public events outside of Victoria or Queensland since the former Conference. Those attending were largely middle-aged women of probably lower-middle and middle-class backgrounds. As WWW was not active in NSW they would have been members or supporters of FOL or groups with whom FOL had close associations (for example, Patricia Judge - at various times President of RTL and Foundation Genesis - chaired a session). Others may have heard of it at their local church through the literature which FOL regularly sends to most parishes. Up until this point FOL had not pursued a marked anti-feminism although it did oppose the Women’s Movement on the biblical grounds that women should be submissive to their husbands. In fact, it put some stress on the rights of women in some respects - by campaigning against pornography and prostitution as ‘exploitation of women’. (Sadler, 1983: 16) For these reasons I think it reasonable to suppose that the bulk of the audience was not vehemently anti-feminist - until after Schlafly had spoken to them. Even then a few hesitantly ventured to ask her whether there was *anything* good about the Women’s Movement, but she deftly disabused them of any lingering doubts in that respect.

Schlafly is charming and inspiring, articulate and astute. She told the assembled women that she had come to tell them what feminism and feminists were really like rather than them hear a version which was inaccurate. This was made all the easier for her by a ‘happy’ coincidence. The venue for the Conference was Macquarie University and participants had to ‘run’ a gauntlet of one hundred or more loudly heckling and thoroughly intimidating feminist and gay demonstrators, to gain access to the single door into the hall.³¹³ Once inside,

³¹⁰ In the USA direct mail campaigns are a potent weapon in the tactical armoury of the New Right.

³¹¹ The details of Americans at the Conference and their credentials were obtained from a variety of FOL and WWW sources. There were some conflicting details amongst these, but as far as I can ascertain the above list is correct.

³¹² This is the name given to Schlafly in the title of an article on her by Lisa Cronin-Wohl (1974).

³¹³ This writer and a companion, appropriately dressed for such an occasion and clutching our entrance tickets, unfortunately found ourselves on the tail-end of those entering the auditorium. At this point, with the quarry about to disappear behind closed doors, the heckling increased and the demonstrators charged, presumably with intent to enter the hall. To avoid the pandemonium which would have ensued, the entrance doors were shut from the inside, enclosing us and three other women in a porchway trapped by a wall of

the doors had to be barred and even furniture piled against them to prevent the demonstrators, obviously intent on disrupting the proceedings, getting in. Throughout most of Schlafly's address they continued to bang heavily on the doors and shout. This created a definite impression of 'we' participants being barricaded into a fortress assailed from without: the scene couldn't have been set more appropriately for Schlafly if she had designed it herself!³¹⁴ She was able to point to those outside as living proof of the truths she had brought her audience - feminists here were no different from those in the USA, and were out to destroy the same sort of things, things essential to a decent society and dear to her audience.³¹⁵ In her address that night and a second the following morning she had four messages for those listening: the truth about what feminists wanted to achieve, how they were going about it, what they were really like, and with whom they were allied and the implications of that; how legal measures like the Equal Rights Amendment (and the U.N. Convention, Anti Discrimination laws, AA programmes), allegedly designed to improve women's position in society and guarantee equality for the sexes, would in reality take away from women privileges and rights they presently enjoyed; how feminists could only be stopped if women like those in the audience were prepared to mobilise against them; and a reassurance that her audience of (mainly timid, only moderately educated and politically inexperienced) women were capable of doing it and that she could tell them how, just as she had successfully fought the ERA and trained other women ("just like you") to do their bit.

Schlafly argued that feminism was a "passe ideology" in the USA since the (her) defeat of the ERA, despite it having "held sway" for fifteen years before that. Now, she said, 'feminism' is a "dirty word" because people had come to recognise that it had two aspects it couldn't shake: "the terrible bitterness of the feminist" and "the large amount of lesbianism". Referring to the "bitterness and hate and unhappiness" on the faces of the demonstrators outside, she turned to the women in front of her and exclaimed that in contrast, she could see in their faces,

advancing, hissing demonstrators. That politically our hearts may have been with the demonstrators was no comfort at this stage; we were probably just as frightened as our three new-found companions, perhaps more so, as they had the 'Lord' on their side. Faced with what must have seemed imminent martyrdom, they spontaneously burst forth into a hymn about "the blood of the lamb". Meanwhile, we kept our heads bowed, firstly because we didn't want our 'cover blown' by some acquaintance in the throng, but also because we didn't know the words of the hymn. But that was appropriate: to our three new companions we were obviously praying. "Miraculously", "the blood of the lamb" and our 'prayers' worked, as a number of "our brave red-blooded men" (as a conference organiser later termed the husbands there fulfilling a security function) rounded the corner to our defence (after mucking it with a few of the demonstrators out back of the auditorium). They pushed back the demonstrators and we five entered - to shouts from the assembled two-hundred of "Hallelujah, Hallelujah". In response, our three companions cried out "it was the blood of the lamb which saved us", but we two were more inclined to put it down to the intervention of the 'brave red-blooded men'.

³¹⁴ If anyone could have upstaged Schlafly it would have been FOL's Prayer Convener, Betty Astill, who preceded her. Before realising who she was we had noticed a woman on the stage weaving her body around, throwing her head back and forth, and quietly chanting. Being unfamiliar with fundamentalist rituals we thought this somewhat strange. Once introduced, she led the assemblage into prayer - the previous swaying and waving her arms around was obviously a mechanism to induce some form of trance or otherworldliness - building up into an extraordinary acclamation of God's utterly omnipotent power. Then, in a dramatic and breathtaking switch, she whirled around to where the noise from the demonstrators was coming, and launched into a vituperative fulmination at "those snakes and vipers", invoking all the power of the Lord to which she had testified, to be brought to bear against those enemies of God "to cut down and exterminate them" - *in the real world* - . From this crescendo of hatred and loathing she then led her flock through to, what could only be called, orgasmic communion with 'Our Lord Jesus'. Running the gauntlet had been nerve-wracking enough; hearing Astill using prayer as a ('tangible') weapon in the material world was positively chilling - especially for two of the Lord's enemies locked in there with her.

This raises a small point worth noting because it exemplifies the sort of assumptions sociologists carry about what is important data. I had a concealed recorder, but was waiting for Schlafly's speech to turn it in. As a researcher I was after 'rational' discourse or arguments: I didn't foresee that a prayer convener had anything to offer my research. I was wrong! Astill, and the reaction to her, in fact engendered something in words, but beyond words, which could offer much about why these women see and experience the world the way they do, and a recording would have very useful in re-conjuring that experience. After the event my companion and I exchanged our own internal reactions. At a certain point of her tirade we both spontaneously had a mental vision of Nazi boots marching - presumably Astill tapped a symbol of totalitarian terror shared by many people, but apparently not by believers there, indicating the different sets of meanings that the same phenomenon held for groups with different interests.

If we had any doubts that Astill's 'weapon of prayer' was a mere metaphor, Helen Cameron, wife of ex-CTA MLC Jim who is a close associate of Fred Nile, set those to rest. In her address she told how she had used prayer to literally *kill* three people she hated: the first died within twenty minutes and the other two within one year! A few in the audience seemed mildly taken aback by this particular 'proof' of the power of the Lord.

³¹⁵ The following account is drawn from transcripts of Schlafly's two addresses to the Conference (Schlafly, 1983a & 1983b) with certain points expanded by reference to her book, *The Power of the Positive Woman* (1978).

... nothing but joy, the joy of knowing who you are, and who made you, and knowing you have a saviour and knowing you are a person and that happiness comes from within yourself.

This affirmation of her audience was an important element of her charm, and not to be underestimated as a political tactic. Her audience believed her not just because she told them truths which helped them make sense of worrying social changes, but because they admired her, were entranced by her, and because she in turn confirmed them and their lives. This touches on the crucial issue concerning identity and affirmation of self, and how these are entangled with truth and knowledge and a sense of certainty about the world.

Whether or not the passage of the ERA would have meant all the things that Schlafly claimed it would is largely irrelevant here. (In fact, it would not have; see for example, Cronin Wohl [1974]) The more important point is that the women assembled there believed her. And at the same time as they believed her, their newly roused fear of similar threats and consequences here mounted. Schlafly told them that if the ERA had been ratified:

- eighteen-year-old girls would have become subject to the military draft, rendering them liable for combat duty;
- the legal rights of a wife would have been lost; husbands would have been no longer legally obliged to support their wives who would have been forced into the paid workforce by being made equally liable for support of their families;
- homosexuals and lesbians would have been given new rights, for example, rights to legally marry each other and to adopt children;
- government funding for abortion (which the Hyde Amendment had removed) would have been mandated;
- the federal courts and government would have acquired new controls and powers “to force us into a gender-free or unisex society in which you were denied your right to make reasonable differences of treatment between men and women”;
- women’s privacy would have been invaded and even their safety threatened as it would have become illegal to have separate public or workplace bathrooms and toilets for men and women.

Despite ERA’s defeat, Schlafly insisted, there remains a coalition of political groups allied with the Women’s Liberation Movement which still poses a very real threat to America. And whether or not we have an ERA equivalent, the same groups need to be fought here. The first of these are the homosexuals and lesbians who are seeking:

... the rights of husbands and wives [to] marriage licenses, spousal health and medical benefits, the right to teach in private schools, custody rights, adoption rights, and certain rights in the military. Our universities are providing large sums of money for women’s studies courses, women’s resources centres.... Now, once the money is given to a women’s group, the lesbians move in, spread around their literature, and take it over....

The second part of the coalition are the “profiteers of promiscuity”. These are the people who make money out of the promiscuous lifestyle which has become so popular over the last ten years. But for promiscuity to be attractive to people, especially women, abortion on demand is an essential element.

They [the profiteers of promiscuity] simply had to make women available for those who want to be promiscuous without having to bear the babies and so abortion was packaged as a women’s right in order to make the promiscuous lifestyle acceptable so that certain groups of people can make money out of it.

Those who are making money out of promiscuity are the abortion clinics, the manufacturers of contraceptives, pornographic magazines and books, cable television pornography, video cassette pornography, and magazines like *Playboy* and *Penthouse*. There is no better investment these days than pornography, Schlafly tells her shocked audience. All these people have a big financial investment in the continuation of this sort of lifestyle and therefore a return to chastity as the norm before marriage would be a calamity for them. Chastity has become obsolete; it is “out-of-date”, she says. This is why abortion on demand is the key to the promiscuous lifestyle and all these businesses based on it. (Curiously, Schlafly represents abortion as ‘packaged’ and ‘sold’ to the Women’s Movement under the guise of being a ‘right’ as

if it isn't something in which feminists have a political, and women generally a personal, interest. The implication is that feminists have been 'duped', on the one hand by profiteers and, on the other, by men who want women to be promiscuous.)

The third group in coalition with feminists are the "socialist spenders". These are the people who have a "vested interest" in big government and high taxation, says Schlafly, referring to feminists who have infiltrated government bureaucracies and are carrying out their political activism at the taxpayer's expense, and also to welfare professionals who are "packag[ing] their designs for spending [public] money in the jargon of women's lib". All attempts to make the bureaucracy more efficient and accountable and cut out waste and welfare fraud are resisted by them as direct attacks on women. They make a lot of fuss about "the feminisation of poverty" she says but declares that the singular reason for so many women being in poverty is divorce. Schlafly acknowledges that recent studies have shown that after divorce a woman's standard of living goes down by about seventy percent and a man's goes up by about forty percent, but insists that this "isn't a problem of the federal government." That it might reflect structured inequality between the sexes is not something she can address within her framework, such a situation being a 'natural' element of the 'interdependent' relations between the sexes; rather, she implies, the problem is divorce *per se*. From what she says elsewhere (Schlafly, 1978) the solution is to minimise divorce and 'return' to the situation where men were responsible for their ex-wives through alimony payments.

The "type of thing they [the socialist spenders] work for is affirmative action in jobs", she explains. This means

... giving the job to a less qualified woman in preference to the more qualified man in order to achieve a female quota in various levels of job categories.... I cannot see any justice in ... [this] because that again is a direct attack on the family unit [in that it is the family of the breadwinning man who suffers].

The last part of this coalition aligned with feminism is what Schlafly calls the "cultivation of a cult of bitterness and envy". The way feminists operate is

... to create grievances among groups of women or take minor grievances and magnify them into greater grievances, and then they have their meetings and exchange their hate stories with each other ... and that is the way they develop their pool of people for their political activism.... A woman who has had a grievance of some kind then becomes a ripe target for recruitment into this political activist goal;... [women] with a chip on the shoulder and bitterness in their heart....

Schlafly told her audience that one of the more unfortunate aspects of the Women's Liberation Movement was its basic negativity. Whereas the most important element in achieving success was a positive and optimistic outlook, it told girls and young women that they would never get anywhere in life because "a conspiracy of male chauvinist pigs" had made being female a handicap. This reduced the self-esteem of women and particularly that of the homemaker. Feminists had been able to convince a lot of women that if they married they would be treated like a doormat, probably be beaten by their husbands, become dreary and boring and spend their lives washing dirty diapers and dishes. It was this which really encapsulated what was wrong, and indeed dangerous, about the Women's Movement:

The message of Women's Liberation is the message that tells a woman to put her own self-fulfilment over every other goal.... Frankly, that attitude to life is not compatible with a happy marriage and it's not compatible with motherhood. A mother has to be self-sacrificing and put her child's welfare ahead of her own comfort and convenience and career ... but they are not willing to make the social compromises that are necessary to make a marriage work.

According to her, the ultimate goal of Women's Liberation is to get rid of what it says are the stereotyped roles of men and women. And in a neat slippage from 'roles' to 'people' she conveyed to her audience that they, as a group, and each of them as individuals, were explicit targets of the feminist movement:

You all know what they mean by stereotyped roles of men and women - that's us. The image, the type of woman who is primarily homemaker, the image of the woman in the home. The Women's Liberation Movement has targeted as the group they would like to get rid of, the role of the wife, the homemaker-wife in the home. They want to eliminate us! We are an obsolete stereotype that they are out to get rid of!

In explaining why this was the ultimate goal of Women's Liberation, Schlafly tied together two fundamental but not obviously related characteristics of the American New Right, a linkage not previously glimpsed for most of the audience: anti-feminism and big government. Eliminating the role of wife-homemaker serves two purposes: it forces women into the labour force and, in so doing, gives more money into the hands of government. Working women have to pay for services they once performed themselves (cleaning, laundry, childcare, food preparation, etcetera). This involves a larger tax bite which enables government (or a feminist controlled bureaucracy) to extend its power over "our lives", "over the educational system", over the "curriculum and textbooks" and over the "control of our children", and to replace "pro-family ideology" with "a pro-feminist ideology"; they want "to achieve their goals at our expense", she declared.

Stated baldly, Schlafly's claims may appear unfounded, irrational or simply untrue. Whether they were or not was largely irrelevant. There was no doubt her audience believed her, they loved her, she reached them. On the one hand, she projected herself as sufficiently middle-class, down-to-earth, warm, humorous, middle-aged, married and a mother for them to identify with her; but on the other, she was sufficiently superior to them (American, articulate, coherent, author of several books on politics and nuclear strategy, and a successful political campaigner) for them to admire her, regard her as authoritative and be eager to learn from her. She identified their fears, legitimated them, and drew on their 'commonsense' assumptions to show how things are interconnected. She gave them a set of understandings which made sense of a confusing, chaotic and threatening world, and in presenting them with a concrete enemy she gave them a reason to fight, by reassuring them that it was possible to restore order.

Actually, seeing Schlafly in action, one could appreciate how this formidable combination of ingredients made her so devastatingly effective in her fight against the Equal Rights Amendment. Her strategy in that campaign was to tap the insecurities of a whole range of American women and turn them into *fears* of what would inevitably happen if the ERA were ratified:³¹⁶

the married woman [would lose] the most basic and precious legal right that wives now enjoy: the right to be a full-time homemaker ... with the primary duty of support [for herself and children] upon the husband. (Schlafly, 1978: 98)

wives ["deprived"] of their economic security in the home ... [would be "impelled" by] their natural instinct for survival ... to seek economic security in the ... labour market. (Schlafly, 1978: 95)

a wife in her fifties whose husband wants to divorce her and trade her in on a younger model ... [would lose the protection of] the state laws that require a husband to support his wife. [T]he cast-off wife will have to hunt for a job to support herself. *No matter* that she has made being a wife and mother a full-time career for thirty years. *No matter* that she is in her fifties and unprepared to enter the competitive job market. *No matter* that age discrimination deals her a double blow.... [T]he woman who has been a good wife and mother for decades ... [could] be turned out to pasture with impunity. (Schlafly, 1978: 100,1, emphases in original)

[married women would be] requir[ed] to seek careers [and leave their children in] universally provided ... government funded childcare centres: ERA [would] compel the government to care for children.... Elimination of the role of "mother" is a major objective of the women's liberation movement. Wives and mothers must be gotten out of the home at all costs to themselves, to their husbands, to their children, to marriage, and to society as a whole. (Schlafly, 1978: 109,10)

the divorced women [with] ... her job ... [might] not be given custody of her children ... because a rule based on equality, or a sex-neutral rule based on which spouse has the larger income [would usually favour males and] would be most hurtful to women and a big take-away of [their] present rights [of custody]. (Schlafly, 1978: 103,4)

If a woman could not identify herself with any of these groups she still had plenty to fear from the ERA and Women's Liberationists because of their "concerted attack on husbands in their role as family providers".

³¹⁶ Many of the arguments against feminism which Schlafly had time only to allude to in her conference speeches are spelt out more clearly in *The Power of the Positive Woman*. Frequently, the same ideas, often in similar or even the same wording as in the latter, are encountered in WWW's newsletter and hence, I have elaborated some arguments referred to in her addresses and incorporated into WWW anti-feminism with material from her book. When this is the case it is noted as such, otherwise the material comes from the transcripts of her speeches. In passing, I might mention that many writers for FOL and WWW seem unaware of, or to have no regard for, basic rules against plagiarism. When it suits their purpose to acknowledge authority they do so, but at other times they might copy slabs of someone else's work without any reference to the original source.

Apart from taking jobs which rightly belonged to breadwinners and so reducing the family income, feminist ideology was gradually whittling away at men's sense of financial and social responsibility for their wives and families, and thus at the security married women could once take for granted.

Schlafly warned her audience that ratification of the ERA would have removed, once and for all, the last obstacles to "*the major anti-family objective* of the women's liberation movement, abortion-on-demand". (my emphasis):

any restriction of abortion would [have been] 'sexist' or sex discriminatory because it impacts on one sex only.... Since the mandate of ERA [was] for sex equality, abortion is essential to relieve women of their unequal burden of being forced to bear an unwanted baby. (Schlafly, 1978: 111)

Based on the dogma that a woman's susceptibility to becoming pregnant is the most oppressive inequality than [sic] women suffer, the women's liberation movement is compulsively oriented toward abortion on demand, financed by the government and made socially acceptable any time, any place.... Their claimed right to kill an unborn child must take precedence over every other moral, marital, family, social, or legal value. (Schlafly, 1978: 206,7)

Already the courts have decided that a man can't prevent a woman from destroying his unborn child. Similarly, a girl is now entitled to have an abortion without the consent or knowledge of her parents: yet she needs both, claims Schlafly, just to get her ears pierced! (1978: 207) ERA would have made it impossible to reverse these decisions or to get a Human Life Amendment to the Constitution, the latter being the ultimate aim of the pro-life forces. (Schlafly, 1978: 110) "The abortionists" - Schlafly applies this laden term indistinguishably to actual practitioners, supporters of abortion and feminists - "argue that a woman has the right to do what she wants with her own body". But, she maintains, all medical experts know that an unborn baby is a separate person, not merely an extension of the mother's body. (1978: 207) "The abortionists" also argue that abortion is necessary to get rid of unwanted babies, but there are no unwanted babies, she says: childless couples in the USA are forced to pay up to twenty-four thousand dollars to adopt a baby! (1978: 208)

But this obnoxious anti-life ideology puts not only unborn babies at risk, she warns, and quotes a "famous physician" who said that "most people over sixty are unproductive and should be chloroformed". Using the 'thin edge-of-the-wedge' argument, Schlafly slides from condemning those who "argue that unwanted babies should be eliminated" to the claim that:

there has been an ominous acceptance of the idea of terminating lives of senior citizens because they are useless or unwanted: this is the same as Hitler's philosophy of eliminating people whom he judged unwanted or mentally or physically defective.

With unembarrassed ease, Women's Liberation becomes synonymous with Nazism!

Having demonstrated the evils and dangers of Women's Liberation, Schlafly appeals to a mixture of fear and guilt in women about the future they will leave to their children if they do not actively participate in the anti-feminist campaign.

To neglect the obligation to take whatever action is necessary to safeguard the moral, social and economic integrity of the family is to abandon the future to a bunch of marital misfits who are seeking their identity as *Ms*, mistaken about morals, misinformed about history, motivated by the axiom "misery loves company", and who want to remake our laws, revise the marriage contract, restructure society, remold [sic] our children to conform to lib values instead of God's values, and replace the image of woman as virtue and mother with the image of prostitute, swinger and lesbian. (Schlafly, 1978: 212,3)

Schlafly may be vehemently anti-feminist and anti-Women's Liberation but in no way could she be dismissed as male-identified. Men figure little in her arguments, and when they do it is in terms of their relation to women, as members of the family, a unit which is for Schlafly primarily a woman's domain. In a strange kind of way Schlafly is very pro-woman: she strokes the egos of her female audience and frequently expresses her genuine faith in the ability of women to do anything they want to do (within the parameters of a feminine set of roles and a particular morality, of course). This is something her audiences are unlikely to get from their men and is another element in her appeal.

She states quite categorically that she opposed the ERA because its passage would disadvantage rather than benefit women:

Why should we lower ourselves to 'equal rights' when we already have the status of special privilege?
(quoted in Cronin-Whol, 1974: 55, 6)

This is no mere tactical manoeuvre. Schlafly genuinely believes that women in America are privileged - and if one is white and upper-middle class as she is this is undoubtedly so. This perspective is indicative of the class-bound and structurally blind nature of Schlafly's whole approach. The privileges she wants to protect are clearly the prerogative of a minority of American women: those who are in marriages where their husbands' income is sufficient to support them and where those same husbands are of a mind to do so. Her constant resort to the statute book to 'prove' that husbands have a legal obligation to support their wives and provide for their children totally ignores the reality (legal and economic) that most women would face if they tried to enforce that obligation. In short, the privileges of the small group of women she is talking about are contingent upon the ability of each to retain the goodwill of her husband. Schlafly's structural blindness prevents her from seeing the systemic power relations between the sexes in and by which marriage is defined. While it may seem odd for a political campaigner to acknowledge and organise around the issue of the retention of *privileges*, it is only because the privileges to which she refers are in practice either non-existent or highly contingent that she could do so. It is part of the ego stroking of her supporters which in no way threatens anybody else.

In similar vein, her attack on anti-family values and violence on television, particularly for their adverse effects on children, and the solutions she proposes - complaining by telephone, switching off, or refusing "to patronise the advertisers whose commercials are sandwiched in between the murders and the robberies and whose advertising budgets have purchased the high-priced prime time" (Schlafly, 1978: 197) - are probably the only ones she can countenance without having to face massive contradictions. The television programming she abhors is integral to the mass media/mass marketing rationale of the free enterprise system she whole-heartedly endorses. She not only regards the system itself as the ultimate form of social organisation, but sees its internal dynamics as providing the most efficient mode of maximising the benefits of the inevitability (and desirability) of hierarchies. In common with the New Right generally, she assumes that such a social order naturally allows for the 'best' people or products to rise to the top. But in fact, the very logic of the system can lead to certain kinds of consequences which Schlafly finds abhorrent. She does seem to be dimly aware that the free play of market forces will not always produce results which are the most morally desirable when she advocates affirmative action programmes: not for women but for families:

Congress should amend the Equal Employment Opportunity Act of 1972 to authorise employers to give job preference to the spouse designated as the "principal wage earner" in each family.... This plan would be wholly voluntary and it has the logic of simple justice. (Schlafly, 1978: 211,2)

Inconsistencies such as this in her approach are symptomatic of the contradictions which arise in trying to marry an amoral system (free enterprise) with a moral one (pro-family ideology): in discursive practice, however, such contradictions pose no problems for the Moral/New Right activist - it is assumed that a 'fit' between the two is not only possible, but 'given' in the order of things - both systems being seen as 'natural' or God-given, and therefore inherently complementary.

An Australian ERA

Schlafly's charismatic manner and the belief that ERA would have had such draconian effects fired the audience with a sense of urgent concern about the iniquities of feminism. In reply to worried questions about whether Australia had anything of the same sort to fear, Francis and Butler pointed to the U.N. Convention and the Sex Discrimination Bill and deliberately or as a result of their own apparent confusion about them or, perhaps more likely, from a mixture of both, led the women present to believe that together they constituted the Australian equivalent of the ERA. A good deal of Francis' address later that day was devoted to an explanation of the Convention and the Bill and their alleged import. That talk had three ingredients:

1. A selection of some of the articles from the U.N. Convention and an inaccurate spelling out of their implications. Out of a preamble of thirty articles in the Convention, however, Francis dealt only with three: those which could best be represented in ways most likely to shock and frighten her listeners.³¹⁷
2. The claim that foreign nationals would have more say in the laws that are passed federally (in accordance with the Convention) than the Australian electorate. Francis made much of the composition of the twenty-three member Committee to be established to oversee progress made in the implementation of the Convention - it had Communist country representation on it, representatives from the Third World, and only one of the countries, Canada, (which is in fact officially bilingual) was English speaking - which, according to her reckoning “would inevitably be dominated by Soviet bloc and Third World dictatorships” (with the inference that all Third World countries are dictatorships which are Soviet inspired and controlled). This theme, that ratification involved ceding Australian sovereignty in the multitude of matters with which the Convention dealt - the family, childrearing, employment of men and women, to mention just a few - to external Communist control, was a constant running through WWW opposition to the Convention:

There is well documented evidence that there has been considerable Soviet influence in the drafting of sex discrimination laws in a push to have the nations of the free world bring their citizens into line with those of socialist countries. (Francis, 1983b)

3. Very selective references to the Federal Sex Discrimination Bill, (frequently, and misleadingly, conflated with the U.N. Convention). Her main interest in the Bill was in it being used as a vehicle by Susan Ryan to engineer a unisex society through the education system: “She’s obviously going to use this treaty to bully everybody” (Francis, 1983d). Either the Bill or the UN Convention or both (it was not clear which) would enable Senator Ryan to censor whatever she considered sexist and ban all manner of books, including the Bible. At this point Francis took out her non-sexist collection of posters and booklets as evidence of the brainwashing to which children were already subjected. Her objections to them appeared to be a trifle idiosyncratic. One of the posters showed a woman with slightly elevated shoes climbing a ladder: she objected to this because of the danger it posed to children who might get the idea of ascending a ladder with unsafe footwear. Another showed a father bottle feeding a baby:

I objected to this poster on health grounds because it is the official policy of the World Health Organisation and the Australian Health Department that breastfeeding is the best method of nutrition, and I don’t think children should be brainwashed in this way. (Francis, 1983b)

Whilst this appears trivial, it may in fact point to an important ingredient of Right-Wing women’s anti-feminism. Francis very frequently mentions breastfeeding, and the fact that she has eight children, all breastfed.³¹⁸ What are unique female capacities (and felt by WWW to be recognised as special capacities - by men, for the biological family, and for the continuation of the human species) are seen by Right-wing women as remorselessly devalued and even degraded by feminism’s alleged dismissal of biological differences between the sexes. In this context we can glimpse some idea of why resistance to abortion is fundamental to anti-feminism and to the Moral Right more generally. Abortion can be seen by them to interfere with the way women have been created as different from men with their own essential endowments defining their social function, and hence their status, within a ‘natural’ order which, because it is based on complementarity, guarantees male protection in return for women’s biologically given dependence. This ‘natural law’ of complementarity ensures that precisely *because* women are different, they *are* equal. If the differences are removed - and abortion, as both feminists and anti-feminists recognise (but in different terms) is pivotal to women’s independence - women will be thrown into what is men’s ‘natural’ territory to compete and to be judged by their yardstick: and be found no longer ‘equal’. Worse, in competing with men, they

³¹⁷ In her written work Francis also addressed another three.

³¹⁸ At Moral Right women’s venues and in their printed materials women are very often introduced or referred to as “mother of ...” At the WFF Conference the applause was commensurate with the number of children a woman had. On one panel of six or so, the applause grew louder and longer as each successive woman introduced happened to have more children than the former. Francis, with her eight, was the second-last, and drew wild acclaim. With the last there was some confusion about the appropriate level of applause - she was a nun! At one Levin appearance, Francis was pipped at the post by another speaker, Monica Turner of the Australian Family Association - “mother of nine”. It should be said that whilst this ritual has its serious side, the women are not insensitive to the humour in it.

could expect the latter's superior aggression to be turned against them. They could lose both men's protection and their respect, and become second class citizens, vulnerable to men rather than cared for by them. It is because the Moral Right sees sex differences, the 'natural order' of gender and heterosexual relations and the division of labour essentially and exclusively based in biology, that ruptures on that plane pose the greatest threat to what they experience as biological and social complementarity and thus equality. Although theirs is a distorted version of what feminism is about, given the concerted research effort on sex-differences and roles by feminist academic psychologists in the US in the 1960s and 1970s, it is perhaps not surprising that they hold this view. The same scenario helps explain the distaste of Moral Right (and many other) men to feminists: if the latter are going to compete with men in the masculine sphere ('aided' by anti-discrimination, EEO and AA legislation to 'compensate' for their 'natural inadequacies') they certainly cannot expect the same regard and material and emotional protection hitherto (supposedly) afforded them by virtue of their biological qualities.³¹⁹ Further, because of their readiness to abrogate these differences - by controlling their bodies through abortion - they signal to these men their own disrespect for what is unique about women, and thus lose the 'natural' respect of men regarding their sexuality and bodies.

Enlightened by Schlafly and Francis as to what was 'really' about to happen, listeners loudly registered their indignation and their ready determination to 'do something'. They were adamant that feminists, and the Convention and the Sex Discrimination Bill, be resisted at all costs. The intensity of audience response seemed to take Francis and Butler momentarily by surprise in that they were organisationally unprepared to immediately grasp the opportunity and translate it into practice. Doubtless though, it fired them to think they had an issue worth a major campaign and from then on, the WWW newsletter was filled with warnings of the diabolical implications of the Convention and the Bill. Picking up on Schlafly's warnings on the effect of the ERA, Francis and Butler unashamedly applied these to the Convention/Bill:

At issue is whether the family - husband, wife and their children - will remain the basic unit of a stable society. Will mothers have freedom of choice to remain at home and care for their families? Or will the current restructuring of our society succeed in having men and women perform identical roles, with the state providing services normally provided by the family? Ratification would legally oblige Australia to require mothers to have the same financial responsibilities as fathers in supporting families, in combat roles in the armed forces, and in working in all areas of industry. It would require Australia to provide paid maternity leave and networks of child care centres. (Butler & Francis, 1983: 7)

Referring specifically to the *Convention*, Butler and other WWW spokespersons claimed in a press release that the Attorney-General said "such *legislation* [sic] would operate nationwide" and was specifically intended to bring about:

[t]he *changing and wiping out* of our traditional "gender" roles.... The State would have the care and control of the child from infancy to maturity ... to mould its ... thinking. Early separation from parents ... is a serious cause of childhood psychiatric illness.... The exchange of sex roles, or "gender" roles within marriage, with the *woman becoming the main breadwinner* and the *man doing household work* ... is likely to cause ... further marriage breakdown. (Butler et al, 1983, my emphases)

Criticisms of the U.N. Convention and the Federal Sex Discrimination Bill argued by WWW and FOL (which, following the lead of WWW, also took up the matter) show an extraordinary level of ignorance and/or readiness to indulge in blatantly mendacious propaganda. They conflated the two documents, misquoted and misunderstood them, distorted their intentions and magnified their implications beyond any recognisable connection with the original. For example, they consistently gave the impression to audiences and readers that ratification of the Convention was somehow equivalent to the passage of Federal law. This was easy to do because it was annexed to the Sex Discrimination Act, one purpose of which, stated in Part 1. 3(a), was "to give effect to *certain provisions* of the Convention" (my emphasis).³²⁰ The Convention and the

³¹⁹ The antagonism that some men feel about women in 'men's jobs' or competing with them emerges occasionally in vivid, but very telling remarks like: 'She thinks she's got balls' or 'she behaves as if she's got balls'. Similarly, the trivial retorts of men that they won't open doors for women or carry heavy objects for them if they think they are equal. The withdrawal of men's 'chivalry' is one of the effects of feminism especially bemoaned by WWW.

³²⁰ The Sex Discrimination Act's other three objects are:

Bill, however, were two completely separate entities. The former was ratified by Australia on 28 July 1983 and came into effect on 27 August 1983. The Sex Discrimination Bill 1983 was introduced into the Commonwealth Senate by the Minister for Education and Youth Affairs on 2 June and passed into law in 1984. Francis (and others [see the press release by Butler et al, 1983 quoted above]) quite explicitly talked of the Convention as “legislation” (Francis, 1983) yet there could be no doubt whatsoever that she would have been totally aware of its legal status; after all, she is married to Queen’s Counsel who takes a very active role in assisting her organisationally and with legal opinions, including one actually written on the U.N. Convention. Ratification of a U.N. covenant or convention cannot be legally binding on a nation because there are no sanctions available to enforce compliance. Basically, it is an expression of intent and good will. It does, however, give the Commonwealth power to legislate in areas previously thought to be the province of the States, as the landmark Koowarta case showed in 1982.³²¹ Francis should have been fully aware, then, of the exact legal status of the Convention, but in fact cites the Koowarta case to frighten people about just how far the Federal Government can go.

An “appraisal” of the Convention in Light, co-authored by one its editors, took phrases and sentences from the Convention, some out of context, to ‘demonstrate’ the horrendous effects it would have:

It [the Convention] argues “that a change in the traditional role of men as well as women in society as well as in the home is needed....” *Instead of traditional values we are to be squeezed into the mould of family and social values dreamed up by a committee of foreign “experts” appointed by the United Nations....* Materialism is at the heart of the thinking behind this Convention. The writers claim that “the prosperity of society and the family” will be hampered if women do not participate “on equal terms with men, in the political, social, economic and cultural life of their countries.” If women make their jobs first priority throughout their lives - so they can equal men’s participation in the workforce what will happen to their children? By putting paid work before the needs of children, this Convention is promoting a society based on materialism.

It is important to realise that the Convention is NOT arguing for equal opportunity for women, but for “*maximum participation of women ... in all fields*”. That can only mean an aim of every able-bodied woman entering the paid workforce and of every profession or trade having 50% men and 50% women....

Earlier International Covenants on Human Rights recognize the family as “the natural and fundamental group unit of society.” In stark contrast, the Discrimination Convention gives no such recognition of the family. Instead it argues *that a change in the family is needed ...*” In other words, the traditional family that has previously enjoyed protection is now to face destruction through the euphemism of “change”....

Article 5 commits ratifying countries to modifying “social and cultural patterns” to eliminate “prejudices and ... practices” based on “*the idea of inferiority ... or on stereotyped roles ...*” It also involves a commitment “to ensure that *family education* includes a *proper understanding of maternity as a social role....*” Here we enter the field of mind control. The Article calls for the control of prejudices, ideas and understandings. The Convention seems unwilling to acknowledge that some differences between men and women have a physical and biological basis.... In fact, our social and cultural patterns have grown out of these differences: they reflect and embody them. Men specialize in those things they are best at and so do women. Any attempt to purge these ideas from society will not only fail, it will hurt a lot of people in the process. What does the Convention mean by enforcing “a proper understanding of maternity as a social role”? Are babies born into marriages and families or are they produced for society - that is, the State? Do they become the property of the State? (Livingston & Phillips, 1983: 8,9, emphases & ellipse in quotations in original)

The article is typical of Moral Right criticisms and the rest of it goes on in a similar vein: foreign nationals (read Communists) will come stomping through Australia to evaluate our progress; books in schools would be censored to eliminate “traditional values and customs that reflect real life”; the state will ordain that women’s “work responsibilities and participation” will have priority over “family obligations”; the “hidden agenda of the Convention is the creation of “a new international economic order” with the goal of “nuclear

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- b. to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status or pregnancy in the areas of work, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programmes;
 - c. to eliminate, as far as possible, sexual harassment in the workplace and in educational institutions; and
 - d. to promote recognition and acceptance within the community of the principle of the equality of men and women. (Part 1.3).

³²¹ In this case on racial discrimination the High Court ruled that the Commonwealth had the power under the Constitution to overrule the States where it had an obligation incurred under an international treaty. This power was confirmed in the Tasmanian Dams case in 1983.

disarmament” (FOL maintains that the movement for peace and disarmament is a Communist plot to take over the world, which is why it, unlike most other church organisations, will not march on Palm Sundays).

Despite, or perhaps because of, the outrageous claims that WWWW and FOL were making they did have some success in stirring up opposition to the Convention/Bill. Presumably because of WWWW’s National Party connections Michael Levin was invited to Canberra to address the Party’s Parliamentary caucus. Several days later the National leader, Doug Anthony, announced that the Party had decided to oppose the Bill. The following month, Anthony was reported as having “again attacked the Government’s Sex Discrimination Bill” in his speech to the National Party Conference in Canberra, saying that “the majority of Australians wanting a traditional family lifestyle had been drowned out by ‘trendies’” (*SMH*, 10.10.83: 1). Totally misconstruing the Bill (presumably for political purposes) Anthony continued:

It is not the business of government to tell married women whether or not they should work. It should be the business of government and national bodies, to give support to women who choose to stay at home and look after their children, and to assure them that the nation values them. (quoted in *SMH*, 10.10.83: 1)

In fact, the Bill was very mild as far as discrimination law goes. The Government, supposedly concerned not to put extra burdens on employers at a time of economic uncertainty, dropped Ryan’s original equal employment opportunity provisions from the Bill.

So, the Government’s commitment to equality is a qualified one dependent, as such commitments have always tended to be, on the vagaries of the economy, despite the legislative flurry and all those nervous Nellies and Norms. (Preston, 1983: 12)

Nevertheless, in its passage through the Senate (in June) some of its opponents managed to find some worrying implications: Liberal Senator Austin Lewis expressed his concern that male and female truck drivers sharing the one truck or Telecom workers of the opposite sex repairing underground telephone cables would put their marriages (to other people) at risk because of their close proximity. The same theme proliferated through numerous criticisms raised against the Convention/Bill: both sexes sharing the same bathrooms; male and female police partners drawn into illicit relationships because of the dangers they faced together and their reliance on each other. Commenting on all this hysteria, journalist Yvonne Preston observed that:

[t]he idea that this [ratification of the Convention] will see us wrenched from our knitting for front-line combat duty, that our children will be frogmarched to the compulsory State-run child care centre, and thousands of us will be dragged screaming from our kitchens to forced labour on the nearest building site, may sound ludicrous. But it is firmly held and seriously promoted by a remarkable number of apparently sane people. (Preston, 1983: 12)

A Moral and New Right Alliance

The period around 1983 seems to mark a turning point in the organisational strategies of the Moral Right, characterised by two ingredients: a recognition of the need to strengthen alliances already operating informally; and a tendency, whether consciously worked out or otherwise, for each organisation to more specifically incorporate into its owns concerns those of other groups, including aspects of the developing New Right more generally. In America both arms of the New Right - the moral absolutists and the economic libertarians - were in the ascendancy and it was apparent that the links between the two were well developed. In the United Kingdom, however, apart from the puritan ethic espoused by Thatcher as part justification for her draconian economic policies and dismantling of the welfare State, the two had remained at arm’s length, at the insistence of the economic rationalists (Edgar, 1983). It was to their American counterparts, then, that the Australian Moral Right looked for ideological frameworks and strategic and tactical expertise. At this point there was a qualitative shift in the kinds of experts ‘imported’ to Australia. This is patently clear in the credentials of those ‘luminaries’ featured at the National Leadership Conference, already referred to (and the same is true of Schlafly and Levin). There is a marked difference between this new breed of New Right activists and the single issue campaigners who had visited Australia between 1973 and 1982.³²² The former

³²² The latter included:

were not merely campaigners but prominent tacticians well placed in the upper echelons of the New Right vanguard, part of the sophisticated task force which had swept Reagan to power and was instrumental in furthering the interests of Right wing pressure groups. The visitors paid their own way, suggesting there to be much goodwill and high-level personal contact between their American organisations and FOL, whose Victorian Director the Reverend Bob Payne, handled arrangements for the Conference. Possibly it was instigated by the Moral Majority's Jerry Falwell, who came here the previous year at the invitation of FOL. The device of national leadership conferences is an American New Right innovation and Schlafly and other leading tacticians attend them frequently to train supporters so that they go out well-prepared to campaign. (Petchesky, 1985: 256) It was a new concept here with leaders and members of a wide range of Moral Right groups invited to attend. From references made at the Women for the Family and Society Conference (by Isbister, for example) one message stressed by the Americans (and hammered home by Schlafly in her address) was the necessity for alliances and coalitions between organisations with similar social and moral goals, and the need not to allow sectarian nor party political affiliations to become divisive issues.

By the September Levin tour it was apparent that this lesson was already being put into practice. Levin was sponsored at numerous meetings by a variety of small Right-wing groups, some of them exponents of economic liberalism and Australian nationalism. Apart from their explicit attacks on feminism, what both he and Schlafly were demonstrating was that seemingly disparate issues such as opposition to anti-discrimination and affirmative action programmes, to abortion, welfare spending, homosexuality, and support for state aid, small government, low taxation, free enterprise and the market mechanism are all linked together as part of a wider social philosophy (if a somewhat contradictory one at times). It is arguable that in attempting to forge these ideological connections to produce a systematic critique of society the Moral Right was attempting to broaden its appeal to a far wider range of people and to mobilise greater support, whilst at the same time trying to overcome a public/media image which portrayed and marginalised it as a group of fanatics or wowsers.

Interestingly, the range of issues covered (and hence the number of potential supporters) widened with each successive American import during this period. Falwell, for example, would have been likely to appeal only

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- 1973: Mary Whitehouse, founder of the UK Listener's and Viewer's Association and famous moral reformer (sponsored by FOL);
 - 1975: Pat Boone, American singer and well-known supporter of wholesome family life and values (FOL);
Dr Thomas Hilgers, Ass. Professor at St Louis University School of Medicine, founder of the National Pro-Life Coalition, brought to Australia by RTL to testify to the Royal Commission on Human Relationships;
Father Paul Marx, Professor of Sociology at a Minneapolis Catholic University, Catholic priest, brought to Australia to address a RTL rally in Sydney and a conference on euthanasia in Adelaide;
 - 1976: Malcom Muggeridge (FOL);
 - 1977: Dr Carolyn Gerster, President of the American National Right to Life Committee, brought to Australia by RTL to attend its first National Conference in Melbourne, advocated the tactic of campaigning to outlaw government funding of abortion;
Dr Hardin Jones, US anti-drug campaigner (FOL);
Professor Sir William Liley, noted New Zealand obstetrician and gynaecologist, developer of a technique for giving transfusions to intra-uterine babies and opponent of abortion (RTL);
 - 1978: Henry Hyde, influential American Congressman, instigator of successful legislation to remove Medicaid funding for abortion, toured Australia for RTL and addressed rally of 4000 in Sydney's Hyde Park;
Mary Whitehouse, second visit (FOL);
 - 1979: Jackie Howell and Lloyd Martin, Los Angeles child abuse detectives (FOL);
Svend Age Laursen, Danish anti-pornography campaigner (FOL);
Prof. Edward Lenoski, American paediatrician and anti-abortion campaigner, addressed third National Convention of RTL (RTL);
 - 1980: Professor E. Blaicklock, New Zealand historian and moral campaigner (FOL);
Dr Jack Wilkie, president of the USA's National Right to Life Committee from 1980 and Barbara Wilkie, two of America's most prominent anti-abortion campaigners;
 - 1981: Ray Gauer, US anti-crime lawyer (FOL);
Mother Teresa, Calcutta-based Catholic missionary (FOL);
Svend Age Laursen, second visit (FOL);
Dr Bernard Nathanson, reformed 'abortion king of America', maker of *The Silent Screem*; Nathanson was to visit again in 1984 (anti-abortion Foundation Genesis);
Dr Margaret White, president of the UK National Society for the Protection of the Unborn Child (RTL);
 - 1982: Jerry Falwell (leader), Ron Godwin (vice president) and Harry Covert of the Moral Majority (FOL).

to fundamentalist Christians and straight social authoritarians. With Schlafly, however, the net was cast wider to include a whole range of women concerned about the effects of the women's movement on themselves and their children, and then with Levin, even wider. With him they were attempting to encompass concerns shared by adherents of free enterprise, anti-communists, businessmen worried about affirmative action, and opponents of the welfare state and of government regulation generally.

Michael Levin and the Feminist Threat to Freedom

By the time of Michael Levin's tour in August and September the U.N. Convention had been ratified and the passage of the Sex Discrimination Bill through Parliament seemed assured. For Francis opposition was still necessary but, in reality, it had symbolic value only. At many of Levin's appearances Francis (confusedly) informed listeners of the alleged contents of each and warned them about the kind and degree of social engineering that they augured. The speedy progress of events and public ignorance of what she maintained was entailed in the "legislation" (sic) was presented to various audiences as proof of the Government's, and particularly Ryan's, determination to persist in the creation of a 'unisex' society regardless of opposition. Levin's 'horror stories' of the results of equal opportunity and affirmative action programmes in the USA provided further proof of how quickly we were going down the same path towards feminist-inspired ruin. Conversely, 'the facts' with which Francis acquainted listeners lent to Levin's talk's an immediate and shocking relevance.

Levin had twenty-nine speaking engagements in thirty days (in Brisbane, Adelaide, Melbourne, ACT and Sydney) most of them public meetings or luncheon or dinner addresses to organisations like the NCC and the Confederation of Australian Industry, or WWW and FOL. There were also addresses to student organisations and several straight academic papers to philosophy seminars and university departments (to make the trip tax-deductible and worthwhile in academic terms?). Apart from the philosophy papers, titles included "Democracy and Freedom", "Feminism, Sex Roles and Human Rights", "Feminism and the Family", "Feminism, its Effects on Business and Industry", "The Meaning of Discrimination: Implications for Education", "Affirmative Action". The main theme and much of the content of each paper was the same, with variations to suit the concerns of the particular group to whom he was speaking.³²³ Articles by Levin are frequently published by *Quadrant* with similar arguments. We can be confident, then, that the following account does justice to the range of his arguments against feminism.

As already foreshadowed, both the range of interest groups and the social, economic and political implications of feminism as Levin theorises them encompass concerns far wider than was the case with Schlafly. As a philosopher, Levin has a coherent framework within which he consistently operates: an extreme libertarianism. Given the neo liberalism at the heart of (or used to justify) New Right ideology and political practice, his position locks neatly into purist versions of that and allows him to critique feminism, not from a moral perspective, but from one flying the catch cries of 'democracy' and 'freedom'. There is a double effect here: on the one hand he can mobilise the emotional investments inhering in these 'motherhood' values, and on the other, demonstrate that they are integral to a healthy and viable free market economic system. In the end he can demonstrate that feminists (and by inference their fellow-travellers such as regulators, protectionists, unionists, welfare liberals, and all beneficiaries of all these anti-market measures) are intrinsically opposed to freedom and democracy, and that feminist programmes damage the capitalist system, free-enterprise, businesses, education, the family and (male) children (let alone men themselves). Again, then, but in very different terms from those of the moral puritans, we are dealing with the decline of society!

³²³ I attended four addresses differently titled and this was the case for each of them. I also went to one philosophy paper which was purely academic and totally unrelated to his concern with feminism. A philosopher colleague I met at the latter said the paper was of high quality and that Levin was well regarded internationally in his field.

Levin always begins by ‘defining’ feminism.³²⁴ Once more, as with all anti-feminists, we see feminism narrowed down to a caricature of 1970s American academic feminist psychology, the discourse of sex-role stereotyping which has provided the basic ingredients for the construction of a counter anti-feminism.

Feminism is a systematic critique of society ... its basic theory is that sex roles, what are called sex roles, are artificial. Its theory is that boys and girls are born with essentially the same talents and abilities and inclinations to acquire talents, abilities and interests. This being so, the observed differences between the behaviour of boys and girls and particularly the differences in the observed behaviour between men and women are the product not of any innate differences expressing themselves through preferences, but the result of something called conditioning. And this conditioning is inequitable and harmful and indeed, as the term sex role suggests, highly artificial.³²⁵

But this reductionist definition suits Levin’s purposes well. To his audiences, such notions fly in the face of commonsense and are obviously and immediately ‘wrong’. Thus, from his opening statement it appears to them that Levin is unveiling the ‘truth’ about feminism. He then calls on the indisputability of science in recounting numerous sex differences which have been scientifically established as ‘fact’, bolstering the evidence by hi-tech references to photos of male and female mice brains exposed to hormone additives and to the hermaphroditic development patterns of males and females exposed to hormones of the opposite sex. All in all:

... the scientific evidence at this stage ... is entirely overwhelming that there are not only innate psychological sex differences, innate difference in talent and motivation, but that these differences explain ... the observed differences we see in society.

Amongst the innate differences which Levin claims have been irrefutably proven to exist are “women’s natural propensity” to rear children; “the basic biological urge of men to dominate and women to be co-operative”; fathers’ impulse to play roughly with their sons and mothers’ to be kind and nurture their children; women’s “greater capacity for manual dexterity and repetitive tasks, which again is apparently part of innate brain wiring”; women’s “natural instinct to look to a man to protect her”; and the tendency for “men, by nature [to] have more of a wandering eye than women [who] invest much more emotion in intimate relations”.

But these are of minor significance to Levin. He is less concerned with establishing innate sex differences than using them to explain and justify social organisation, the way it must have always been and, necessarily, always will be. The key explanatory variable, the sex difference which *really* matters is the instinct of aggression: a quality abundantly present in males and lacking in females. It is aggression, he claims, which explains the inevitability of hierarchies and the dominance of men in the workplace and the family. Here, Levin doesn’t merely state his argument, he positively enthuses over the power and magnitude of male aggression. Refuting feminist notions of conditioning he asserts that “it’s not true that boys are taught to be aggressive”; on the contrary, the primary function of the family is to control and channel

... that *fantastic, anarchical, destructive energy* that little boys have which if left uncurbed would lead to a Hobbesian state of nature - a war of all against all.... Obviously male aggression must be curbed as it is in families.... You break up the family as is being done more and more in the welfare state, you unleash male aggression and the result is eighteen year-old sociopaths. (emphasis in speech)

On a mass scale that powerful aggressive instinct in men:

... can lead to the Wermacht marching three-thousand miles just for the purpose of killing Slavs.... That kind of *fantastic, destructive* aggression is there in every male and the great challenge of socialisation is to control it. (emphasis in speech)

³²⁴ Unless otherwise stated the following account and quotations are drawn from transcripts of recordings made at addresses in Sydney by Levin (Levin, 1983a; 1983b; 1983c; 1983d) or from a discussion with Fred Nile on the latter’s radio programme (1983e).

³²⁵ For audiences where a more colourful definition was appropriate he offered the following:

Feminism is the belief that there are no differences between men and women ... and that all the observed differences ... are simply the product of some sort of malign social conditioning which cheats women into thinking that they should raise children while it lets men go out and have all the fun of getting killed in wars and getting heart attacks at fifty-six.

As Levin would have us believe, then, the traditional patriarchal family is the only shield standing between us and social chaos and anarchy. The primary and indispensable function of the family is the socialisation of little boys so that their naturally antisocial instincts are ameliorated and curbed (in Levin's schema little girls don't seem to need socialisation, presumably because what they are naturally is what they should be socially). What Levin does in fact, is turn the notion of sex-stereotyped learning on its head: rather than boys being taught to be aggressive, he maintains that what they do learn is how to quell their biologically-driven predilections. Furthermore,

... there's only one teacher who can teach a child to control his impulses and that's the father.... You've got to have a strong father that represents authority.... He [the boy] has got to want to satisfy his father because he wants his love as well as wanting to avoid his wrath. And it's this process whereby ... boys internalise the desire to control their angry impulses, that we call conscience. It is only within the family that a child can acquire the values which are absolutely necessary for functioning in [the] free society in which one competes ... in the economic marketplace.

From his mother he learns that he is "lovable and good"; something he can never learn from a child care centre. This gives him faith in himself and faith in the world and the future. Properly channelled, then, as only the family, and especially the father, can do, that seething aggressive energy is transformed into the basic ingredient of the free enterprise system, proclaims Levin - the competitive spirit! There is no doubt that Levin regards pure capitalism as the only system of social and economic organisation compatible with human (male) nature, and inevitably arising from that nature if unthwarted. If for some reason a hierarchy or power structure collapsed, "men would spontaneously construct another one and the only way to prevent them ... would be a police state". Unlike women, men are prepared to do whatever "is necessary to rise to a position of power..., the scientific evidence for this is overwhelming." Hence:

... the distribution of power that we see in society around us ... is not the result of anybody oppressing anybody; it is simply the result of the fact that men make one kind of choice and women make another kind of choice.

So with (yet) another variant of that tried but 'true' anti-feminist format, that is, functionalist naturalism posing as scientific truth (with, in this case, a dash of ego psychology and a smidgen of adulterated Freud thrown in) Levin can 'establish' for his audiences that what is 'given' in nature is what is prescribed for society. Having set the stage, he can then go on to argue that feminists' efforts to build what they claim should be a more equitable distribution of power must be fundamentally coercive, because only by force can men be artificially prevented from scrambling for ascendancy in power relations.

In the libertarian philosophy extolled by New Right ideologists the highest values are liberty and freedom, values with which few would quibble when abstracted out of any practical context. It follows, claims Levin, that if people are *not* naturally equal, any attempts to transform social structures which are *intrinsically* hierarchical due to innate differences in motivation, ability, aggressive drive - to *artificially* create greater equality - would involve incursions on the liberty of those members of society who are superior. In libertarian terms this is coercion, and only the bare minimum of coercion is justifiable, only that which is necessary to prevent the thwarting of other people's freedom: police can justifiably stop criminals from coercing others, the state can use the military for the defence of a Nation's freedom. In fact, libertarians maintain that most of the modern state apparatus is coercive and therefore illegitimate; the only roles regarded as proper for a state are the prevention of coercion and those necessary functions beyond the ambit of free-enterprise, for example, the provision of certain infrastructure. We can see here how liberty and freedom are wedded in the libertarian view to small government, the free market, and opposition to welfare, taxation, and regulation.

Preventing men from "using all their efforts to attain powerful positions", using "legal means to exclude them" from these positions, thwarting women from "devoting most of their time" to childrearing - all involve "the use of state coercion to change the pattern of individual preferences". Yet these are the means feminists (must) use, says Levin, to achieve the change they want. Their programme for the redistribution of power is a project for thwarting individual preferences. "Feminism is *essentially a coercive and anti-democratic philosophy*". (emphasis in speech)

In reply to the obvious argument that if, as he claims, power relations between the sexes are 'naturally given' and so feminist efforts must be doomed to failure, he agrees that in the long term this is true. But a lot of harm is being done in the meantime, he insists, and launches into his series of 'horror stories' of, for example, daily seeing New York feminists thrusting dolls onto tearful little boys or punishing them for assertive behaviour.

He maintains that feminists have been most successful in using the coercive powers of the state in two areas - education and employment. In this he caters to the two arms of the New Right: on the one hand, the moral absolutists who fear what is being done to their children by non-sexist indoctrination and by the thwarting and distortion of their 'natural' masculine and feminine development:

Feminists in the United States, and from what I've been able to see in this country increasingly here, have established a huge apparatus of brainwashing and lying, indoctrination and censorship and coercion in the education of children;³²⁶

and on the other, to economic libertarians or free-labour marketeers who are concerned that employers will be forced to hire and promote inferior women in preference to men, and who fear that the state will gain additional control over their labour practices. He recounts a number of bizarre tales about non-sexist "indoctrination" in education, and about the implementation of anti-discrimination legislation and affirmative action programmes in workplaces. Whilst he gets great mileage out of these stories with his shocked audiences, what constitutes the most serious affront to his libertarian sensibilities is not the content of anti-sexist education or the idea of anti-discrimination *per se*, but the fact that feminists have gained government support for their 'coercive', and therefore unjust, programmes of change.

It is this government intervention in the free enterprise system via affirmative action which Levin's libertarianism find so offensive about feminists' EEO demands; intervention which he sees as transgressing the values of liberty and freedom. Because women have different (read 'inferior') innate aptitudes and motivation, the only way they can significantly move into positions of power and traditional male occupations is with the aid of state coercion to force employers to hire them in preference to better qualified males. Left to pursue their own innate life choices women would not seek employment but would prefer to properly stay at home rearing their children. High taxation caused by the excesses of the welfare state have made the male breadwinner's income insufficient to support a family, however, and so have pushed women out into the workforce. If governments chopped the welfare state and hence the need for high taxes, Levin maintains that it would reduce the deficit, inflation would go down, there would be no need for two incomes in a family, and women would withdraw to the home and there would be no unemployment. The natural functioning of free enterprise, unfettered by regulation, would ensure that all people who wanted jobs had them and that they had the job for which they were most suited. Furthermore, he points out to his audiences, all this gross interference in the free market (in employment, because it makes employers hire people they don't want; in services, because it forces people to sell to or place resources at the disposal of those with whom they don't wish to deal, for example, black tenants) is undemocratic because it is carried out by the

³²⁶ Like any conservative who sees what is as the way things should be and as therefore 'right', he views the traditional education system as 'objective' but any deliberate changes to it as indoctrination:

Today's feminist seems to view educational reforms as nothing but a competition between two kinds of brainwashing. Conventional education is indoctrination of one sort, feminist re-education indoctrination of another sort - the only question is, who gets to do the indoctrinating? This, of course requires a redefinition of indoctrination ... to include any transmission of the basic values of society, however *objectively* or *unintentionally* they may be conveyed.... Does it need to be established that indoctrination is the *conscious* and *intentional* cancellation of specific beliefs by the selective manipulation of evidence? Naturally, any viable culture will transmit its basic values through its pedagogy. But those values tend to be inseparable from the subjects studied, not lessons anyone makes a point of giving. Yet perhaps it is not surprising that the new feminist approach to education explicitly repudiates any idea of *objectivity*, since it is itself the very essence of indoctrination. (emphasis in speech)

If sets of understandings and beliefs are learnt and internalised without any conscious effort on the part of the teacher to deliberately impart them, the pedagogic system, as far as Levin is concerned, is objective and unbiassed. So, for example, material which is rampantly sexist, which implicitly extols American world dominance, which teaches that capitalism is the zenith of economic systems of development, which suggests that racist inequality is a fact of life, is all, in Levin's terms, objective; an education which incorporates these 'truths' into its fundamental view of the world, and is far more pervasive and impervious to rational questioning, is legitimate. In his schema, the unintentional imparting of taken-for-granted values is objectivity; the deliberate articulation and questioning of these values constitutes an insidious form of indoctrination.

unelected bureaucracy and backed up by an unelected judiciary (he conveniently disregards the obvious fact that the law enabling it emerges from the legislature).

Levin warns that Ryan's Sex Discrimination Bill will pave the way for 'quotas', where employers will be told by the Government that they *must* (irrespective of any criteria of merit) employ a certain number or percentage of women (or blacks, disabled, homosexuals). He says that in the USA, in order to meet these quotas, standards had to be lowered because employers could not find sufficient women to match them. The result of this has endangered the lives of the public: West Point and the Fire and the Police Departments, for example, had to reduce their level of entry criteria. Noticeably, and with few exceptions, Levin's 'horror stories' about affirmative action relate to those occupations where the mythology of brute force or aggressiveness as being necessary qualities for all aspects of the job is slowest to die. That 'enlightened' management in many organisations has discovered in AA a useful tool for restructuring and breaking down entrenched and 'inefficient' human resources practices and 'freeing-up' internal labour markets, is never mentioned by him. On the contrary, in a briefing paper sent to WWW prior to his 1984 trip attacking Ryan's Green Paper on Affirmative Action, he referred to the latter's "thinly veiled attack on seniority". This, he said, "further illustrates its contempt for *fair dealing*". He sympathises with the

[m]any men [who] undertook their present jobs with the understanding that seniority would protect them in such crucial matters as retrenchment. To renege on this is to change the rules in the middle of the game. (quoted in Francis, 1984, my emphasis)

This is a telling indication of where Levin's misogynist heart really lies. The values of merit and free (labour) markets - 'absolute' when men are the beneficiaries - are conveniently pushed to one side when they might operate *against* men. It is practices like seniority that so often work against (so called) merit and efficiency that management are finding they are able to eliminate under the guise of equal opportunity employment principles.³²⁷

What feminists really want, says Levin, is not equality of opportunity, but equality of *outcome* regardless of qualifications: "What else can *de facto* equality mean except fifty/fifty quotas?" And as these quotas will never be achieved in most occupations because many women will still choose to fulfil their 'biological destiny', despite feminist coercion to do otherwise, discrimination against men will become a permanent feature of society. And

... every time you pass over a man to favour a woman you are actually penalising not only the man but also the wife and family. You make it that much harder for a working man to make ends meet, that much harder to raise a family on a single income. And of course it makes it that much harder for the father to earn the respect of the family that he needs to function and which makes family life enjoyable.

So, what can be done to combat feminism and feminists? There is no such thing as a moderate feminist, he says; they are all motivated by "self revulsion", and "self-hatred", and joined by a "unity of nihilistic spirit". They are irrational, sexually promiscuous, obsessed with lesbianism and, apparently, ubiquitous:

Feminists have infiltrated the bureaucracy and convinced the male political leaders to be feminist, and of course once leadership is convinced of feminist ideas it becomes very difficult to buck. At the sort of emotional level I think men have a great deal of difficulty arguing with feminists. For one thing, men are embarrassed by the sort of topics feminists like to discuss, especially when feminists start on about sex. And the kind of things they raise are so distasteful and embarrassing, I think the average man would rather flee than discuss them.

Nevertheless, if they are going to be defeated,

... men are just going to have to start taking feminism seriously.... Even feminists, deep down inside - I can't help but thinking deep down inside each feminist - if there's a shred of femininity left, will respond

³²⁷ Of course, how merit and efficiency are defined and put into practice is highly political. Whilst they are usually presented and acted upon as if their meanings were obvious, and indeed as terms implying objectivity, they are in fact highly contestable. Unfortunately, they are less often actually contested in practice, precisely because of their strong connotation with objectivity. (For an excellent critique of the merit principle in employment practices see Burton [1987]). So, when management insists that merit and efficiency will prevail, it is its definition of these terms which is being instituted (or that of powerful groups who have been successful in having their definitions accepted).

to some sort of male dominance. And I just have a vision that ... suddenly a bunch of big, commanding, virile, dominant males are going to get up and say “Whoa! Now let’s start talking sense”, and then the whole feminist superstructure is going to come apart. At least, that’s my dream.

This is a very different sort of anti-feminism from that espoused by Schlafly or from that hitherto pursued by WWW. Whereas they are concerned about retention of the ‘special rights’ and ‘privileges’ allegedly accruing to women, there can be no doubt that Levin’s loathing of feminism arises from what he sees as its attack on masculine identity. Feminism is metaphorically emasculating men by taking their jobs and it is threatening the personal prestige and authority they formerly enjoyed in the family as sole providers and protectors. For Levin, feminism is making men virtually redundant (as *men*) in the very areas they once had (and still should have, he insists) a natural monopoly; in the economic and occupational hierarchy (the public sphere) and as head of the family (the private sphere).

The Contradictions of Liberalism

Zillah Eisenstein (1984) argues that there is an ideological and political distinction in the USA amongst those intent on attacking the liberal welfare state and feminism. On the one hand she identifies the ‘New Right’ and on the other, the ‘neoconservatives’. Schlafly she claims to be squarely representative of the New Right (1984: 44) whereas she sees Levin as part of the neoconservative movement (1984: 72). Furthermore, she maintains, each of these positions are fraught with internal contradictions; contradictions which emerge when they attempt to deal with the historical realities of changes in the family, women in the workforce, and sexuality.

One of the main planks in the New Right’s electoral agenda in the USA has been its assault on the liberal welfare state and its concomitants - high taxation and big government - coupled with a firm commitment to the traditional family, its ‘privacy’ from state interference, and the return to it of welfare services, themes with which we are now familiar. Nevertheless, claims Eisenstein, the New Right is still implicitly locked within liberalism because it continues to extol the virtues of liberal individualism and equality of opportunity. It argues that a massive cutback in welfare will enable such huge reductions in taxation that married women will be released from the workforce. Thus, it seeks to re-stabilise the traditional patriarchal family. This view is premised on the notion that the availability of welfare and women’s participation in paid work has caused divorce and in fact exacerbated the need for welfare.

But an alternative analysis suggests that rolling back the welfare state will not restore the family “because the welfare state developed out of the dissolution of the traditional patriarchal family ... [thus] the New Right’s vision of the state and the family is outmoded....” (Eisenstein, 1984: 47) We have actually encountered this sort of thinking earlier, when dealing with FOL; the notion that easy divorce causes divorce, that contraception and abortion cause permissiveness, that sex education causes active sexuality in adolescents. As there, this sort of New Right thinking fails to take account of wider economic and social interactions and shifts, in this case, for example, changes in the dynamics of capitalism which have pulled women into the workforce, the ballooning of the service sector and a mushrooming of part-time, lowly-paid ‘women’s’ work, and the ever greater development of consumer capitalism; or shifts in the meaning of marriage, in the expectations of many women who, whilst they might never identify with feminism as such, have been touched by it to demand greater independence and an equal say in marital decision-making and even, to some extent, a fairer division in domestic labour.

According to Eisenstein, the basic contradiction which the New Right cannot countenance is that the ideology of individual liberty and equality of opportunity (however that is practised) combined with systemic and structured realities of inequality organised around sexual, racial and economic principles, actually produces the very pressing needs which welfare has been constructed to ameliorate. The welfare state, then, is a (necessary) response to the liberal ethic still implicitly espoused by the New Right. This same sort of contradiction is apparent in other areas too; Schlafly, as we saw, denounced violence and sexual explicitness on television but was unable to acknowledge that it was a product of the sort of economic system she so valorised in other respects. Liberal capitalism then, contains the seeds of its own opposition in its inherent tendency to produce consequences antithetical to its own supporters.

This is particularly the case in the realms of sexuality, the family and gender relations. Whilst still attached to liberalism and freedom as basic market mechanisms, the New Right explicitly preaches the virtues of the patriarchal nuclear family, of the authority - both economic and personal - of the father, and of the morals and the forms of sexual behaviour disrupted by permissiveness. But it has been the market, entwined in complex relations with practices based on the values of personal liberty and freedom, which has given rise to the very social changes the New Right abhors. Eisenstein argues that the mass movement of women into the workforce and the inequalities they encountered there, coupled with the double inequality of the domestic division of labour, made it patently clear to many women that the values of individualism and freedom were paramount only when applied to (white) men. Participation in paid work also helped demonstrate that control over reproduction was a necessary, although not sufficient, condition of freedom for women to work, and on another level, for a degree of independence in their personal and family lives. It was this consciousness on the part of women - that individual freedom (hitherto but implicitly a male right) was a right justifiably theirs too - Eisenstein sees as formative in the movement for Women's Liberation. The possibility of economic independence and the realisation of a woman's right to individual dignity and to a certain control over her own life contributed to a rise in divorce, to smaller families and to mother-headed families. Pornography and the commercialisation of sex in its many forms (so loathed by the New Right) reflect a direct response of the market to perceived economic opportunities emerging out of the articulation of sexual liberation, itself a movement discursively grounded in the ideology of individual freedom.

It is in its reaction to these phenomena that the major contradiction in the New Right emerges in stark clarity, as does, according to Eisenstein, its fundamentally patriarchal nature. The New Right is more than prepared to use the legislative powers of the state to repress or inhibit developments which it sees as immoral or anti-family, developments which have in part arisen from previously excluded people taking liberalism at its own word. On the one hand, then, the New Right clamours about the reprivatisation of the family (as part of its justification of cutting welfare and putting it back where it 'belongs' - with the family), but on the other, it shows a willingness to intrude into that supposedly private and personal unit to re-establish the sorts of family forms, controls and (patriarchal) lines of authority it deems necessary. Clearly, its whole emphasis on a 'return' to a moral society is prefaced on the reassertion of a 'strong' family; that is, one in which the father is the sole provider and authority and, as Schlafly made plain, the mother is "self-sacrificing and put[s] her child's welfare ahead of her own comfort and convenience and career".

The Moral Mother Versus the Feminist

One of the problems in today's society, as the New Right sees it, is that feminists, and in fact many women influenced by their message of a woman's right to her "own self-fulfilment" - that is, women who have taken liberal individualism as applying to them also - have brought the traditional family to the verge of complete breakdown. To re-establish a "moral society" requires the re-establishment of the "moral mother", says Eisenstein; one "circumscribed by her duty to others ... a wife and mother before anything else." The moral society, then, is nothing other than a reflection of "the hierarchical order between man and women ... [and hence] the moral mother cannot be a feminist". (1984: 34).

Within the terms of this conception of woman, family and society, abortion assumes a particular and highly charged meaning to the New Right.

The stance that is implicit in the antiabortion movement seeks to posit the rights of the unborn in opposition to the rights of women. The concern with "reproductive freedom" is presented as self-indulgent and narcissistic. Women are said to take their own needs too seriously and have supposedly forgotten about their commitments to "others". The antiabortion campaign treats the "other" as the unborn child, but the "other" is also one's husband, one's children, one's aged parents, and so forth. "Pro-lifers" pose narcissistic woman (the feminist) against the moral woman. The moral woman puts others before herself; by definition she is mother, that is, one who lives for others, for her child or her country. That she should have the right to choose to do so [or not] becomes an irrelevant category within the moral system of the antiabortion movement. (Eisenstein, 1984: 34)

Abortion can be seen, then, as a litmus test differentiating the 'moral mother' from the 'feminist' - or 'God's police' from 'damned whores' - with all the opposing connotations which each bear. And if the good mother is the rock on which the moral family and society is to be rebuilt, the abortion issue and anti-feminism are

crucial to New Right politics, and to mainstream politics itself wherever the New Right is a political force. In the USA, where the latter has been in the ascendancy in the 1980s, anti-feminism has assumed this centrality which means that it is being used by the New Right to try to “gain control of the issues of good and evil, morality, and self-indulgence”. (Eisenstein, 1984: 35)

Conservatism, Neo-conservatism and Libertarianism

In Australia the New Right has been more successful in penetrating mainstream politics in the economic and industrial relations spheres. Although the National Party and the Liberals, particularly when under the leadership of John Howard, raised a ‘return to the old-style family’ theme, this lacked the concerted moralism present in American New Right politics. Here, it is not sensible to speak of the New Right in the same way that Eisenstein can do of the USA; rather it is necessary to distinguish between the ‘moral arm’ and the ‘economic arm’ of the New Right, or for ease of usage, the Moral and the New Right respectively.³²⁸ In fact, the New Right in Australia incorporates many elements of what Eisenstein refers to as neo-conservatism and what Sawyer (1982: ix & 20) and I (following her) have referred to as libertarianism.

Sawyer explicitly rejects the description of ‘conservative’ or even ‘neoconservative’ for the New Right movement which began to emerge in the late 1970s in Australia. Others also point to the variations in meanings which are attached to the labels New Right, conservative and neoconservative. Levitas (1986: 5), for example, maintains that there is little consensus about what New Right means, either amongst its adherents or its critics, and points out that neo-conservatism does not have the same meaning in the USA as it does in Britain. Until recently, the name ‘conservative’ was taken to refer to “timidity and lack of enterprise” in the former and it was only in reaction to what was seen as an increasingly socialist shift within the Democratic Party that adherents of classical liberal doctrines adopted the term ‘neoconservative’. (Minogue, 1985: 154)

Sawyer claims that both conservatives and neoconservatives are concerned about preserving traditional institutions and values, and about the maintenance of authority itself. For conservatives, a bulwark against centralised political power is provided by the dispersal of authority in a plurality of institutions (especially the family, the church, the school). What distinguishes neoconservatives, she maintains, is that they, whilst supportive of the free market, fear the effects of a proliferation of competitive individualism; the pursuit of self-interest by all individuals (including the previously excluded such as blacks and women) is seen as threatening traditional structures of authority and thus eventually tending towards chaos and anarchy.

In contrast, libertarians (those who pursue what Eisenstein calls neo-conservatism) are committed to radically revising liberalism to save it from the excesses it has produced, or as Eisenstein says, to strip it of its radical potential, that is, the emphasis in it on freedom and equality which fuelled the development of black and women’s movements. These excesses are too much welfare, democracy and equality, gained because liberalism has promoted equality in terms of outcome or conditions, rather than as equality of opportunity. The latter, libertarians (Eisenstein’s neoconservatives) maintain, cannot and should not lead to equal outcomes because individuals are *inherently unequal* in their abilities and motivations. This primary concern has led libertarians to focus their attention mainly on the public domain, and to attack all measures put in place by governments which inhibit free and unhindered competition, whether it be between individuals or enterprises. For this reason, affirmative action attracts special scorn as a ‘race’ rigged from the outset to ensure an equal outcome between unequal competitors.

For our purposes three points are significant here. First, is the assumption that individuals are inherently ‘different’ (read ‘unequal’) and cannot all succeed in the same sort of life competitions; second, is the assumption which flows from that, that hierarchies are inevitable, that they ‘naturally’ develop if there is no external (state) intervention to prevent them, and that therefore they ‘must’ be necessary to social order; and third, that, men and women are innately different and therefore naturally destined for different domains of social life. Unlike the New (Moral) Right libertarians have no quarrel with women competing in the paid workforce, as long as they do so on the same terms as ‘everyone else’ (that is, men). Hence, whilst most

³²⁸ I made this distinction previously in “The Two Arms of the New Right” (1984) and in “The Moral meets the New: Alliances on the radical right” (1986).

libertarians pay little attention to 'private' life, ostensibly being concerned with the market and competition, Eisenstein points out that the ideology is unquestionably patriarchal, in that it assumes the public sphere to be a male dominated one (if left to operate naturally), that the family is a hierarchy, and that male authority prevails there too. In line with their emphasis on natural authority and social order, some libertarians, as Eisenstein notes, explicitly state that the family 'must' be necessary to society because it is a biological 'given', there being no evidence of nature having organised in any other way the functions it performs.

Levin stands out amongst libertarians, then, because of his explicit patriarchalism and anti-feminism, and for his concentration on the family. Nevertheless, he certainly could never be called 'pro-family' in the sense that this usually applies because, although he focuses on the need for maintaining a traditional patriarchal family structure, the moralism definitive of the Moral Right is not present. Levin proclaims rather, a pseudo sociological-cum-anthropological analysis of the family and parental roles and their relation to wider social processes and social order, based on a functionalist-naturalism and libertarian philosophy.

What is also transparent in his polemic is something not usually encountered even on the Right in such explicit form, even though it is often part of the hidden agenda, and this is an overriding preoccupation with the necessity of male dominance. This, with its justificatory assumption of the profound power of the male aggressive instinct is a theme more likely to appear in the writings of sociobiologists as Weeks has demonstrated, and one suspects that Levin drew much of his inspiration from that source. Apparently, he has also been influenced by George Gilder, although he never bothers to acknowledge this; in his tirade it is clearly Gilder's feminist-emasculated and fatherless male who stalks the American ghetto as a sociopath.

George Gilder's Emasculated Male

For Gilder it is women's sexual independence attained via their recently gained control over reproduction which has made men irrelevant and thus injured their phallic pride and its dependent masculine identity, whereas for Levin it is virtually the reverse: a potential sociopath lurks in every male unless his extraordinary aggression is properly channelled. Both identify welfare as the culprit promoting single parent families of mothers independent of men: the arrangement which each, in his differing way, blames for producing these anti-social males responsible for America's soaring rates of violent crime, burglaries, drunkenness, suicide and rape and other sex crimes. (Gilder, 1973: 7) In *Wealth and Poverty*, the so-called 'bible' of the New Right which Reagan distributed to all members of his cabinet, Gilder blames welfare for the breakdown of the family,³²⁹

... by making optional the male provider role, welfare weakens ... [the male's motivation]. Unlike the mother's role, which is largely shaped by biology, the father's breadwinner duties must be defined and affirmed by the culture. The welfare culture tells the man he is not a necessary part of the family: he feels dispensable, his wife knows he is dispensable, his children sense it.... Sooner or later the pressures of the subsidy state dissolve the roles of fatherhood, the disciplines of work, and the rules of marriage. (Gilder, 1981: 148)

But it is not welfare alone which Gilder blames for destroying the fabric of society. In his earlier *Sexual Suicide* - an apologia for masculine dominance - he is non-equivocal that most harmful and insidious is the influence of the Women's Movement:

Single males - and married ones whose socialization fails - constitute our major social problem. They are the murderers, the rapists, the burglars, the suicides, the assailants, the psychopaths. What they are not is powerful oppressors, with hypertrophied masculinity. They are impotent figures,... violence is the product of impotence grown unbearable. Their problem is a society inadequately affirmative of masculinity: a society seduced ... to eliminate many of the male affirmations that all human societies have created throughout history to compensate for male sexual insecurity and female sexual superiority. The women's movement seems determined to create more and more such exiled "chauvinist" males, all the while citing their pathetic offences as rationale for feminism. (Gilder, 1973: 105, 6)

Not surprisingly, women's "sexual superiority" is a matter of biology:

³²⁹ Petchesky (1985: 251) refers to Gilder as Reagan's "favourite neoconservative" and scathingly dismisses *Wealth and Poverty* as "a singularly unoriginal recapitulation of the ideas of Malthus, Mandeville, and Daniel Patrick Moynihan".

Males are the sexual outsiders and inferiors. A far smaller portion of their bodies is directly erogenous. A far smaller portion of their lives is devoted to sexual activity. Their own distinctively sexual experience is limited to erection and ejaculation. Their rudimentary sexual drive leads only to copulation. The male body offers no sexual fulfilment comparable to a woman's passage through months of pregnancy, to the tumult of childbirth, and on into the suckling of the baby. All are powerful and fulfilling sexual experiences completely foreclosed to men. (Gilder, 1973: 15)³³⁰

According to Gilder, it is therefore in the order of civilisation that if woman is 'superior' in the domain of sexuality (nature), men "must be made equal by society (culture). For him this means that an elaborate system of "cultural contrivances" are necessary to reassure men and affirm their identities: the role of fatherhood needs to carry authority, they must be the providers, fill all positions of authority over working women, and *always* earn more money than their female counterparts. Equal pay for equal work between men and women is demeaning for men and therefore for their egos, for their families, and ultimately destructive of society itself, in that it disrupts the necessary nature/culture balance between the sexes. Feminist charges of discrimination and demands for affirmative action need to be seen within the context of this 'reality' for the social damage they are doing to be fully appreciated. But this is not the only way in which feminism is harming men and society; even the residual gains accruing to the male's identity via sexuality and his role in procreation are now threatened by feminists.

When the women demanded "control over our own bodies," they believed they were couching the [abortion] issue in the least objectionable way. But ... they were in fact invoking one of the most extreme claims of the movement and striking at one of the most profound male vulnerabilities. For, in fact, few males have come to psychological terms with the existing birth-control technology; few recognize the extent to which it shifts the sexual balance of power in favour of the woman. A man quite simply cannot now father a baby unless his wife is fully and deliberately agreeable.... Throughout the centuries, men could imagine their sexual organs as profoundly powerful instrumentary. Male potency was not simply a matter of erectile reliability; it was a fell weapon of procreation. Woman viewed male potency with some awe, and males were affirmed by this response. This masculine attribute is now almost completely lost. The male penis is no longer a decisive organ in itself. It has become an optional accessory of the woman's will and body, and an instrument of pleasure somewhat inferior to the clitoris and a coke bottle. In a profound sense, the male has now lost control of it - of his own principal masculine endowment.... A man's penis becomes an empty plaything.... (Gilder, 1973: 134, 5)

Gilder wrote this especially obnoxious passage just prior to the Roe V. Wade decision and saw resistance to legalising abortion as stemming from a "justifiable fear" of interfering with the "deepest human experiences" in terms of the socio-psychic consequences for males and thus (male dominated) society. The degree of reproductive control gained by women with the contraceptive pill (let alone abortion) he saw as having been secured at a deplorable cost to males. This is an instance of one of the principal themes running through his polemic - that any degree of empowerment of women in the cultural sphere, that is, social life *per se* - is at the expense of men and civilised society.

I have dwelt on Gilder at some length because he is an early exponent - along with several others, such as Steven Goldberg in his *The Inevitability of Patriarchy* - of that strand of misogynist anti-feminism taken up by Levin, and because he went on in *Wealth and Poverty*, a paean to capitalism, to link affirmative action and welfare (especially that to fatherless families) to the malaise of the economy, as does Levin. This form of anti-feminism, as distinct from Schlafly or that exhibited by FOL or WWW, is marked by its sense of outraged masculinity and its naked and vehement insistence on male dominance. There is little deference to the 'different but equal' theme here! What is perhaps so surprising is that Right-wing women experience no sense of insult at the patent misogyny in Gilder's and Levin's view of women and their 'natural' and

³³⁰ In passing, it is worth noting the extraordinary mentality of someone who sees these processes, especially pregnancy, as *defined* by 'sexual fulfilment'. Certainly, many women do experience moments of pleasure and joy in them (and some report feeling sexual pleasure in the final moments of natural childbirth and in lactation) but more often they are marred by varying degrees of pain, discomfort, inconvenience and exhaustion. To represent what are, and what have been historically, some of many women's most gruelling experiences as preeminently ones of sexual pleasure discounts the reality of their lives and trivialises their social contribution. Moreover, to be only able in sexual terms to apprehend whatever pleasures can be involved displays a miserably narrow (and ultra distorted masculinist) comprehension of the complexity and nature of emotions.

'necessary' inferiority to men.³³¹ Rather, how such women already live and experience their lives is affirmed by such accounts; they see not misogyny but only another confirmation that their traditional relationships with men in both the family and the public sphere is a condition of an ordered, moral society. Also, their sense of security and identity is reinforced anew by the familiar message that the totality of their cultural role derives directly from their 'natural' function in pregnancy, birth and childrearing; that contrary to the protestations of feminists, fulfilling those duties is not only the best, but the only social contribution they should make.

Some 'Home-Grown' Experts

In 1984 and 1985, WWW discovered several male academics in Australia openly prepared to resist the inroads being made by feminism. The first, Dr Gabriel Moens, had been commissioned the previous year by the Human Rights Commission to write a report on the Federal Government's affirmative action programmes. Moens said that when he was doing the research feminists put pressure on him and the Commission to cancel the project, and the Federal Attorney-General, Senator Evans, actually requested his dismissal from it. (*Age*, 30.10.84: 7) The Commission refused to publish Moens' report alleging shoddy scholarship and lack of objectivity, a claim which was supported by a number of academics whose opinion on the report it sought. It also alleged that Moens had not addressed the particular brief he had been contracted to investigate. Several years later the report, by then in book form, was published by the Centre for Independent Studies, one of a number of Right-wing think tanks which has emerged in Australia. One of Moens' main criticisms of affirmative action emerged in the distinction he made between 'soft' and 'hard' AA. Basically, the former he saw as permissible in that it involved selection and promotion procedures based on merit without regard to sex, race, ethnicity, or any other irrelevant criteria; that is, procedures which excluded discrimination on these grounds. He claimed that most affirmative action, however, was intended to involve what he referred to as 'hard' AA which he rejected as positive discrimination. This entailed the awarding of positions to members of groups allegedly discriminated against in the past, precisely because of their membership of those groups, without proper regard to merit, skills or experience. He maintained that boosting representation of women or minority groups in this way was unfair to those people (read men, particularly white, Australian born, non-disabled ones) who could have justifiably expected to get those positions in normal circumstances as well as being likely to provoke animosity in workplaces.

WWW was quick to seize on the opportunity presented by the situation. Here was a lecturer in law apparently being scurrilously attacked by one its arch enemies - the Human Rights Commission - because he would not 'toe the feminist line' on affirmative action, but rather was prepared, based on his 'objective' research, to speak 'the truth' about its inherent injustice. Within three months WWW's newsletter announced that Moens was to be guest of honour at one of its dinners and had already addressed meetings arranged by it as far afield as Perth. From then on, his criticisms of affirmative action were referred to frequently in both WWW and FOL publications, which also printed articles by him. He gave talks organised and/or advertised by both organisations and generally assumed the status of an 'expert' in the area. He thus joined two other male academic lawyers - Professor Lauchlan Chipman of Wollongong and Associate Professor Mark Cooray of Macquarie University - as part of a slowly expanding Moral Right intellectual backbone.

Chipman has been closely associated with FOL virtually since its inception and writes on a wide variety of subjects, but particularly education. Cooray's involvement is more curious. As President of Australian's for Commonsense, Freedom and Responsibility he would seem to be primarily aligned with a form of libertarian New Right philosophy, and certainly his many contributions are aimed at uncovering threats posed to freedom and justice by a range of government legislative measures. But, as previously mentioned, along with its valorisation of free enterprise, the free market and liberty, ACFR also extolls the virtues of the family institution, discipline, respect for authority, and other related conservative values. It is attempting to weld together libertarian principles (applicable mainly to the public domain) to those aspects of conservatism 'necessary' for the stability of private life, and thus to social order generally. Hence his involvement can be

³³¹ At the WFF committee meeting I attended one member enthusiastically recommended *Sexual Suicide* and *Wealth and Poverty* to me because they "explained everything".

understood as an attempt to demonstrate the necessary nexus between the two systems. In this respect, Cooray is probably representative of the sort of direction that the extreme New Right has been trying to move in Australia.

Another 'home-grown' find (although he is originally American) for WWWW was Hiram Caton, Professor of Humanities at Griffith University in Queensland, an anti-feminist more in the style of Levin and Gilder. Caton came to public attention for his vehement opposition to a Women's Studies course being planned at the University. He claimed that the course attacked evidence established by entire scientific disciplines from its own biased feminist perspective and intended to teach "as true what is known to be false". Having failed to get support from the University Council, Caton sought assistance from "civic groups experienced in opposing biased curricula, particularly those bearing on the security and legitimacy of the family", including WWWW. (Caton, 1985: 1,2) After approaches to the Council by them were rebuffed, WWWW initiated a petition to Parliament.³³²

Caton is not, however, merely an opponent of women's studies; he has propounded his own theory of what feminism is 'really' about based, he says, on more than ten years study of the literature on males and females and on his own "insights, guesses and hunches". (Petersen, 1985: 6). He claimed sufficient expertise in sociobiology to be able to teach a course in it (Butler, 1985: 6) which gives some indication of the sort of literature he favoured. A focus on material emanating from the fields of behavioural biology and sociobiology indicates the sorts of naturalistic assumptions likely to inform any theorisation he propounded. Such a jaundiced emphasis would tend to belie his claim to objectivity, suggesting rather an appeal to 'scientifically established' and biological 'truths' about men and women at the neglect of the voluminous literature directed to social practices and processes. It is presumably from this basis that he attacks feminist academics for the supposed lack of objectivity. As we shall see, his own account of the dynamics of relations between the sexes is hardly distinguished by adequate evidence or academic rigour; the reliance on nature would seem to make such considerations superfluous!

Seemingly at the instigation of WWWW, he addressed a branch of the National Party in October 1985 where he outlined his views, and which received wide press coverage.³³³ This "historic speech" was subsequently published as a booklet by the Council for a Free Australia with a foreword by Jackie Butler who commended it as "the recipe to rehabilitate our sick society" (in Caton, 1985: 7).

Rather than radical, Caton describes feminism as a *reactionary* movement of women against the permissive era, and more specifically against changes in men's behaviour and attitudes caused to a large degree by the invention of the contraceptive pill and elective abortion. These innovations have severed the natural and once inextricable link between the sexual act and reproduction and, he claims, have promoted rampant promiscuity and irresponsibility on the part of men, to the serious disadvantage and detriment of women. In particular, Caton points to the following:

- Sexual liberation promoted experiment with varieties of sexual relationships - "casual sex, communal living, open marriage, swinging and family planning" - all based on a refusal of possessiveness. But these arrangements meant that women were disadvantaged in that they failed to get support from the fathers of their children, something, says Caton, which all women need. Furthermore, most of these relationships ended in divorce and it is now well known that it is women who lose most from divorce.
- With the casualisation of sex, women became obliged to grant sexual favours as part of any relationship, rather than conferring them after a sustained and successful courtship. Having forfeited "the strongest card" a woman holds at the very beginning, they had to rely on other means - make-up, dress, style and image - to highlight the sexuality of their bodies, thus assuming the "image of concubine" instead of wife and mother. But men do not marry concubines, says Caton.

³³² Caton mentions that the petition circulated in "blue ribbon constituencies of the National Party" (1985: 2) which again indicates the close links WWWW has with that organisation.

³³³ The saga of Caton's battle against women's studies at Griffith had been regularly reported in the national media for a year or so.

- Even with the availability of the pill it still sometimes happened that “roving Jakes left young women pregnant”. The ‘obvious’ solution to this was abortion on demand.

This practice was infamous and illegal at the beginning of the Pill era. It is still illegal in most states but it has acquired a certain legitimacy in opinion. The medical profession shed its ancient inhibitions and now performs an estimated 100,000 abortions a year in Australia. But abortion can be emotionally traumatic, and some women are haunted by the experience for life. When the procedure is performed on a massive scale, it is a kind of medical terrorism in which mothers conspire with physicians to murder the next generation. Mothers are encouraged to believe that medical dignity absolves the instinctive horror. But instinct is stronger. (Caton, 1985: 8)

Instead of ‘women controlling their bodies’ then, Caton argues that abortion really represents another way in which Australian women have become “depressed and brutalised” over the last few decades. Women, in fact, are both the losers and the victims of this state sanctioned “infanticide” and “clinical destruction”, paying the price of “premature birth for post-abortion pregnancies, spontaneous abortions, perinatal mortality, fetal damage and emotional trauma”. (Caton, 1985: 11)

- Sexual orgies and casual sex epitomise the ‘Pill era’ and so men have been drawn into homosexuality as the ultimate expression of these, says Caton. With five percent of Australian men homosexual and a similar proportion bisexual the sex ratio is skewed so that five percent of women are without partners and another five percent have to share theirs with men. (But what about lesbians? Perhaps, like Queen Victoria, Caton does not believe they exist.) “Homosexuality is perhaps the most humiliating of all male put-downs [of women]”, he states. Women are attracted to men only to be brushed aside for male lovers, and further, “homosexuals not only insult women by their preference, they seduce their sons”. How else can women regard men but with suspicion and anger, asks Caton. (1985: 9)

According to Caton, feminism is nothing other than an understandable “defensive reaction” against the response of men to the separation of sex from procreation. He summarises the allegations of oppression, inequality and abuse made by feminists about men - and importantly, he points out, made not just by feminists, but by women in general - and states that it is hardly surprising that women are complaining about so much and doing it so loudly. Domestic violence, drunkenness, incest, rape, exclusion from public life, discrimination in the workplace, sexual objectification are merely some of the reproaches. Men, however, unperceptive and insensitive as they tend to be, retort by “lash[ing] out at feminists as man-eaters determined to humiliate men by usurping their jobs and driving them to buggery”. They do not realise that women are outraged by men because “*they have been massively rejected*” and taken for granted as casual sex partners. (1985: 6, my emphasis) With divorce so common they suffer most because of their greater emotional and financial dependency. The insecurity of marriage and the home make an investment in motherhood questionable. Consequently, women want equal opportunity at work because they are increasingly aware of the need to be independent; they want men to share in parenting so that they are equally involved in the family.

In a word, men have reneged on the marriage vow, and the high dudgeon of feminism is a resounding rebuke for the desertion. Pride does not allow feminists to admit this anger, but I think it is so nevertheless. (Caton, 1985: 6)

The assumption underlying women’s studies, claims Caton (but presumably not glimpsed or ‘acknowledged’ by feminists) is that family insecurity caused by the instability of men is permanent, and therefore motherhood needs to become optional for women. In this sense feminism rejects the traditional family, but it is not ‘really’ a rejection based on a rational critique of patriarchy as is claimed, but rather, an emotional rejection triggered by *having been rejected and having the family rejected by men*. Very few men understand this, says Caton, and instead they feel threatened by what is going on with women, unlike him. Indeed, he says:

My position is conciliatory; it is to protect women including feminist women. And if somebody sees that as patronising, so be it. We males are patronising. (quoted in Petersen, 1985: 6)

The solution to all of this is clear, and although Caton acknowledges that it will not happen overnight he sees hopeful signs in society generally, and particularly in a new puritanism emerging in the feminist ‘trendy

camp'. The solution is, of course, the "repudiation" of contraception and abortion. An end to all forms of family planning will restore the dignity of women by bringing to a close the era of permissiveness. This will mean the rehabilitation of men, an end to their promiscuity and the restoration of their paternal dignity. And in what is clearly an echo of Gilder, Caton affirms the 'natural' complementarity of the sexes:

It is for women to bear and nurture children: it is for men to provide for and defend kith and kin. In the exercise of this role men feel confident in their actions and justified in their sacrifices; it is the basis of male dignity and stability. Pushed off this keel, males tend to promiscuity, domestic violence, alcoholism, desertion, drifting, opportunism, and indifference to work. Their need for manly exertion cannot find unambiguous objects; they have no definite view of the future; and their awe of women, so important for subduing their grosser impulses, disappears with the contraceptive control of the sexual act. Their sense of responsibility is throttled by the system of state assistance to deserted mothers. This is abundantly clear from the experience of urban black males in the United States. (Caton, 1985: 13)

Once again, the example of single mothers and young black male crime and violence in the American ghetto is dragged out to prove that a stable and traditional family is necessary to tame 'natural' male aggression and channel it into socially acceptable behaviour, and that welfare to single families is counter-productive. If the ghettos in the USA didn't exist, the New Right would have had to invent them!

Even more to the point, having travelled via the familiar themes of biology (woman) and culture (man); of another variant of naturalistic functionalism which 'proves' that social order requires women to return to their (ordained) traditional sexual, wifely, childbearing and rearing roles; we return full circle to the insidious cause of the sexual and social disruption of the last several decades: contraception and abortion!

Caton's misogyny emerges not in an explicit loathing for feminists and/or women - unlike Levin's - but in a studied condescension. He makes it clear that *he* understands what feminism is all about, even if women themselves are ignorant of why they are 'really' up in arms. Magnanimously, he offers to be their patron, to help them see the real source of their anger. Women are like hurt and rejected children, he implies, who, because of their pride, cannot express their desire to be needed. Little wonder his attempted input into women's studies wasn't appreciated. Instead of attacking women directly, then, Caton vents his anger at the (traitorous male?) medical profession for providing the technology to split sexual activity from procreation. Insultingly, in this context women are mere passive consumers of what "medical authorities commend ... [to them] as a salutary practice" (Caton, 1985: 12) rather than rational actors struggling for, and seizing on, the means to exert control over *their* bodies and reproduction. Caton even goes so far as to tell his National Party listeners that feminism is fundamentally conservative in spirit and purpose and therefore able to be colonised by conservative forces if they have the wit to boldly seize the issues of family planning and permissiveness. As soon as men pull themselves together women will eagerly beat a track back to chastity, domesticity and motherhood.

One assumes that this is because they 'know' their natural place, role and function, and therefore where and how they are meant to find genuine security and fulfilment. Men, however, propelled by their (socio)biological urges, have taken advantage of the opportunity provided by reproductive control to gratify their natural propensity to promiscuity. Significantly, Caton implies that it will need to be men (like him?) who gradually bring other men to heel; feminism - as an expression of women's dissatisfaction - having achieved the very opposite by provoking a "backlash" amongst men. Similarly, Levin, in a different vein, called for men to restore the natural equilibrium between the sexes by standing up and quashing feminism. Whether by condescension (Caton) or derision (Levin) each is eager to demonstrate that he is not the sort of man to be intimidated by feminism.

Back to Biology

In one way or another a major, if not central, focus of all anti-feminist and Moral Right discourse is the family. In fact, assumptions about the family and its functions are fundamental even to that arm of the New Right which concerns itself exclusively with the public domain of the economy and the state in that demands for small government, low taxation and a winding-back of welfare presume a particular family form. Linked to the New Right emphasis on the family are a variety of normative views about the state and the nature and degree of its responsibility to, or the legitimacy of its intervention into, the organisation of social and sexual

life. This concern with the family and sexual relations is inextricably bound to a preoccupation - whether articulated as such or not - with social order and its maintenance, expressed through assertions about certain basic functions society requires the family to perform, and how these lock into specific and distinct roles for its members.

The glue cementing all of this together - whatever variant it be - is nature. In all New Right thought nature determines the basic characteristics of men and women, thus the outlines of family organisation, the division of labour, and sexual roles and relations; in fact, all of the fundamentals of the private sphere of social life. It follows from this that nature also defines certain parameters within which humans can construct and/or reconstruct their culture (given what is deemed to be essential about being human) and so it fixes limits as to what is possible in the public domain also. The primordial natures of (male) human beings and the inevitability of competition and hierarchies mean that only certain economic and political systems are in tune with what is given by nature, and thus viable in the longer term. Ultimately, then, all variants of New Right thought are embedded in forms of naturalistic determinism. Whether that supposed nature be ordained by God and original sin, a product of sociobiological mechanics and the 'selfish gene', or a natural human proclivity to individual competition, it is notable that it is the basest elements in that alleged human nature which are decisive in shaping the fundamental outlines of economic, social and sexual organisation.

Whether the focus is on morality or the market, all quarters of the New Right share a basic (specified or not) vision of the 'good society' characterised by certain elementary features determined by natural differences between individuals and groups. It is a society necessarily criss-crossed by massive inequalities of gender and class (and race and ethnicity³³⁴) in respect of economic and power differentials; hierarchical structures in all institutions in both the private and public spheres; deference and obedience to legitimate authority be it in the family, church, school or workplace; and a revitalised (that is, reprivated) private sphere based on complementary differences, cooperation and reciprocity.

The Contradictions Between Moral Absolutism and Libertarianism

Neither the extreme of moral puritanism nor that of pure libertarianism is capable, for different reasons, of engendering the appeal sufficient for either a mass movement or for electoral - and thus real social and economic - impact. Further, despite Levin's welding of anti-feminism to libertarianism, the latter is ultimately antithetical to the interests of moral absolutists, although this did not become apparent to his audiences. As a philosophically rigorous libertarian, Levin, like any others of this ilk, is obliged to reject state regulation of *any* activity which does not involve the coercion of one party by another (or which does not involve the provision of necessary infrastructure or services which cannot be supplied by the market). Accordingly, most sexual regulation and sanction of, for example, homosexuality, prostitution and pornography, is illegitimate to the libertarian ethos.³³⁵ The same would be true for drug taking and trafficking, and numerous other activities anathema to the moral puritans.

³³⁴ Although questions of race and ethnicity have been barely alluded to in this work that does not mean they are irrelevant to New Right concerns. Race has been at the forefront of the British neoconservative's preoccupation with 'the nation' and 'national identity'. In the USA it is inextricably bound in with the attack on welfare, anti-discrimination laws and affirmative action. Because most of America's poor (and least educated and skilled) are black (or Hispanic) and the poorest of these are women on welfare, anti-egalitarian measures traverse lines of class, gender and race. In Australia the New Right has been more circumspect about race and ethnicity. Geoffrey Blainey's assault on multiculturalism showed that the issue was a proverbial 'can of worms' and John Howard's attempt to politicise it was no doubt one factor contributing to his downfall. In the main, explicit attacks have centred on Aboriginal land rights and have come from New Right (for example, Hugh Morgan of Western Mining) and business or pastoral interests threatened economically by land rights. Whilst there is no doubt a reasonably high level of racism running through the electorate this has been kept muted and politically at bay through a bilateral policy between the main parties. Further, business interests (the financial supporters of the New Right think tanks) 'require' a continuing high level of immigration. There are small neo-fascist groups like the National Front who are vehemently and even violently racist but this sort of ideology and action is deplored at the public level.

³³⁵ At an address by Levin to Sydney University students at the Law School I asked him to state his position on abortion, homosexuality, pornography and prostitution, given his adherence to libertarian philosophy. He replied that abortion was no problem because it was murder, but admitted that he would be bound to reject any laws or sanctions against the other three, despite the fact that pornography, for example, sickened him. One should note that this approach does not rule out the right of one party to discriminate against another in employment or the provision of services or goods - for instance, because a person is homosexual. For

Libertarianism is important to the economic New Right in that it provides the philosophical justification for its attack on government intervention, regulation, welfare and taxation and does so in the name of values recognised as legitimate: those of freedom and liberty. But for moral puritans the (usually unacknowledged philosophical) problem with libertarianism is the caveat restricting state activities to the prevention of coercion. They regard the state as bound to legislate harshly against immorality. The minimalist view of legitimate state activity prescribed by libertarianism presents another allied difficulty too; moral puritans regard the state as having a (divinely ordained?) duty to act in ways calculated to bolster the institution of the family through the provision of certain services and family-oriented social security measures, through forms of taxation which favour family formation, larger numbers of children and single income families, and through laws to strengthen marriage and make divorce more difficult. Ultimately, and despite any flirtation with libertarian rhetoric - as shown, for example, in the editorial in *Light* quoted from above - libertarian philosophy is fundamentally antithetical to the interests of moral puritans. Because the latter do not in reality favour a minimalist state their heated rejection of government's right to legislate in matters such as anti-discrimination stems not from an aversion to state coercion but from an objection to the content and intent of such laws. They reject the idea that the state should be broadly pluralist in so far as they are adamant that it should act according to the principles of Christian values and morality. Conversely, questions of morality are irrelevant to the pure libertarian, the only value which counts being freedom. Nor is the Moral Right opposed to welfare *per se*, but only to any form of welfare which it regards as militating against the values of the traditional family.³³⁶ Thus, its deployment of libertarian discourse is highly selective, being used as a convenient justification for rejecting those aspects of state intervention which it considers anti-family.

Yet these contradictions are of little or no consequence in terms of electoral politics. Those politicians and political parties which have eagerly embraced libertarian doctrine in respect of economic matters, the role of the state, welfare and taxation have not felt impelled by any principle of consistency to extend its application to the conduct of other areas of social life. This point is made succinctly by Andrew Gamble:

New Right economists love to parade as 'libertarians', but the libertarianism of most of them is meagre. They apply it as a remedy to the ills of contemporary society only in minuscule doses. Few are libertarian about life-styles, or gender relations, or race, or defence issues, or crime and punishment. There is a libertarian wing in the New Right but it is not dominant. The few genuine libertarians stand out among the rest. (1986: 47)

This is hardly surprising; apart from a few disenchanted erstwhile liberal intellectuals, libertarianism has found its constituency almost exclusively within the ranks of conservatives and Right wingers, individuals and groups who have always had an ideological and often, and more importantly, a deep emotional attachment to moral conservatism. These roots, whilst not usually extremist, allow for a certain common ground between the two arms of the New Right. Moreover, in adopting a libertarian critique and programme in respect of the public sphere, without jettisoning a conservative commitment to private and social issues, political parties identified as New Right avoid alienating their supporters, most of whom would be repelled by an emphasis in the latter on liberty and freedom from regulation. That wedding these different approaches towards the public and the private generates flagrant contradictions within New Right policy is simply irrelevant to the business of pragmatic politics; after all, such an amalgam seems 'only right' and 'natural' to a commonsense view of the world. Only intellectuals, academics and the odd pedantic opposition politician would quibble about the blatant inconsistency involved.

As far as practical politics goes, it is not the contradictions between and within moral authoritarianism and libertarianism which matter; rather it is the way elements of each can be woven together into a middle ground

libertarians this sort of discrimination - and that against women, blacks, etcetera - is a *right*, and it is laws against this right which are coercive.

³³⁶ This selective animosity towards welfare is shared by many Australians more generally; whilst, for example, they might like to see less spending on unemployment and sole parent benefits (and thus lower taxation) the aged pension is virtually sacrosanct, and yet this consumes the largest chunk of the social security budget. Any policy or rhetoric of the major political parties bearing the ideological stamp of libertarianism tends also to be highly selective: the difference between the parties in this respect being merely one of which areas are regarded as appropriate for government intervention and which are not. The principal area of contention is industrial relations and the labour market, which the ALP regulates through the Accord, and the anti-Labor Parties insist should be subject to the market (with draconian laws to prevent 'coercion' by trade unions).

which articulates a discursive ensemble with resonance for some of the most pervasive fears and prejudices of the 1980s. Also feeding into this union and into the popular appeal of the electoral New Right are elements of neo-conservatism.³³⁷ Notably, what all three - moral puritans, libertarians, and neoconservatives - have in common, and what has operated as a springboard for the generation of each and provided a target facilitating the building of a New Right movement, is a loathing of various aspects of the legacy of the 1960s decade. Each identifies that era as marked by destructive changes rampantly antithetical to what is necessary for the 'proper' functioning of society, the economy and the political system. Whereas moral puritanism developed out of revulsion against sexual permissiveness, and libertarianism in reaction against the welfarist and interventionist 'excesses' of liberalism and the fiscal 'theft' necessary to support an ever more cumbersome bureaucracy to administer them, neo-conservatism's primary concern is with what it sees as characteristic of the decade: the revolt against authority and the valorisation of undisciplined and self-indulgent individualism.³³⁸

In suturing together these various strands the New Right has identified and given voice to a range of resentments, anxieties and interests. Speaking of Reaganism and Thatcherism, Edgar concludes that the achievements of both were

... to weld together the instincts of individual greed and collective self-righteousness into a coherent model of the world, in which the rhetoric of freedom can co-exist with the reassertion of virtue. (1986: 76)

One of the strengths of the discourse forged by the New Right has been its capacity to appeal and lock onto the concerns of a diversity of groups and to give legitimacy to those who prosper only at the expense of others. It offers license to, and justification for, the adventures and plunder of the most economically powerful; it provides a rationale - a doctrine of natural and social necessity - for extending and intensifying the immiseration of the most disadvantaged and dependent; it promises to restore the authority of those whose claim to superiority and obedience is dictated by the natural order of things or by social necessity - husbands, fathers, whites, employers. It is both radical and reactionary: the far-reaching social and economic changes it aims to institute are premised on a (forced) return to the centrality of the family as the primary source of welfare, to the careless and ruthless cruelty of *laissez-faire*, and to the values of self-reliance and the work ethic.

But perhaps most importantly it provides, as Edgar puts it, "a coherent model of the world": an explanatory network of meanings which gives an easily assimilable understanding of the world; which tells the truth about what has happened and why; which eases anxiety and uncertainty; which deals not with anonymous and complex social and economic processes but with identifiable targets named as responsible for perceived ills and problems. Moreover, for those to whom it appeals, it validates their suspicions and intuitions, their experiences and their actions, and in so doing it affirms their sense of self and identity.

³³⁷ Edgar refers to neoconservatism operating as a "marriage-broker" to the two arms of the American New Right in the run-up to the 1980 Presidential election, bringing together "a coalition of anti-abortionists, gun-owners, tax-reducers, John Birch Society stalwarts and Protestant preachers". (1986: 64)

³³⁸ This egalitarian contempt for authority is expressed most acutely in the proliferation of claims to 'rights' made by all manner of groups which, in one way or another, had their genesis in the 'counter-culture' so despised by neoconservatives. To add insult to injury, these claims, according to neoconservatives, were not balanced by any capacity or willingness to earn those rights or by any recognition of duty or of commitment to obedience. Alleged entitlements ranged from a belief that each individual should share in the fruits of consumer capitalism regardless of ability to afford them (Edgar, 1986: 69) and the idea that the state should ensure that all people's basic needs be met (David, 1986: 142) through to that plethora of claims made by or on behalf of numerous minority groups and women.

CONCLUSION

Recently, the American pro-life lobby scored a major victory in the Supreme Court's decision to allow individual States to legislate on abortion; a bill to seriously erode women's access to abortion was voted on in the British Parliament; in Canberra a cross-party group of Parliamentarians has formed awaiting the right opportunity to attempt passage of legislation to prevent Medicare funding for abortion. Following recent changes in the number of MLAs, commentators are predicting that Fred Nile will hold the balance of power in the NSW Upper House from the next election and thereby be in a position to exact concessions from the Government; on the basis of his past legislative attempts a pro-life bill would certainly appear to be near the top of Nile's priorities.

Certainly, there are no indications that the abortion issue is likely to disappear from the public agenda in the foreseeable future. The pro-choice and right to life positions are profoundly incapable of resolution or compromise. The pro-choice lobby wants nothing less than untrammelled rights and access to abortion; the pro-lifers nothing less than a total and permanent embargo on it and the right to life of the foetus enshrined in law.

Whilst each insists on the correctness of their position, justifying them in discursive terms which call on individual freedom, privacy, and women's rights on the one hand, and the sanctity of life and the most fundamental of human rights on the other, the truths which each proclaims ultimately reflect no more and no less than political interests. If, hypothetically, one or the other was ever to crystallize as, and be normalised into, the paradigmatic truth governing the issue this would be the result of conflict and struggle, not the eventual triumph of some absolute truth.

It is precisely because moral puritans are absolutists that they display such a zealous and unmitigated enthusiasm for imposing their system of disciplinary truths on the rest of society. There is, by definition, no legitimate room for doubt about a set of truths ordained by the divine and adhered to by faith. Moreover, the foetus is invested with powerful symbolic value for right-to-lifers: "hidden in the womb of its mother" it speaks of its physical dependency on the biology of woman; it represents what is special about the female body, what makes it different from, but complementary to, the male body. By highlighting its reproductive function, the foetus denies the carnal in woman's body; it symbolises woman's sexuality as creative and transcendent rather than as pleasure-seeking and grossly self-indulgent. Instead of being merely an end in itself, woman's sexuality is legitimated by being endowed with a higher purpose - individual and species life. It is no accident that it is the Catholic Church which has spawned and nurtured the right to life movement: in the Madonna and Child woman is at her most sublime and perfect - simultaneously both Virgin and Mother; in the Pieta, she uncomplainingly fulfils her destiny in aching suffering and pain, an anguish visited on her through the child she conceived in sexless union.

Little wonder, then, that the pro-life campaign is the spearhead of the Moral Right movement (and conversely, the right to choose, of the Women's Movement) and feminism its *bete noir*. Abortion negates the image of woman as (loving, self-sacrificing, long-suffering) sexless Mother. It threatens to disrupt and sunder an (idealised) set of understandings and forms of social organisation which ascribe woman's particular and special position.

Moreover, right-wing women have a vested interest in maintaining these traditional understandings and structures, not only materially but, as was shown in Chapter Two, in terms of their identity and sense of cognitive congruence with the world.

For feminists too, abortion is especially laden with meaning. The assumption that women's biology is their destiny - that ubiquitous discursive net operating to justify the unequal power relations in which women are captured - is undermined when the nexus between sex and reproduction is converted into a matter of choice. Women's independence and autonomy in the social world generally is contingent upon them at least being able to exercise control over their own bodies and sexual pleasure. Only when they are not subject to

externally-imposed dictates about pregnancy and reproduction can women begin to regard their bodies as their own private space.

Yet, whilst in one sense, we can see the body as an individual's private 'possession' (by virtue of an historically won right), it is also social; it is as much socially constructed as it is biologically constructed; we live and experience our bodies socially as much as we do individually and biologically, and we live and experience the social world through our bodies. They are as much part of our social/individual identities as are our minds and our psyches (indeed the split between these is artificial and spurious). Yet, if we accept that the body is social it is questionable whether there is any *a priori* reason for excluding it from governance when we might happily wish to see numerous other areas of the social subject to external controls, such as the economy, business, markets, the media, the environment, to name just a few. To assert that we have the right to do whatever we choose with our bodies (presumably as long as we don't hurt or 'coerce' others) is to make a claim squarely within the terms of libertarian philosophy; indeed, it was within an earlier variant of libertarianism that the 1960s assertions of sexual freedom were made. Conversely, to admit the claims of those who would discipline or regulate bodies and sex in their interests, or for that of society, the nation, the species, or any other alleged 'greater good', is to risk acceding to oppression and authoritarianism.

Ultimately, it is doubtful whether there is any solid philosophical foundation for resistance in the field of the body, sex and sexuality. Yet it is especially at the level of the body that subjects experience freedom of the will (chimeric as it may well be). The body has come to be construed and lived as the tangible locus of free will; subjects' sense of themselves as independent individuals with a measure of control over their own destinies is especially brought to bear on the body and, as subjects constructed in the era of modernity, this experience of the self is a necessary condition of subjectivity. Whilst, under the regime of biopower, the body is traversed by power relations, what is perceived as the operation of power on the body needs to be resisted. Whatever discursive tactics can be usefully deployed in furtherance of this endeavour are politically legitimate, regardless of their ultimate truth value, or lack of it. Truth is a social/political construction; its establishment the final aim of conflict and struggle and, in the politics of sex and sexuality, it is the body which is the 'contested terrain'.

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