

Constance E. Cook, 89, Who Wrote Abortion Law, Is Dead

By [Dennis Hevesi](#)

- Jan. 24, 2009

Constance E. Cook, a former New York State assemblywoman who was co-author of the law that legalized abortion in the state three years before the Supreme Court's landmark decision in *Roe v. Wade*, died Tuesday at her home in Ithaca, N.Y. She was 89.

Her daughter, Catherine Cook, confirmed the death.

Mrs. Cook, a Republican, represented the 128th Assembly District, which then included Tompkins, Yates and Seneca Counties, from 1962 to 1974, and took pride in her support for the expansion of the State University system.

But her most significant influence came with the passage, on April 10, 1970, of the abortion-rights law that she wrote with State Senator Franz S. Leichter, a Manhattan Democrat. Three decades later, she seemed modest about it.

"I didn't really have a sense at that time that we had done something momentous, though it was long overdue," Mrs. Cook told *The New York Times* in April 2000. "Looking back now, it seems like a bigger deal."

Attempts to loosen New York's abortion prohibition had failed throughout the 1960s. Then, on March 18, 1970, after a raucous five-hour debate, the State Senate passed the Cook-Leichter bill, which contained no restrictions on the procedure, by a 31-to-26 vote. That set the stage for an even more dramatic vote in the Assembly. With chances for passage deemed more difficult, the bill was amended to allow unrestricted abortion up to 24 weeks, but after that only to protect the pregnant woman's life.



Constance E. Cook as her bill was approved in April 1970. Credit...Don Hogan Charles/The New York Times

Midway through the roll call, Assemblyman George M. Michaels, a Democrat from a heavily Roman Catholic district in central New York, quietly voted no. The count ended at 74 to 74, with one Assembly member absent. The speaker, Perry B. Duryea Jr., a Montauk Republican, had not voted, in keeping with the tradition that the speaker votes only if it affects the outcome. Before the clerk could bring the vote to a close, Assemblyman Michaels stood and asked to change his vote.

“I fully appreciate that this is the termination of my political career,” he said. He was right.

Mr. Duryea cast the final “aye” vote, making it 76 to 73. The next day, Gov. Nelson A. Rockefeller signed the law. In January 1973, the Supreme Court issued its Roe v. Wade ruling, patterned in part on the New York law.

Constance Eberhardt was born in Shaker Heights, Ohio, on Aug. 17, 1919, one of three children of Walter and Catherine Sellmann Eberhardt. Besides her daughter, Mrs. Cook is survived by a son, John; a sister, Marjorie Haupt; and three grandchildren. Her husband, Alfred, died in 1998.

Mrs. Cook graduated from Cornell in 1941 and earned her law degree there in 1943. After law school, she went to work at a Wall Street law firm. Five years later, she moved to Ithaca, where she met Mr. Cook. She became a legal assistant to Assemblyman Ray S. Ashberry. When he retired, she successfully ran for his Assembly seat. In 1976, Mrs. Cook became the first woman to be a vice president of Cornell, as vice president for land grant affairs.

That year, she took up the cause of the Rev. Betty Bone Schiess, one of 11 women who had been ordained to the Episcopal priesthood by reformist bishops. But Bishop Ned Cole, of the Diocese of Central New York, refused to license her.

Mrs. Cook took the case to the United States Equal Employment Opportunity Commission, which ruled in Ms. Schiess’s favor. In July 1976, the General Convention of the church passed a resolution declaring that “no one shall be denied access” to ordination on the basis of sex.

“The overwhelming support that we got in our efforts to challenge the church through the law was one of the things that made for change,” Ms. Schiess said on Friday. “Nothing significant would have happened without the attention of Constance Cook.”