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CRIMINAL CRIMINAL ABORTION ABORTIO

A STUDY IN
MEDICAL
SOCIOLOGY

Foreword by

ALAN F. GUTTMACHER, M.D.

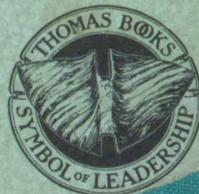
Executive Director
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This book is, in fact, the first hard-cover book with the words "Criminal Abortion" in its title to be published in the United States since 1872. Its purpose is to describe and analyze the whole sub-culture of criminal abortion by means of actual field research in this area of medical sociology.

Heretofore the subject has been largely dealt with either in reportorial fashion or as a chapter or two in a larger work on abortion in general.

Authors Bates and Zawadzki have employed THE CASE STUDY METHOD, THE STATISTICAL APPROACH, and FIELD CONTACTS with abortionists, detectives, medical examiners, probation officers, police-women, district attorneys, pharmacists, and many ethical physicians.



"This volume by Jerome Bates and Edward Zawadzki is perhaps the most forceful assault on this fortress of hypocrisy, ignorance and make-believe that I have encountered. It is a factual exposition of the criminal abortion problem by two highly knowledgeable, thoughtful, practical students of the topic. It is hard to believe that the reader will remain unaffected by its contents--oftimes sordid but always accurate and interesting. I hope this book will have many readers for the unpalatable facts revealed will no doubt help make Americans face up to their abortion problem." -
From the Foreword by ALAN F. GUTTMACHER, M.D.

The authors isolate, describe and analyze those factors in the total American culture which perpetuate--generation after generation--the deviant crecive institution of criminal abortion. They demonstrate how certain areas of American culture, if strengthened and expanded, could slow down the upwardly spiralling circle of misery, invalidism and death caused by the surprising prevalence of illegal abortion.

Estimates of illegal abortions in the United States are placed anywhere from 200,000 to 2,000,000 per annum. Yet there is little pressure in the United States to change abortion laws. It is the authors' hope that this book will help to force the problem into the open forum of free discussion so that something will be done about it.

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CRIMINAL ABORTION

A Study in Medical Sociology

*Who knoweth the spirit of man that goeth upward, and
the spirit of the beast that goeth downward to the earth?*

—ECCLESIASTES

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By

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Dedication

To Irving Halpern, then Chief Probation Officer, and William V. Chieco, then Deputy Chief Probation Officer, Court of General Sessions, New York, New York, for making it all possible.

FOREWORD

THE EARTH CRIED for additional people until a few decades ago, a brief minute in the hours of man's terrestrial existence. Great continents possessed a handful of human animals compared to his more populous sub-human companions and the life expectancy of the human was as brief as many of the creatures surrounding him. It therefore became a matter of expedient policy to encourage human breeding through sexual festivals like the Roman Saturnalia and to protect the defenseless fetus with indisputable rights. Because of this the State and the Church took over the ownership of an individual's fertility and political and Church laws were enacted to express these proprietary rights. The surrender of one's fertility to the power of Church and State was accepted in theory as a way of life, but in practice many in each generation resented this intrusion on their personal rights. This has been expressed through the ages by individuals practicing contraception and abortion. Induced abortion is a global practice and the fact that it has been described among the primitive people of each continent bespeaks its antiquity.

No one can give accurate incidence figures for illegal abortions anywhere. All we know is that it is a hugely common practice all over the world. Here in the United States the estimates of illegal abortions are placed anywhere from 200,000 to 2,000,000 per annum. However, we do know that illegal abortion is a source of racketeering, heartache, illness and death. Fifty per cent of the hundred or more puerperal deaths occurring each year in the great city of New York are certified by the medical examiner as due to "illegal abortion." There is evidence that this number is an understatement, since no doubt abortion cases dying at home frequently have other causes of death certified on the physician's death certificate. In addition to death, criminal abortion causes grave illness of

the body and soul. Knowing all this what do we do about it in America? Virtually nothing! The people and the politicians are content to erase the evil by eliminating it from their consciousness, except when it strikes home. They then are temporarily stirred into hypocritical, clandestine activity and when the crisis is over they return to their make-believe world of "it doesn't exist."

This make-believe world of the non-existence of criminal abortion in the United States has been rudely assaulted during the past few years by all the news media. This is good. Nothing will be done about the problem until we force it into the open forum of free discussion.

This volume by Jerome Bates and Edward Zawadzki is perhaps the most forceful assault on this fortress of hypocrisy, ignorance and make-believe that I have encountered. It is a factual exposition of the criminal abortion problem by two highly knowledgeable, thoughtful, practical students of the topic. It is hard to believe that the reader will remain unaffected by its contents—oft-times sordid but always accurate and interesting. I hope this book will have many readers for the unpalatable facts revealed will no doubt help make Americans face up to their abortion problem. Let's confess openly we have an abortion problem. Then and only then will anything be done about it.

ALAN F. GUTTMACHER, M.D.

Executive Director

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Federation of America, Inc.

PREFACE

THE PURPOSE of this book is threefold. It seeks:

1. To describe and analyse the whole sub-culture of criminal abortion by means of actual field research in this area of medical sociology. Heretofore, the subject of criminal abortion has been largely dealt with either in reportorial fashion or as a chapter or two in a larger work on abortion in general. The case study method, the statistical approach, and field contacts with abortionists, detectives, medical examiners, probation officers, policewomen, district attorneys, pharmacists, and many ethical physicians have been employed. Numerous abortees were interviewed or autopsied.

2. To isolate, describe and analyse those factors in the total American culture which perpetuate, generation after generation, the deviant crescive institution of criminal abortion.

3. To demonstrate how certain areas of American culture, if strengthened and expanded, could slow down the upwardly spiraling circle of misery, invalidism and death caused by the surprising prevalence of illegal abortion.

ACKNOWLEDGMENTS

THE WRITERS are indebted to scores of persons for their active help and encouragement in the years that have passed in the preparation and completion of this book. A great many helpful people aided the authors. File clerks, librarians, our long suffering secretaries, photoprint operators, deputy medical examiners, student research assistants, and others gave material help. Many officials and professors in the fields of medicine, law, and sociology helped to make research data available. To all of them and to our wives and children for their forbearance, our heartfelt gratitude.

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Detroit, Michigan



CONTENTS

	<i>Page</i>
<i>Foreword by</i> ALAN F. GUTTMACHER	vii
<i>Preface</i>	ix
<i>Acknowledgments</i>	xi
 <i>Chapter</i>	
I. THE PROBLEM AND ITS EXTENT	3
II. THE PRACTICE OF INDUCED ABORTION CONSIDERED HISTORICALLY AND ETHNOLOGICALLY	14
III. ATTITUDES TOWARD ABORTION IN CONTEMPORARY AMERICA	24
IV. THE ABORTIONIST AND HIS CLIENTELE	35
V. ABORTION MILLS AND RINGS	51
VI. CRIMINAL ACTIVITIES ASSOCIATED WITH ABORTION	78
VII. SELF-INDUCED ABORTION	85
VIII. ABORTION AND THE COUNTY MEDICAL EXAMINER	92
IX. ABORTION AND THE LAW OF HOSPITAL, PHYSICIAN AND PATIENT	100
X. ATTITUDES OF PHYSICIANS AND MEDICAL ORGANIZATIONS ...	112
XI. PRESENTENCE INVESTIGATION IN ABORTION CASES	120
XII. ABORTION PROBLEMS—INDIVIDUAL AND SOCIAL	130
XIII. SOME TRENDS AND POSSIBLE FUTURE PATTERNS	136
 <i>Appendix</i>	
A. FIVE CASE HISTORIES	146
1. Frank Boyle, "M.D."	146
2. Alvin H. Starbuck, M.D.	154
3. Frieda Logara, Licensed Midwife	166
4. George Braunstein, Former M.D.	175
5. Vincent Serra, M.D.	186
B. CRIMINAL ABORTIONS IN NEW YORK COUNTY, 1925-1950, ACCORDING TO TAUSSIG'S FORMULA	201

<i>Appendix</i>	<i>Page</i>
C. STATISTICAL ANALYSIS OF ONE HUNDRED ELEVEN CONSECUTIVE ABORTION CONVICTIONS, NEW YORK COUNTY, N. Y., 1925-1950	202
D. THE BOURNE CASE	205
E. THE FEDERAL STATUTES CONCERNING ABORTION	209
<i>Bibliography</i>	211
<i>Name Index</i>	245
<i>Subject Index</i>	247

CRIMINAL ABORTION

A Study in Medical Sociology

Chapter I

THE PROBLEM AND ITS EXTENT

FOR THE PAST twenty-five years mounting evidence has demonstrated that about one out of every five pregnancies in the United States terminates in illegal abortion (1). The average person reacts to this statement with amazement and disbelief. This type of reaction apparently occurs because the taboo that surrounds criminal abortion has much more to do with talking about the subject than the actual act itself. Abortion is clearly part of our social structure but also has the peculiar distinction of being a part which is seldom discussed. The handful of research workers in the still somewhat obscure but increasingly studied field of criminal abortion all mention the dismal and profound silence which surrounds the subject (2). The silence would appear to be accounted for in part by the prevailing attitude toward sex in general throughout our culture. This attitude is frequently conditioned by obscure guilt feelings emanating generally from our Puritan heritage.

It is, of course, virtually impossible to obtain accurate statistics in the area of illegal abortion. However, a surprising similarity has been observed in the results of four major independent studies made in the last quarter century. These studies all agree that, at this writing, about one million criminal abortions are performed annually in the United States (3, 4, 5, 6). One can find less rigorous studies (and expert estimates) which show slightly less or much more than one million abortions. We feel, however, that it is important to select a fairly conservative, commonly agreed upon, although admittedly rough figure, and stay with it. Acrimonious scholarly debate over the exact annual incidence is futile. One might as well dispute whether 2,000,000 persons were gassed at Auschwitz or perhaps only 1,849,372. Suffice it to say that experts agree the number of illegal abortions performed annually in this country is substantial.

Out of this number at least five thousand women die as a direct

result (7). It is possible that this death rate figure might actually be doubled since many deaths from this illegal activity are mislabelled because of inadequate medico-legal investigation. As we shall see in a later chapter, a death from criminal abortion often presents a complicated problem in forensic pathology. Additionally, the amount of pain, suffering and subsequent invalidism at the hands of bungling abortionists staggers the imagination. For reasons which we will later examine, the average abortionist prefers not to administer an anaesthetic; hence the following Grand Jury testimony is understandable:

Q. "What did you feel at that time?"

A. "Well, there was so much pain—and I just don't—I can't explain it really. I just know it was like my whole stomach was coming out" (8).

A fairly recent study by eminent investigators among our urban population of higher than average educational level discloses certain seminal trends. Notwithstanding the fact that the percentage of out-of-wedlock pregnancies terminated by illegal abortion is substantial, it has been repeatedly demonstrated that most criminal abortions today are obtained by married women with children (9). This is in contrast to the stereotype held by the general public that the chief patron of the abortionist is a young unmarried woman. This may have been true in the Victorian era, but there may be some question even then. Since there was no real research in this matter at that time in this country, we can never know the truth.

The highest rate of illegal abortion among married women occurs within the age groups of sixteen to twenty-five and forty to fifty (10). The question of religious preference seems to be a factor connected with the incidence rate with the more devout having fewer criminal interruptions of pregnancy. Conceding that the sampling technique was less than adequate, a possible trend was noted indicating that the pious Jewish group had a lower rate than the overall sample and the devout Catholic group the lowest (11). For the most part, state laws prohibit abortion "unless the same be necessary to preserve the life of the woman or the child with which she is pregnant." Far less than 1 per cent of the abortions performed today meet these criteria, as we shall see in later chapters. In the

case of abortionists with good techniques and *modus operandi* there exists a low rate of prosecution. The rate of conviction for these men (and women) is still lower. Juries are sometimes reluctant to convict even when a good amount of evidence has been presented.

What reasons lie behind this huge discrepancy between acts committed and offenders convicted? Does it reflect, in part, an ambivalence of social values? In other types of crimes against persons and/or property there is also a sizeable discrepancy between offenses and convictions but the discrepancy can be largely explained in terms of insufficient police activity, difficulty of apprehension and so forth. In the case of abortion, however, a number of unique additional factors appear to be operative which account for the fact that despite the huge number of offenses, a negligible number of offenders is even apprehended—much less convicted.

In our type of government, imperfect though it may be, there is still a roughly adequate opportunity for the People "to get what they want." A converse opportunity also exists for the People to resist that which they do not strongly desire. The presence of the rather rigid laws regarding abortion on the statute books is somewhat analogous to the now defunct Volstead Act of 1919. Ignoring, for the moment, the fact that the two sets of laws sprang from different social, political, ethical, and practical motivations, it remains clear that the reaction to them was, on the part of certain strata, strongly rejecting insofar as compliance is concerned. It was socially acceptable in many groups to reject openly and/or violate the Prohibition laws. This was done even by persons and groups charged with enforcing these laws.

With regard to the abortion law, however, it is *not* socially acceptable to reject it verbally or openly violate it in practice among most groups. The foregoing might be construed as the "general public attitude" toward abortion. The huge number of offenses concomitant with the negligible convictions for such offenses would seem to indicate the presence of a covert toleration of the practice in a great many individuals and groups. Law enforcement personnel are faced with the ambivalent attitude of witnesses and victims whenever they attempt to prosecute an abortionist. The widespread public acceptance of the need for his services makes

enforcement of the applicable laws difficult if not impossible at times. The effort necessary on the part of the law enforcement agencies to successfully prosecute an abortionist is out of proportion to the results achieved. It actually requires a highly specialized team to do this with success. What factors account for the public toleration of the criminal abortionist? Is the public unaware of the extent of the practice? Does the abortionist meet social needs? Is there any sign of a changing public attitude toward abortion as expressed by demands for a change in existing statutes?

It would seem that there are large and numerous gaps in our knowledge of the extent and nature of the practice of criminal abortion and its interrelationship with other areas of American culture. What is the attitude of organized medicine, the major religious faiths, the police, eugenic groups, and other opinion moulding groups?

This book will also attempt to answer such questions as: Who becomes an abortionist? Why? How do clients locate him? What is his *modus operandi*? What dispositions were made by the judges concerned in the cases of the 111 consecutively convicted abortionists at a large urban court which we studied (12)? The book will also suggest areas for future research such as: Is there a differential abortion rate among sub-cultural groups? Is the national abortion rate rising or falling? What is the adjustment of abortionists on probation compared with other types of offenders? Is the abortionist a good probation or parole risk?

Although in New York State and in most other states there are statutes which require the registration of abortions of all types as "fetal deaths," it is rather common knowledge that this regulation is often subverted or ignored by both physicians and the mothers concerned. Under the circumstances one could hardly expect any other result. Women's desire to avoid any public record of an event which is so often associated with some intimate aspect of their sexual life and the sympathetic attitude of the physicians concerned, whether or not they are criminally implicated in the fetal death, make accurate reporting of such events almost impossible. Hooker, studying maternal mortality in New York City, found that in 25 to 30% of deaths due to abortion, a false diagnosis was placed on the death certificate prior to autopsy (13). A Special Grand Jury

handed up a presentment on October 15, 1941, following an exhaustive survey of criminal abortion in Kings County, New York, and independently confirmed Hooker's findings (14).

The same Grand Jury made reference to the fact that "countless" abortions are self-induced by women in their own homes and are, of course, not reported as fetal deaths. Even when such home-produced abortions had septic sequelae and the woman was subsequently hospitalized, the admission record was incomplete as it merely specified "endometritis" or "uterine bleeding." All authorities agree that the number of reported fetal deaths from all causes was small compared to the unknown actual number of such deaths. The Special Grand Jury mentioned above, after hearing the testimony of a number of prominent gynecologists and the findings of its own investigators concluded that, "it is impossible to . . . determine accurately how many . . . were natural miscarriages (spontaneous abortions) and how many were the result of operations for the purpose of abortion" (15).

In computing the annual abortion rate for all etiologic types, spontaneous, therapeutic and criminal, Taussig points out that criminal abortion is far more frequent in urban than in rural areas. All authorities agree concerning this urban-rural differential incidence but there is some disagreement as to the ratio of the skewed distribution. Taussig, writing in 1936, cites only one piece of limited research on the rural aspect of the subject. His authority, Plass, questioned eighty-one physicians in rural districts of Iowa who gave their estimate as to the proportion of all types of abortion to the number of live births in rural practice. Plass' figures indicate a ratio of one abortion to five live births in country practice or about one-half of what Taussig later arrives at as the ratio in urban areas; namely, one abortion to every 2.5 live births (16). How does Taussig arrive at this latter figure for urban areas? How does he determine what proportion of the urban figure is made up of criminal abortions?

He cites the extensive data of Kopp who, in a study of 10,000 consecutive case histories of women voluntarily attending a New York clinic, found a record of 11,172 abortions as compared with 27,813 live births in a total of 38,985 pregnancies (17). The ratio of abortions to live births among women is therefore approximate-

ly 1:2.5. He declares that figures obtained from *ex post facto* clinical records are far more reliable than those derived from other methods for the obvious psychological fact that persons are much less hesitant about telling the truth if they are no longer in danger of punishment or censure. He then refers to his own thirty years of clinical experience and mentions the frankness with which patients will discuss past induced abortions compared to their subterfuges when an immediate one is being discussed. The truth about the incidence of an embarrassing, illegal, and generally rejected practice can, more often than not, be ascertained best after the involved persons are relatively free from punishment or strong guilt feelings regarding their participation in the act under consideration.

Pearl, in examining fertility and contraception in New York and Chicago also found that the abortion rate in both cities was higher for the users than for the non-users of contraceptive methods (18). Subsequently, he also found that the criminal abortion rate apparently rises with education. This finding is indirectly corroborated by Burgess and others who found a declining number of children as the educational level of the parents rose (19). Much higher ratios could be discovered if one studies abortions among multiparae which have a far higher rate than primiparae. Tietze, Kopp and a number of students have positively demonstrated that the incidence of criminal abortion tends to increase with parity, suggesting that in this group abortion was not used primarily as a method of spacing births but of limiting the ultimate size of the family (20).

One must admit that Taussig's heavy reliance on the Kopp study presents certain statistical risks. The 10,000 women concerned were all voluntary patients at a birth control clinic. As such, they may safely be assumed to have both a specialized interest in the subject and a certain self-confidence necessary to attend such a clinic. For these reasons the group cannot be regarded as statistically representative of *all* women either rural or urban. Taussig tends to pass over this point rather lightly but it remains as a factor limiting the firm reliability of his figures.

It is generally agreed that induced abortion is highly correlated with status-striving and in turn with matters related to social class. It may, for instance, be practiced to preserve reputation, to provide

well for few children rather than only marginally for a larger number of children. In persons among the lowest social strata such motivations may be weak or even lacking. Many are prone to passivity, resignation and to following the path of least resistance in sexual matters. Additionally, going through a criminal abortion procedure requires a certain amount of determination and physical courage. It also requires, for the lowest social classes, a good deal of cash. About the last occupational category to offer service on credit would be an abortionist. They will haggle and bargain as we shall later see, but in the end it is cash on the barrel head.

The racial factor also enters the abortion picture. Gebhard *et al.* studied the sexual and reproductive histories of Negro females, both single and married. They found a low incidence of induced abortion in combination with a high rate of spontaneous abortion and out-of-wedlock births among single Negro females. Similar results held for married Negro women. Differentially higher rates of syphilis were held responsible for the higher spontaneous abortion rate. Cultural factors more tolerant toward out-of-wedlock births would seem to account, in part, for the low abortion rate (21).

The great variation in attitudes, feelings, and beliefs concerning abortion and the reasons therefor will be examined in detail later in this book. Meanwhile, a glance at Table I will give the

TABLE I
Legal Exceptions to Laws Prohibiting Abortion (22)

	<i>No. of States</i>
To preserve life of mother	42
To preserve life or health of mother	3 (1)
To save life of mother or to prevent serious or permanent bodily injury to her	2 (2)
When physician is "satisfied that the fetus is dead or that no other method will secure the safety of the mother	1 (3)
Statute requires for violation that act be done	
"Unlawfully"*	2 (4)
"Maliciously or without lawful justification"*	1 (5)
	51

- (1) States: Oregon, Alabama, Washington, D.C.
- (2) States: Colorado, New Mexico
- (3) State: Maryland
- (4) States: Massachusetts, Pennsylvania
- (5) State: New Jersey

*The few cases available indicate that these statutes would be applied liberally and reasonably to a licensed medical practitioner acting in good faith to preserve the life or health of the mother.

reader a synopsis of the legal variations in state laws on the subject throughout America.

Very definite, objective information with ample corroborative evidence is necessary to establish guilt in a trial for Abortion. If the aborted woman is evasive and reluctant in her testimony, good opportunity exists for the defendant's attorney to establish reasonable doubt. If the defendant, for instance, is a licensed physician with no previous criminal record, it is relatively easy to claim that the operation was "necessary" from a medical standpoint.

The convicted criminal abortionist is significantly different from other felony offenders both statistically and socially in such matters as sex-ratio, age, last occupation prior to conviction, educational level, social history, psychiatric diagnosis, I. Q., previous criminal record, and the type of sentence received. Statistical analysis of our case material (see appendix C) shows that abortionists are also more likely to be placed on probation than in the case of other offenders. Almost half of the convicted 111 abortionists were given probation in contrast to about one-third of the total number of offenders, 32.29 per cent of whom were placed on probation in our control year, 1947. Such apparent differential sentencing should not be construed as evidence of judicial leniency or covert tolerance of the offense, but is due to technical considerations in the granting of probation which will later be explained. There is also a significant age differential between abortionists and all other offenders in the control year. Abortion, from a statistical standpoint, is largely a crime of middle age whereas the average felony offender in General Sessions Court in the control year 1947 was in his early twenties.

The records and various informants also demonstrate that there is no aggressively active campaign to eliminate abortionists. Police efforts are largely limited to arresting abortionists on the basis of information received from patients hospitalized for septic or other conditions following abortion. Each record shows the "source of the complaint" and indicates the exact circumstances of how the defendant came to be arrested. In sixty-two cases, or 55.9 per cent of the total, for instance, the complaint was received through a legitimate doctor and/or hospital that a woman was under treat-

ment for an incomplete abortion. In short, evidence demonstrates that police activity regarding abortion is most often *ex-post facto*.

Our statistical analysis also illustrates the methods of abortion used and which type of offender prefers a particular method. For instance, in fifty-eight cases or 52.3 per cent of the total, dilatation and curettage were used with medical doctors almost exclusively involved. In twenty-eight cases or 25.2 per cent, a catheter was used with midwives or nurses almost exclusively involved. In the case of rank amateurs, dangerous, impractical or fatal methods may be used, such as "Mertz Paste," injection of air or fluids, domestic implements and so forth.

Material from court records demonstrates that economic motivation behind many abortionists is often secondary. For instance, thirty-one doctors or 27.9 per cent of the total offenders had little or no "true" economic necessity to become criminal abortionists as objectively they were possessed of a legitimate and fairly remunerative occupation by reason of being licensed physicians. This is in accord with criminological theory to the effect that turning to criminal activities is by no means solely motivated by purely economic considerations. Court records are replete with instances of this.

Court records reveal that abortionists have "contact men" such as "legitimate" physicians, druggists, bell-hops, nurses, taxi drivers and former "patients." Fees or percentages are paid for most women referred. Records and our informants indicate that on occasion aborted women or their relatives later make anonymous complaints to police giving the name and address of their abortionist. Some were apparently dissatisfied with the efficiency of his technique, thought they were overcharged and so forth.

The Court presentence investigations each contained a statement of the attitude of the defendants. Many convicted abortionists felt that they were performing a noble service in helping "women in trouble." Others rationalized, saying that they could not resist the "pitiful appeal" of the woman concerned. The informants, as well as the Court records, disclose the existence of two institutions commonly known as the abortion "mill" and "ring." A "mill" might be described as an abortionist or group of abortion-

ists working steadily in a given location and aborting a sizeable number of women daily who are referred to them by a variety of local methods and contacts. A "ring" might be described as a loosely knit number of mutually interacting individual abortionists and/or "mills" operating steadily at changing locations using portable equipment and aborting a larger number of women daily. The operators and contacts of a "ring" or "mill" are for the most part known to each other and the volume of operations is large and relatively efficient. A few rare rings were interstate in their operations.

At this point, in order to place our modern abortion practices in proper perspective, let us first examine the practice as studied by historians and ethnologists in a variety of eras and cultures.

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Chapter II

THE PRACTICE OF INDUCED ABORTION CONSIDERED HISTORICALLY AND ETHNOLOGICALLY

BOTH THE PRACTICE of abortion and definition of the term itself have a long and fascinating history. In the not so distant days when Latin was everywhere the language of medicine, the term *abortus* from the verb *aboriri* denoted an object which had been detached from its proper site. With reference to the embryo, it meant that the premature expulsion of this body had been brought about either by man (induced abortion) or by nature (spontaneous abortion). As will be explained later in detail, the term and concept "criminal abortion" is historically of quite recent origin in most cultures. In historical and classical times, the practice of induced abortion was of little or no concern to the State or the prevailing religious authorities in most areas. In some places it was a necessary, if not meritorious practice, commended by gods and man alike.

The original Latin definition began to lose its pure form with the advent of the development of obstetrics in Germany and France in the seventeenth century by midwives. Medically vernacular forms developed and in France we find the term *fausse couche*; in Germany, *fehlgeburt*; and in England, miscarriage, used in the sense of abortion (1).

In England and America until the beginning of the twentieth century, the terms "abortion" and "miscarriage" generally were used synonymously. In the early nineteen hundred's we begin to find a number of writers limiting abortion to expulsion of the embryo taking place in the first trimester of pregnancy and miscarriage to the same event in the second trimester. A further change in usage of the term occurred when some writers, knowing that many very early pregnancies were artificially interrupted, contrary

to law, used the word "abortion" to indicate a criminal termination of pregnancy. In lay circles, this confusion of terms is most common at present. In medical works the term "abortion," when not modified by an adjective, is defined as the "detachment or expulsion of the previable ovum" (2). Since this study is almost exclusively concerned with the matter of criminal abortion, and since the legal definition of this term varies slightly from state to state and greatly from country to country, the broad medico-legal definition by the late Dr. Taussig will be used.

"Criminal Abortion: Abortion produced or attempted by patient, or other person, contrary to the statutes of the particular state or country in which the act takes place; abortion without the sanction of the law" (3).

The antiquity of induced abortion and the interest of cultural groups in limiting their offspring can be traced by means of ancient records to the dawn of recorded history. According to Himes (4) the earliest abortifacient recipe still extant in writing is more than forty-six hundred years old and dates from 2737-2696 B.C. This recipe is contained in the "Shen-Nung pên ts' ao ching," the most ancient medical work in the Chinese language. It is supposedly the invention of the Emperor Shen-Nung who, according to Chinese royal chronology reigned in 2737-2696 B.C. Reference is made in the recipe to *shuh yin* or mercury as producing abortion. It would appear that if a recipe for inducing an abortion is found in royal archives of such an early date, then interest in the practice must date back to a far earlier period.

This being the case, it comes as no surprise to find mention of the practice in the writings of the ancient Hebrews, Egyptians, Greeks and Romans. The religious books and records of the Hebrews, prior to the flight into Egypt, stress the importance of increasing tribal strength and no positive reference to abortion can be found. This is evident in Genesis (5) where the command "Be fruitful and multiply" is to be found. Later, the Lord speaks to Abraham saying:

"That in blessing I will bless thee and in multiplying I will multiply thy seed as the stars of the heaven and as the sand which is upon the sea shore" (6).

Throughout the Old Testament there are repeated warnings that those who flout Jehovah's commands will be punished if not destroyed. Therefore, it seems a clear inference that practices which interfered with fertility could not be countenanced. Later, the Jews fled from the land of Egypt and it was not long, from a historical standpoint, until they began to be influenced by the Graeco-Roman culture as they spread beyond the borders of Palestine. They were soon to relax their stringent attitude toward abortion which practice later enjoyed a considerable vogue in "the glory that was Greece and the grandeur that was Rome."

At about the same century as the Exodus, the well known Ebers Papyrus gives information as to the technique of producing an abortion and thus illustrates that the Egyptians were no strangers to the practice.

With the rise of Greek civilization, one notes that Hippocrates diagnoses softening of the breasts as a sign of impending spontaneous abortion. For such predicaments he ordered doses of parsley. At about the same time the top-ranking Greek philosophers were advocating limitation of offspring on eugenic grounds. They favored quality, not quantity, in sons and daughters. Plato and Aristotle speak frankly on this subject. Said Aristotle:

"If it should happen among married people that a woman, who already had the prescribed number of children, became pregnant, then before she felt life, the child should be driven from her" (7).

Aristotle further declared that each woman who conceived after her fortieth year should submit to an abortion.

An exhaustive monograph dealing with the matter of induced abortion among the ancient Greeks may be found in *Janus* (8). The author lists twelve pages of so-called abortifacient drugs used by the Greeks. The frequent failure of these drugs to produce the desired result whether or not followed by the violent exercises prescribed by Hippocrates, led to experiment with various methods of instrumental interference and to the use of intrauterine injections. Two sorts of pessaries were developed, one made of metal or wood which was inserted in the vagina and the other like a

tampon soaked in some allegedly effective drug with a string tied to it for easy removal.

During the time of the Roman consuls abortion was a rarity. Presumably this was so because, as in the case of the early Hebrews, the cultural group concerned was young, expanding, vigorous, warlike, homogeneous and free from foreign acculturation. In the halcyon days of Imperial Rome, however, the practice burgeoned without restraint among all classes. Curetting with a varied assortment of instruments was well known and practiced largely by midwives as the Hippocratic oath forbade abortion (9). There may be seen in the Museum of Cluny and in other historical collections, well preserved specimens of these instruments. Then, as now, the danger of curettement lay in the perforation of the uterus by an unskilled operator which was often followed by septic poisoning. Although there are no known statistics on the death rate among women of this ancient culture following abortion, it probably was high in view of verified abortion death rates in the contemporary era.

Himes (10) states that contraceptive information was widespread in Imperial Rome but being frequently of a fanciful nature, Roman ladies as well as the public women were to be found patronizing the abortionists, many of whom were Greek slaves. These slaves had brought their art with them into captivity and were often to be seen as attendant freed-women to Roman ladies of rank. In addition to curettement and the oral consumption of drugs mentioned above (many of which had the effect of strong purgatives) douches of hot liquids, often containing caustics, were employed. More often than not the midwife or skilled slave treating the woman adopted an eclectic approach and applied a variety of increasingly drastic methods until success (or death) intervened. Rongy, a medical historian who delved deeply into original Latin and Greek sources regarding induced abortion in the decadent days of the Roman Empire, sums up the views of classical writers as follows:

“Plautus, the Latin playwright described it (abortion) as a natural step in the life of a Roman woman. Terrence, foreseeing the consequences of excess, moaned over its frequency. Juvenal

the "quickening" of the fetus after forty days became a focus of doctrinal debate. Finally, the problem was resolved by a *fiat* that the fetus possessed a soul from the very moment the ovum was pierced by a sperm.

Medieval churchmen denounced the practice of abortion as murder pure and simple. Their interest in "murdered babes" was not so much in their death but in the fact that they died unbaptized. The criminality of induced abortion was immeasurably aggravated when it was believed to involve, not only the extinction of a transient life, but also the eternal damnation of an immortal soul (13).

At the time of the Renaissance, history shows that church morality in practice was loose and the sale of indulgences and other abuses common. Officially, however, canon law was strict and the Diet of Worms (1521) declared abortion and murder to be equally punishable. Kings, too, insisted upon drastic suppression of the practice with crucifixion being a common punishment for the women involved. The Jesuits, however, appeared to be the only theological group having any sort of sympathy for the women concerned. This provoked the wrath of Pope Innocent XI who published a Bull against the Jesuits accusing them of inducing abortions in the case of out-of-wedlock pregnancies.

One should not conclude that theological and royal disapproval eliminated the practice. It merely drove it underground. Also, theological insistence upon the sinfulness of contraception increased the occasions on which abortions were thought to be necessary. The resultant ambivalent attitudes toward abortion in the western world persist to this day.

Abundant evidence as to the prevalence of induced abortion among exotic groups the world over can be found in Sumner's work on folkways (14). He mentions one tribe, the women of which have no more than one child. Future conceptions are terminated as a matter of course for tribal taboo forbids the second child. After citing numerous examples from widely scattered groups, Sumner concludes that "abortion and infanticide are so nearly universal in savage life that exceptions to the practice are noteworthy phenomena" (15).

Taussig declares that the practice of induced abortion can be

found among primitive peoples in every corner of the globe. After an exhaustive survey of monographs on the subject of sexual customs in primitive cultures he finds that "almost no tribe is so primitive as not to know some means of bringing on abortions" (16).

Many tribes combine the oral consumption of allegedly abortive drugs and herbs with violent exercise to bring on an abortion. On the eastern islands of the Torres Straits (Australia) the women chew the leaves of the convolvulus plant or masticate herbs such as callicarpa, clerodendron, eugenia or terminala catappa (17). If these primitive medicines are not efficacious, the abdomen may be beaten with large stones in order to induce hemorrhage and a consequent abortion.

Among another group, the Bakairi of Brazil, induced abortion is said to be common as there is a strong fear of confinement (18). They prepare for abortion by drinking herbal tea and again harsh mechanical measures are resorted to.

Among the Trobrianders, Malinowski found that abortifacient drugs were ineffective although widely used. He states that mechanical means such as an "abortion stick" inserted through the cervix are the really effective methods with accompanying charms and incantations lending confidence to the participants (19). A detailed picture of an "abortion stick" used by primitive Hawaiian Islanders can be found in Taussig (20). This stick is a slightly curved piece of hard wood about twelve inches in length and one inch in diameter which comes to a sharp point. The handle is carved in the form of the head of an island god and the shaft is embellished with symbolic carving.

In Mohammedan groups abortion is permitted by law, as their theology states that life does not exist in the fetus until the beginning of the third trimester. Drugs alleged to bring on abortions are on sale openly in Mohammedan lands. In Algerian cities booths can be seen in public squares where Circassian girls and gypsies sell appropriate drugs and instruments.

Among the Bontoc Igorot abortion is not considered a disgrace and is practiced by married women and single girls (21). Mothers, however, warn their daughters against abortion saying that a girl who produces abortion will not likely get a faithful husband but

will be the common partner of various men. The usual method is to bring on menstruation in the second month by hot baths and rough massage accompanied by ritual and incantation.

In the Jabin tribe (Finschafen), mothers present their daughters with abortifacients at the marriage ceremony (22).

On the island of New Caledonia, hot stewed green bananas are consumed as an abortifacient. On Formosa, priestesses act as abortionists by belaboring the abdomens of the pregnant women with their feet. Among the Sandwich Islanders a conjurer ruptures the fetal membrane with a bamboo stick. Ethnologists have estimated that about 25 per cent of the women in the latter group became infertile as a result of repeated abortions (23).

As the sexual customs of primitive peoples have been rather extensively surveyed, it would be possible to cite the abortion practices in over six hundred cultural groups (24). The purpose of this brief survey, however, is merely to indicate the almost universal extent of the practice and the prolific variety of methodology. Ethnological studies of abortion practices show that abortion occurs for largely the same reasons in exotic cultures as in ancient or modern societies. Economic considerations are paramount, however, as the savage tribe is dependent upon the immediate food supply of the environment. Vanity, fear, custom and taboo also are etiological considerations but are generally secondary to the main reason for abortion in savage society which should be considered chiefly as a primitive method of birth control.

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Chapter III

ATTITUDES TOWARD ABORTION IN CONTEMPORARY AMERICA

THE OPINIONS of many persons and groups on the subject of induced abortion stem in large part from our religious heritage on the subject. The three major faiths and their various sects nevertheless display a lack of unanimity on the subject. To date, the Roman Catholic Church continues to maintain that direct abortion is absolutely prohibited under any and all conditions. A pregnancy may not be directly interrupted notwithstanding the fact that civil law permits this in all fifty states. It is morally binding upon Catholic parents and doctors not to permit the practice of either direct or therapeutic abortion. Hospitals operated under Catholic auspices may not permit such an operation by one of their staff nor may non-Catholic doctors holding operative privileges in a Catholic hospital perform such operations. Church law permits the penalty of excommunication upon all who knowingly and wilfully participate actively in an abortion procedure (1). Surgical procedures which may have the effect of "indirectly" causing an abortion are permitted for grave medical reasons however.

The present position of the Catholic Church simply reflects the theological stand of the founding fathers already referred to. As recently as 1931, the late Pope Pius XI re-stated the position of the Church and went on to deliver a solemn warning to those who would petition for a further modification of existing abortion statutes which his Holiness regarded as inadequate from a doctrinal standpoint because they permit abortions for therapeutic reasons.

"But another very grave crime is to be noted, Venerable Brethren, which regards the taking of the life of the offspring hidden in the mother's womb. Some wish it to be allowed and left to the will of the father or the mother; others say it is unlawful unless there are weighty reasons which they call by the name of medical, social, or eugenic indications. Because this matter

falls under the penal laws of the state by which the destruction of the offspring begotten but unborn is forbidden, these people demand that the indications which in one form or another they defend be recognized as such by the public law and in no way penalized. There are those, moreover, who ask that the public authorities provide aid for these death-dealing operations, a thing which sad to say everyone knows is of very frequent occurrence in some places" (2).

There is no indication of doctrinal modification in the Roman Catholic Church since the above pronouncement.

It is difficult to delineate any kind of official "Protestant" attitude toward induced abortion as there are scores of recognized Protestant sects, most of which make no doctrinal pronouncement upon any type of abortion. One can assume that it is somewhat more tolerant in degree than the Roman Catholic stand as we could find no official objection to the state laws on abortion as being inadequate or sinful. Many of the larger Protestant sects have made favorable pronouncements upon the practice of birth control. Also, medically authorized therapeutic abortions are permitted without comment in hospitals under Protestant ownership or control. Further, the groups which advocate legalization of all abortion operations are predominantly non-Catholic in makeup. As America is commonly viewed as a "Protestant" country, it is no surprise that legislatures, essentially made up of Protestant majorities, passed the present abortion laws which permit abortion for medical reasons in every state.

Official opinion in Jewish religious groups is split. The orthodox group clings firmly to the many prohibitions against abortion to be found in the Talmud (300 B.C. to 500 A.D.). The ancient and contemporary (orthodox) rabbis agree in maintaining the Aristotelian theory of *fetus vegetans* and *fetus animatus*. They hold that prior to the fortieth day there is no life in the ovum. It has not "quickenened" and is a mere vegetative substance. Accordingly, from the standpoint of Jewish law, it is not a criminal offense to induce an abortion prior to the fortieth day of pregnancy. Morally, however, it is considered wrong, especially when done by a male upon whom the duty of reproduction is most incumbent according to Jewish law.

Subsequent to the fortieth day, induced abortion was and is considered criminal in orthodox Jewish groups. The ancients, however, punished it only by a moderate fine. With the onset of labor, legal status of the fetus changes. Although, in labor, the fetus is considered *para viscerum matris*, once the fetal head emerges it is held to be an independent life and killing it constitutes murder. Ancient as well as modern Jews permit killing the fetus at any time if it is a question of saving the mother's life. In the Talmud, this is not only permitted, it is obligatory.

Among "reformed" Jewish groups once again we find a mixed picture of failure to mention the subject or relatively mild disapproval of the practice. In short, it is essentially a repetition of the attitude among most Protestant groups.

Turning at this point from theological dogma on the subject, let us now examine contemporary ethical and medical viewpoints. We shall consider the two fields of discourse jointly as in the great majority of cases the ethical writers are all physicians or in some cases, such as Lord Riddell, men with both medical and legal training. We shall not consider the positions of Catholic ethical writers as they, of necessity, simply set forth a complex rationalization of the previously explained theological attitude.

Once we leave the comfortable position of opinion derived from faith and dogma, we find ourselves deeply involved in ethical relativism. Our ideas of right and wrong are not absolutely fixed but have changed down through the centuries and from country to country. No longer is slavery defended as ordained by God. The divine right of kings is now a subject to be examined in historical works. Wives no longer swear to "obey" only to "cherish." Science, for many people, has largely eliminated the need to explain natural phenomena by resort to myth, fable, and supposition.

With regard to the nature of embryonic life, science demonstrates that the ancient Aristotelian position explained above is little more than a quaint fable. Studies of uni-ovular twins have proved that all the essential factors in the future development of the infant are determined at the point the sperm penetrates the ovum. From this position, most ethical writers declare that logically we must have regard for both ovum *and* mother. Since it is not *para viscerum matris*, the mother cannot dispose of it as she sees fit,

as in the case of hair or fingernails. Also, most writers take the position that conversely, neither should the mother's life or her social usefulness be sacrificed or seriously limited by the continued existence of a mass of cells whose own future is so precarious and whose potential ultimate value is unknown. The mother, if allowed to live, may yet conceive at another time when circumstances of health are different and bring into the world a number of human beings who will be of social value. From this standpoint, if there is a question of survival between mother and fetus, the mother must be given first consideration. The above is a summary of most contemporary ethical viewpoints. Now let us examine the views of a few particular writers.

The late Lord Riddell discusses the interrelationship of science, logic, medicine and ethics with regard to therapeutic abortion in his definitive work "Medico-Legal Problems." Said Lord Riddell:

"Logically the life of the microscopic embryo with its potentialities may be as sacred as that of the fully grown man, but human affairs are not governed by logic. Therefore we find that for nearly 3000 years the laity have not regarded the fetus as a human being. This may not be logic, but it is common sense. Abortion is anti-social and illegal unless performed for an adequate medical reason. But when such reason exists, there is no ethical objection. The doctrine that the mother is to be sacrificed or risked for the benefit of the unborn child is a resuscitated relic of the Dark Ages and biologically unsound. On strictly ethical grounds, saving the mother's life or health is more laudable than the observance of theoretical ideas regarding the viability and rights of the fetus" (3).

We thus see that the eminent British legal philosopher followed the usual legal position that abortion is permissible to save the life or maintain the health of the mother. Such is the law in this and most other countries.

As early as 1905 John Ballantyne, an American physician and prolific author on the ethics of medical acts took the position that the mother's life has a value because she *is what she is* while the fertilized ovum has only a potential value which, for many reasons, may never be translated into an actual value (4).

Considering the problem from a sociological rather than a legal

standpoint, Peller reasons that the ovum is the property of the mother only until it is penetrated by a sperm. A being is then created which demands shelter from the mother and is further entitled to protection from the social group to which the mother belongs. This shelter cannot be denied except for sufficient social reasons. Society should therefore be the sole judge of the adequacy of these reasons be they medical, eugenic, economic or social in nature. Therefore, society has a right and even a duty to intervene in such matters (5).

One should not conclude from the above authors that official medical and ethical opinion is solidly behind the legal *status quo* which permits abortions only when a physician is convinced that continuation of the pregnancy will endanger the life or health of the patient. During the twentieth century a small group of highly reputable physicians, all of them recognized specialists in gynecology have published books and monographs recommending that existing laws on abortion be modified to permit abortions for social, economic and eugenic reasons. Their number is small and as yet no recognized medical association has endorsed their views. It is interesting to note that in the case of the three most well known of such advocates, their books were published at the height of the great economic depression of the 1930's. As in all such periods, the incidence of criminal abortion increased markedly. It is perhaps this combination of circumstances which, in part, may have stimulated their interest and induced them to take a public professional stand which is not an overtly popular one, as we shall see later.

Rongy, after a lengthy survey of the etiology of criminal abortion and its effects in death, disease, sterility, guilt, official corruption, and personal suffering, concludes that existing statutes should be modified to allow abortion under the following additional conditions (6).

1. *Illegitimate Pregnancies.* Rongy points out that pregnancies of unmarried girls, many of them minors made pregnant by other minors or as a result of rape, are not infrequent. Marriages of the parties concerned are either impossible, difficult, or undesirable. Under present law, the pregnancies must come to term although the children are unwanted and frequently become public charges. The child, if he becomes aware of the circumstances of his con-

ception may bear a psychological stigma all his life. The mother, finding it difficult to marry, may herself become a public charge.

2. *Pregnancy of a Mental Defective.* Abortion in such cases is desirable for eugenic reasons, says Rongy. Presumably it would have to be done with the consent of the pregnant woman in order to be constitutional.

3. *Pregnancy as a Result of Incest.* Abortion in such cases is indicated for humane and social reasons. A legal operation will help to conserve the unity of the family, according to Rongy.

4. *Desertion of the Father.* Rongy claims that there is considerable incidence of desertion by husbands upon the advent of the first pregnancy. Since the incidence is greatest among the lower economic groups, the abandoned women are often left without funds to carry on. The child grows up in an atmosphere of insecurity and rejection.

5. *Pregnant Widows.* Rongy declares that the present laws impose a cruel burden upon pregnant widows, many of whom do not want and cannot afford to bear a posthumous child. Many thus have recourse to the criminal abortionist.

6. *Married Women Who Already Have Several Children.* Requested abortions in these cases should be legalized from the standpoint of preventive medicine. Under present law, some of these multiparae are not sick enough to justify an abortion but actually they are often exhausted enough to be unable to care for their other children properly or even to stay on their feet for more than an hour or two at a time. Under this category, Dr. Rongy also includes married couples who have several children and who simply cannot afford another without recourse to public assistance, criminal activity or the assumption of a series of debts.

Robinson, in his book, goes even further and demands outright repeal of the existing laws (7). In general, he feels that the "perniciousness" of the existing laws far outweighs such evils and abuses as might be created by their abolition. Robinson writes in a somewhat polemic manner and published his book before he could learn of the repeal of the almost unlimited program of legalized abortion in the U.S.S.R. in 1936.

Abortion was legal for almost any reason in Soviet Russia from November 18, 1920 to May 25, 1936 (8). The laws permitting this

were repealed on the latter date as a number of undesirable social conditions had been created by their presence. In some cities abortions were approximating the number of live births yearly. In the country districts, traditionally low in the number of induced abortions, a sharp rise in such operations was reported. An important body of Soviet doctors pointed to harmful sequelae in the women concerned years after the legal operations. Some authors claim that a further rise in the birth rate was desired by the Soviet government which foresaw the advent of World War II. Other authors heatedly deny this. It is not germane to the scope of this study to examine the Soviet experiment in great detail. Interested students will find a fair amount of literature on it although some of it is partisan, biased and should be regarded as doctrinaire (9, 10).

Aside from the above mentioned ethical writers, gynecologists, experts on forensic medicine and a handful of eugenic groups, there is no popular demand to modify the existing laws on abortion. In fact, outwardly the attitude of the general public is a complacent one with regard to legally performed therapeutic abortions.

With regard to criminal abortion, the expressed attitude is almost always one of condemnation especially if the individual is called upon to express his opinion before a primary group. This attitude of strong disapproval is intensified if the individual is a devout member of one of those religious groups which publicly denounce the practice.

It will be one of the main theses of this book to demonstrate through court records, previous research, personal research, government statistics, Grand Jury testimony, personal contact with experienced criminal abortionists, and other methods that the strongly expressed negative attitude toward criminal abortion is often readily replaced by an equally strong positive attitude when an individual is confronted with a personally or socially unacceptable pregnancy. For the present, however, let us document the expressed attitude of individual members of the public and small rather homogeneous cultural groups.

Serious dramatists and writers often seek to portray characters with whom the audience can identify. In the play by Sidney Kingsley, *Detective Story*, McLeod, the case-hardened detective hero, dis-

covers that prior to even meeting the woman he married, she had been pregnant by another man and had visited a criminal abortionist with successful results. Following McLeod's shocked discovery of this, the following dialogue occurs between the hero and his wife:

McLeod: "You carried his child awhile inside you . . . and then you killed it?"

Mary: "Yes, that's true" (11).

This discovery, coupled with various other frustrations in his personal life, later compels McLeod to kill himself. McLeod expresses the overt opinion of so many people that "abortion is murder."

Albert Ellis, studying sexual folklore in America, subjected a generous sample of printed mass media distributed during the month of January, 1950 to analysis as to attitudes on common sexual problems and behavior. With regard to criminal abortion he found that the quantity of references, pro and con, to the subject was minute when compared to other related subjects such as birth control, illegitimacy, pregnancy, adultery and so forth (12). It would appear that this is so because in large part the subject is not a "nice" or "romantic" aspect of sexual behavior.

In analysing Ellis' samples of popular fictional and scientific articles on the subject one is struck by the conservative stereotyped nature of most of the material, particularly of the fictional type. Fictional heroines or other female characters are presented either as drab, innocent girls who "got into trouble" with some rich, sophisticated young man who later abandons them or sinful, worldly folk who gladly and even casually pay the price of their uninhibited sexuality. One of the few extended, starkly realistic fictional treatments of criminal abortion in American literature is to be found in Dreiser's *American Tragedy* (13). The plot follows a familiar pattern repeated frequently each year in American life. Dreiser's hero, Clyde Griffiths and his girl, Roberta Alden, are respectable middle class young people with conventional attitudes on seemingly all subjects including criminal abortion which they at first regard as "sinful" and "horrid." When Roberta becomes pregnant, however, and Clyde cannot bring himself to face the many

sacrifices involved in marrying her, a familiar hunt starts for some alternative escape from the problem.

Clyde, for all his pseudo-sophistication, is essentially an ignorant person sexually and at first timidly casts about among his business acquaintances for advice. His confidante and haberdasher advises him to go to a drug store and get "something special" which will "bring her around." He does so. The pharmacist, sensing his panic, ignorance and affluence, charges him six dollars (in 1926) for a bottle of pills which he hints will have an ecboic effect. Through the same friend, Clyde then secures the name of a second-rate general practitioner who is reputed to be an abortionist and Roberta visits him posing as a deserted wife. In their actions we first see the conventional negative attitude toward criminal abortion, but when faced with the fact of an unwanted pregnancy, a different attitude soon appears and both feverishly seek out the nearest abortionist.

The conventional attitude toward criminal abortion is, of course, not universally condemnatory solely on moral grounds. Much depends on the group expressing the opinion, the media in which it is presented and the motives of both author and editor. A recent and authoritative dictionary of underworld jargon written in prison under thirty convict sub-editors defines an abortionist as follows:

"Rabbit-snatcher: An abortionist. You might as well hit (shoot) your barnacle (girl) in the noggin (head) as let those two-bit (cheap) rabbit-snatchers work on her" (14).

A successful abortionist carries high prestige in underworld circles because of his earnings and because he is a "white collar" operator, but at the same time the dangers of patronizing him professionally are often recognized. In criminal circles the old saying, "There's a fortune in abortion." is recognized as a truism but the informed, successful criminal, one suspects, generally seeks out the more expensive abortionist who is not "cheap" and can offer the safest service.

Just as in 1927 the Metropolitan Life Insurance Company pioneered in mentioning the word "syphilis" in their advertisements and popular scientific articles, so are contemporary magazines cater-

ing principally to women beginning to print articles and fiction mentioning the word. "abortion." Since the end of World War II, magazines such as *The Ladies Home Journal*, *Redbook*, *Woman's Home Companion*, *Better Health*, *Readers Digest*, *Saturday Evening Post*, and *Marriage Magazine* have commenced to carry popular scientific articles pointing out the dangers of patronizing criminal abortionists. These articles strongly condemn the practice but not, interestingly enough, for the old moralistic reasons. In some of them the moral viewpoint is totally absent and the practice is condemned solely on the grounds that it is dangerous to life and health. Perhaps this foreshadows a change in the reasons for the general condemnation of the practice.

In a recent issue of *Marriage Magazine* the theological or moral viewpoint on induced abortion is not mentioned and the author concludes by saying:

"For no woman—married or single—is abortion a sane solution to unwanted pregnancy. Rather it is a passport to pain, tragedy and death" (15).

We thus see that the public attitude toward criminal abortion is almost universally condemnatory in most groups and individuals although the dominant attitude-forming factors vary depending upon the cultural milieu of the group or individual concerned.

Let us now examine abortion practices in a portion of a highly populated contemporary urban area. From the records, the informants, legal documents and other research activity, we shall now attempt to throw light on such questions as: Who becomes an abortionist? Why? What is the nature of the clientele? What are some examples of *modus operandi*? In doing so, we shall try to demonstrate the social interaction of the persons concerned and to portray the abortionist as a person possessing a complex of specialized techniques from which he derives a livelihood.

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Chapter IV

THE ABORTIONIST AND HIS CLIENTELE

PRACTITIONERS OF criminal abortion come from diverse professional, business, social, cultural and racial backgrounds. An answer to the question of how each enters the field will depend in large part on his or her educational and socio-economic background. The court records disclose the existence of the following major types:

1. The physician-abortionist.
2. The abortionist with some medical training. This group includes registered and licensed practical nurses, chiropractors, physiotherapists, licensed masseurs, dentists, midwives and so forth.
3. The "quack" doctor. For the purpose of this analysis, a "quack" doctor is defined as an unlicensed general practitioner of medicine with little or no formal medical training who comports himself in the community as a duly licensed physician.
4. The amateur type. These persons, the records show, enter the abortion field from extremely diverse prior activities. They include salesmen, elevator operators, prostitutes, barbers, and even unskilled laborers.
5. The self-abortionist. While self-abortion is not uncommon both historically and in the contemporary scene, no record could be located of anyone being convicted for this offense at the Court concerned.

Let us first consider the physician-abortionist. It is common knowledge in the field of criminology that many persons become offenders without any "true" economic necessity to do so. This fact obtains renewed proof when we find that among the 111 convicted abortionists at the Court, thirty-one or 27.9 per cent were licensed physicians. As such, many of them had little or no "real" economic

motivation to enter an illegal field of practice as they had opportunity to remain legitimate practitioners. All, we believe, had strong psychological motivations to enter illegal practice and among these was the desire to obtain a good deal of money without much effort possibly in order to compensate in part for feelings of inadequacy and insecurity.

We recall a fairly typical case among the presentence investigation reports analyzed at the Court. The doctor concerned had admittedly made several hundred thousand tax-free dollars in about a decade as an abortion specialist—far more than he could have ordinarily made as a general practitioner in the poor neighborhood where he commenced his practice.

He and his family were in poor economic circumstances during his youth and all struggled mightily for a number of years in order that he might become a doctor and thus achieve high status and prestige in the Eastern-European immigrant sub-community of his rearing. Following his graduation, the expected returns both financial and otherwise did not materialize fast enough or in sufficient quantity to satisfy the insecure young practitioner and his long-suffering expectant relatives. As he was later to tell a probation officer:

“Finally, I decided to do a few abortions in order to get a few thousand (dollars) together and open up a nice office in a good neighborhood. I always intended to quit but somehow I never did” (1).

At the time of his first conviction for abortion after some ten years in the business, he was leading an extensive social life and was an active member of numerous civic and fraternal organizations. It would appear that this type of social life, which included a good deal of drinking, a moderate amount of adultery and some non-medical economic transactions, served to further allay his feelings of insecurity as was noted by the Court psychiatrist. It also served, as the Chief Probation Officer pointed out, as a fertile source of contacts for his abortion practice. When examined by the Court psychiatrist, he could not repeat even the standard dosages of antibiotic drugs for specific complaints, thus indicating that he had lost all interest in keeping up with current advances in the medical

field. He was, when arrested, devoting his full time to the practice of abortion in which he was considered an expert.

The above defendant was found by the investigating probation officer to have been an honor student in medical school and the records show that convicted abortionists are not to be counted, statistically at least, as being among the poorest students in their class. However, with graduation and internship completed, and when faced with the normal problems of setting up an office and establishing a practice, "obstacles" seem to arise which prevent the young graduate from completing a normal professional adjustment. From the records, it appears time and again that the alleged difficulties are traceable in large part to their lack of social and psychological qualifications to enter the normal practice of medicine. After a period of struggle and vacillation, sometimes short and sometimes long, they often find their way into the abortion trade as they have long been aware that it offers an immediate opportunity to make an excellent living. Once the quick and easy tax-free dollars commence to flow in, pressures to remain an abortionist are reinforced and their rationalizations of their actions are often elaborated and extended.

For instance, of the total number of cases only one offender displayed a good deal of remorse and guilt. He was a doctor who, following unusual efforts to graduate from medical school in the face of poverty and uncooperative relatives, became a chronic alcoholic. "Dr. Milligan," as we will call him, reached a point when at the age of thirty he had a rather compulsive need to be intoxicated during the greater portion of every day. At times he would drink as much as two fifths of whiskey daily. His modest but growing practice began to diminish rapidly. His wife divorced him and he was forced to remove his practice to a shabby neighborhood in an interstitial area. Finally, as he admitted to a probation officer, "I did an abortion or two a week to keep myself in whiskey" (2). As one might almost expect, Dr. Milligan was arrested as a result of a deathbed statement by one of his patients who suffered a punctured uterus at his somewhat shaky hands and died of a resultant septic condition.

Unlike the remorseful Dr. Milligan many defendants claimed to be performing socially valuable work. While in the court situa-

tion they somewhat understandably protested that in the future they would return to a more conventional practice of medicine, they defended their past practices almost to a man. Some said they could not resist the "pitiful appeal" of the women who came to them. Others, contrary to a heavy weight of evidence, insisted that they performed "only three or four" abortions for friends and not the hundreds that the police were hinting at.

Dilatation and currettage is a delicate medical technique. Now that we have completed a brief excursion into the gross motivation of some medical abortionists, let us examine how they get this training and how they later establish themselves as successful practitioners.

As Sutherland points out, professional criminals have a complex of skills, techniques and abilities just as do lawyers, dentists and bricklayers (3). A person who derives all or most of his income by performing illegal abortions must be considered a professional criminal as he meets in very large part all of Sutherland's five criteria for the professional type of offender. These are:

1. technical skill.
2. status.
3. consensus.
4. differential association.
5. organization (4).

How does the medical abortionist qualify under the first criteria, possession of technical skill? In medical school the physician has already secured his basic training in the technique of dilatation and currettage. This is far from sufficient to qualify him as an expert abortionist as he must improve his rudimentary skill and acquire a complex of additional techniques relative to the frequent performance of this operation under illegal conditions. How can he secure such training? There are no formal institutions for the training of abortionists.

The records, the various informants, Grand Jury testimony and evidence in criminal investigations involving abortionists all tend to indicate that doctors contemplating going into the abortion trade first observe their colleagues in actual practice. One might call them "observer-apprentices" at this stage. Quite often a doctor

commences actual practice as an abortionist by starting as a relief man for a full time abortionist who is ill or on vacation. In such capacity, if it is temporary, the relief man may receive a salary up to \$500. per week or more, depending upon the lucrative character of the practice of the doctor for whom he is substituting (5) .

From relief man he may progress to a position of assistant in the abortionist's office for which he may receive a smaller salary plus a percentage of the net profits. When he feels that he has built up a sufficient "following" and is well known to druggists, general practitioners and others who refer patients, he may have the confidence and capital to open an office of his own. A doctor who has had this type of what we might call extensive field training and apprenticeship is known in law enforcement circles as an "abortion specialist."

However, the same sources reveal that the *average* medical abortionist is the general practitioner with some gynecological experience whose practice was not sufficiently lucrative to him and who accepted a few abortion cases among patients well known to him, without completing the specialized training outlined above. Since word concerning the availability of any scarce service or product seems to spread rapidly, it is not surprising to find the original abortion patients referring other women to the doctor for the same service. In time, the bulk of his practice may consist of abortion operations.

The instruments and items of office equipment required for the practice of abortion do not differ essentially from those required by the specialist in gynecology, with the exception that he must have in addition a small room containing a few cots or studio couches whereon patients may rest briefly after the operation. Also, unlike the legitimate specialist, he must take pains to secure a specialized type of office location. The Court records and the files of Grand Jury testimony clearly indicate that a private house is the first choice of the abortionist, as secrecy is most easily maintained in that type of structure. This is true provided the house is "not too near a police station, nor too near a church" (6) . Apartment buildings, unless they are very large, are a second choice as superintendents and elevator operators would be quite apt to recognize the type of medical practice being carried on. These persons might inform the police or become blackmailers.

Large office buildings are occasionally used. Two physician-abortionists opened an office for the general practice of medicine in such a building and, through accomplices, rented a chain of small interconnecting adjacent offices labeling them as being occupied by a series of fictitious "investment counselors," "dentists" and "lawyers." Patients, following the operation, rested on the leather couches in these offices and eventually exited from their doors. Such elaborate establishments are known in law enforcement circles as "mills." They require a considerable staff of interacting personnel and will be described in detail in Chapter V.

Midwives and others having a modicum of medical training are occasionally convicted as abortionists. There was a flurry of such convictions in the Court in the depression of the 1930's. It would appear that in large urban counties such as New York, midwifery is a dying profession. The decision of the New York City Department of Hospitals to serve uncomplicated cases of pregnancy under the E.M.I.C. plan (7) during the depression struck at the source of the midwife's livelihood. Schools of midwifery began to close for lack of students. Midwives began to lose their licenses as they could no longer report the necessary minimum of four confinements yearly as required by the Department of Health. Twenty-five or 22.5 per cent of the Court defendants were (or had been) licensed midwives. Almost all of them recounted a history of precipitous falling off of their practices and a turning to the practice of abortion as a means of recouping lost income.

The records show that the midwife or other partially trained medical person seldom uses dilatation and curettage as a technique. They lack the instruments, training and related equipment for it although the records disclose the existence of a few who acquired all three. By and large, midwives prefer to insert a sterilized rubber catheter into the uterus and instruct the patient to walk about until the mechanical friction of the catheter disturbs the pregnancy and mild hemorrhage commences. A few prefer to pack the uterus with sterile gauze using a specialized instrument for this purpose known as a uterine packer. This technique will stimulate uterine contractions with subsequent expulsion of the contents of the uterus (8).

"Quack" doctors, that is unlicensed, more or less medically un-

trained individuals openly posing as physicians, are arrested every year in any large city. Frequently, their arrest occurs by reason of their involvement in an abortion procedure. Should legal proof be insufficient, as is often the case, to the effect that they committed an abortion (a felony), then they are charged with Unlicensed Practice of Medicine, which is a misdemeanor in New York and other states.

The Court records disclose that six or 5.4 per cent of the total cases involved such "doctors" who performed abortions in addition to their other pseudo-medical activities. These individuals, who hung forged or counterfeit "diplomas" on the walls of their sometimes elaborate offices, had a lucrative practice before their arrest. Investigating probation officers who visited their former offices noted a tendency on the part of these men to employ a good many electrically operated medical devices such as diathermy machines, electro-shock instruments, massage devices and so forth. One enterprising man designed his own major piece of equipment which he called an "electrohelomat." This consisted of a large cabinet in which the patient sat facing a board which contained a number of switches and multi-colored lights. The patient was instructed to press certain switches over and over in a particular order while the "treatment" was in progress. While the patient was so engaged in pushing switches and flashing the multi-colored lights, the "doctor" sat facing him at another panel which contained buttons to activate some impressive buzzers, rheostats, relays and sparking devices.

The above defendant, who operated for some years in the Harlem section of New York County, was well regarded locally and scrupulously avoided contact with legitimate physicians. He had a large number of patients who were shocked to learn of his arrest for homicide following the death of a waitress whom he aborted. Autopsy upon the deceased revealed that the defendant had punctured the uterus in five places with a sharp loop-type currette and had also pulled down sixteen inches of intestine before he became panic stricken and deposited the dying girl in Central Park. The physician performing the autopsy also recorded the somewhat medically surprising fact that during the course of the operation the defendant had also managed to rupture the girl's bladder.

A small number of persons whom we shall designate as "amateurs" enter the abortion field from occupations totally unconnected with medicine. Some of the abortionists in this category spoke of serving as runners, contact men, business agents and porters with physician-abortionists before they become practitioners themselves.

As one might expect, the amateur abortionists suffered (as often did their patients) from the fact that of all the foregoing categories, they were generally the least trained. Their criminal careers were relatively short in comparison with their trained colleagues, although while acting as abortionists each one of these defendants earned more money than in their previous occupations. Also, it was noted that the great majority were not particularly well adjusted or financially successful in their previous occupations. Six or 5.4 per cent had never actually committed an abortion themselves but were charged with the crime as they were acting in concert with physician-abortionists in the operation of a mill; that is to say, they were serving as receptionists, nurses, business agents or cooperating landlords. As such, they received a percentage of the net proceeds of the mill depending on the importance of their services therein.

Our final category we will designate as "self-abortionists." These persons are women who succeed in aborting themselves by an eclectic technique generally involving a combination of hot baths, exercises, drugs, and the use of domestic or homemade instruments. Direct or indirect study of this type of offender proved largely impossible as there is no record of such type of offender being convicted in the area and time span of this research. Although aborting oneself is a crime in all States of the Union, none of the legal authorities or case books consulted revealed such a conviction. That the practice is relatively common, however, we learned in Chapter II which surveyed abortion practices in history.

Several authorities indicate that the practice persists to the present day. Hamilton (9) questioned 100 married women as to the methods used among members of the group who had procured abortions and four reported that they had aborted themselves. An additional two women had taken drugs to induce seriously delayed menstruation without knowing for certain whether they were pregnant or not.

Stix, working a Bronx birth control clinic, reported that of 686 illegal abortions reported by a group of 991 married women, forty-two or about 6 per cent were done by the women themselves (10).

Kopp, also in a birth control clinic setting, found that among 7,166 illegal abortions reported, 1779 were induced by women at home using domestic instruments (11).

Taussig, in a rough estimate based on a number of studies some of which are listed above is of the opinion that "over one-half of the illegal inductions of abortion are done by physicians, one-fifth by midwives and the remainder by the patients themselves" (12).

It is difficult to say with any accuracy how one is introduced to the practice of self-abortion. In general, however, it is apparent from our brief survey of the historical aspects of abortion that women have passed knowledge of the various techniques among themselves down through the centuries. Of three women who had patronized abortionists and who were interviewed, one described a successful self-abortion using the dull end of a steel knitting needle. Although the abortion was successful, a moderately severe septic condition followed and the informant stated that on the next (and last) occasion when she felt an abortion to be necessary, a physician performed it. Questioned as to how she decided to use the balled end of a knitting needle, she stated that "a friend" had suggested it.

Who patronizes the urban abortionist? What is her marital status, economic position, occupation, social class, statistical age, religion, and previous productive fertility? Where does she live in relation to the abortionist? What are her reasons (or rationalizations) for obtaining an abortion? We will now attempt to answer these and other questions insofar as available sources of information permit.

The records of the Court clearly illustrate that the abortionist is patronized by women of all social classes and economic levels. One case concerned an illiterate Polish woman who had a clientele of lower East side women and whose regular fee was \$5.00 using the catheter technique. At the other extreme was a trio of Park Avenue abortion specialists whose regular fee was \$2,000 with adjustments upward and downward on a "What the traffic will bear" basis. Contrary to popular ideas on the subject, it is not at all necessary to go to "the other side of the railroad tracks" to secure an abortion as

all Manhattan neighborhoods were served by the various defendants who seemed to attract clientele largely on an ability to pay basis.

As to the marital status of women procuring abortions, the records show that of the 111 complaining witnesses against the defendants, seventy-five or 67.6 per cent were married women. Not all were actually living with their husbands, however, and the paternity of the aborted pregnancies was doubtful in some cases and admittedly not by the husband concerned in three cases.

Other investigators have noted that apparently the majority of women patronizing abortionists are married. Tietze had the good fortune to come into the possession of a series of 363 records representing the practice of two abortion specialists in a large Eastern city during several months in 1948. Of the 363 women aborted by them 102 were single, 180 (49.6 ± 2.6 per cent) married and eighty-one previously married. About half of the previously married group were widows and the remainder divorced (13). These specialists served women in comfortable economic circumstances and their fees varied from \$300 to \$500.

Simons, in Minneapolis, found that about three-fourths of the women in his sample were married (14). Since his sample was almost wholly composed of charity hospital patients, it is reasonable to suppose that it contained a higher proportion of women who had unsuccessfully patronized the less skilled abortionists and who had to be hospitalized after the operation. It could reasonably be argued that the higher proportion of married women found by Simons in contrast to Tietze can be accounted for in part by the fact that the hospital group came largely from an underprivileged urban area where economic pressure on the married woman is comparatively greater and social pressure on the unmarried woman perhaps less than among the women patronizing the expensive abortionists studied by Tietze. An additional factor might well be the greater willingness on the part of married women to seek hospitalization for the treatment of abortion, whereas the unmarried seem to tend to avoid hospital treatment unless severe septicemia or other complications pressure them to do so. We could find no authority or piece of research purporting to demonstrate that the majority of women undergoing abortion today are unmarried. Some authorities speculate that in nineteenth century America the majority of

the clientele was unmarried. There seems no ready way to prove or disprove such an assumption except on an *a priori* logical basis involving the greater stigma attached to illegitimacy and the relative subjection of married women in that era.

What is the age range of the clientele? How many children and previous abortions have they had? No single study can give the complete answer to these questions as each study concerns a limited social group of women or a specialized group of abortionists. It can be argued, of course, that our sample is not a truly representative group of urban abortionists in that they are "failures;" that is, they were apprehended and convicted. To some extent this objection is valid. However, many of them were successful practitioners for a number of years before their convictions. As Sutherland's professional thief informant pointed out, any professional criminal regards an occasional conviction as a kind of occupational hazard to be endured stoically if it is impossible to "fix" an acquittal.

The abortionists studied by Tietze kept most adequate records and some indication of the marital status, age, number of children ever born and number of previous induced abortions in this group can be gained from Tietze's recapitulation as presented in the following table:

TABLE II
WOMEN UNDERGOING ILLEGAL ABORTION BY MARITAL STATUS, AGE, NUMBER OF CHILDREN
EVER BORN AND PREVIOUS INDUCED ABORTIONS (15)

	Single	Married	Previously Married	Total
Age (years)				
10-14	3	—	—	3
15-19	22	10	2	34
20-24	29	44	15	88
25-29	21	42	28	91
30-34	18	42	20	80
35-39	6	19	10	35
40 and over	3	23	6	32
Children born				
0	100	45	25	170
1	2	39	31	72
2	—	52	16	68
3	—	27	8	35
4 and over	—	17	1	18
Previous abortions				
0	87	147	64	298
1	10	18	15	43
2	2	10	2	14
3 and over	3	5	—	8
TOTAL	102	180	81	363

In analysing the table one must again bear in mind that these women must have been largely from a fairly comfortable economic group to meet the fees charged (\$300 to \$500). The women in the sample range in age from thirteen to forty-seven with an average age of 28.6 years. The single women were the youngest, as one might expect, while in the case of the married and previously married the average age was about the same.

Considering the group as a whole, 170 or almost half had never borne a child. The total number of children born was 397 for the whole group and this figure includes 303 claimed by the married females. The average number of children ever born to the entire group was 1.09 with the married portion having an average of 1.68.

Tietze then compares the 180 married women undergoing abortion to 481 women delivered on a private service in a large hospital in the same city in the same year. He found striking differences which confirm the work of previous investigators who found that the incidence of criminal abortion tends to increase with parity and suggests perhaps that in this group abortion was used primarily not as a method of child spacing but of limiting the ultimate size of the family (16).

We also recorded the occupations of the 111 complaining witnesses in the cases of the Court defendants. In the following tabulation one again notes the predominance of married or previously married women as reflected by the dominant category "Housewife."

TABLE III
OCCUPATIONS OF THE COMPLAINING WITNESSES IN THE COURT CASES

Housewife	77:	%	of	total	cases	69.4
Skilled Labor	2:	"	"	"	"	1.8
Unskilled Labor	17:	"	"	"	"	15.3
Not given	1:	"	"	"	"	0.9
Prostitute	7:	"	"	"	"	6.3
Juvenile	4:	"	"	"	"	3.6
Student	3:	"	"	"	"	2.7

Why do some women seek abortions? In the chapter concerned with the historical aspects of the practice we noted that the major compelling reasons were vanity, fear, taboo, illegitimate pregnancy, economic difficulties and poor health. One suspects that the same reasons (or rationalizations) are still given. A piece of research by G. V. Hamilton tends to confirm this. Hamilton, after establishing

the best possible rapport with eighty-five married women who were his subjects in research on marital adjustment, questioned them concerning abortions and received the following replies (17) :

TABLE IV
REPLIES BY 85 ABORTED WOMEN TO THE QUESTION "WHY DID YOU HAVE IT (THE ABORTION) DONE?"

<i>Types of Answers</i>	<i>No. of Women Giving Such Answers</i>
1. Never had an abortion	58
2. The pregnancy was illicit	7
3. Economic difficulties in the way of having more children	4
4. The pregnancy interfered with her vocation	1
5. She wanted to break with her husband	1
6. She didn't wish to have children—or more children	4
7. It was war-time	1
8. Her husband has syphilis	1
9. Her health required the pregnancy to be discontinued	8
Total	85

We examined transcriptions of pre-trial examinations in the cases of aborted women who had signed waivers of immunity and were being prepared to testify before the Grand Jury. Much the same array of reasons were given by the women concerned, all of whom had patronized the same abortion mill operated by Dr. _____ in X County (18). The fixed minimum fee in this mill was established by competent testimony to be \$75. and the clientele was exclusively drawn from a lower middle class semi-suburban group. Time and again the married witnesses brought out their desire to have "no more children" or the idea that they "couldn't have another one so soon." One women said her husband "had just lost his job; "another said her husband "had just been drafted"; while a third claimed she was "too weak to care for a fifth (child)."

Where do the clients live in relation to the abortionist of choice or necessity? Not every town of even small city has an abortionist whom the woman can locate and among the Court cases eleven women or 9.9 per cent of the total came to New York City to make use of its relatively extensive abortion facilities.

In the cases of New York City women securing abortions from local practitioners, the records clearly demonstrate that no one was forced to travel any great distance across the city to obtain the service desired. In those cases (23.4%) where the women obtained

the operation in Manhattan but were residents of another borough, there proved to be no special significance attached to the fact. Often their source of information simply happened to refer them to an abortionist in another borough. An analysis of the socio-economic status of the abortionists and the type of neighborhood wherein they practiced showed that in New York County abortionists have been arrested in all of the various sub-communities, such as Park East, Harlem, Yorkville, Greenwich Village and so forth during 1925-50. In other words, every sub-community in New York County has its abortionists who, by and large, offer their services on terms their fellow local residents can afford.

What is known of the religious preference of women seeking abortion? Does membership in a particular religious group exercise an influence, statistically, on the clientele of abortionists? Once again we note that while some research has been done on this subject, usually as a sub-item in a research of broader scope, the results are unsatisfactory as the groups studied are small, specialized, and heterogeneous.

For example, Brunner and Newton (19) studied the clinic histories of 4500 married and unmarried women of low educational and economic status in New York County and found that of the women reporting a history of induced abortion, 12 per cent were Catholic, 34 per cent were Protestant, and 33 per cent Jewish. The differences are, of course, not statistically significant. Again, the subjects were voluntary patients at a birth control clinic and as such cannot be classified as representative members of their nominal religious groups.

Subsequently, Brunner (20) reported findings for a group of 979 clinic histories of women of relatively high economic status, with an average family income of \$51.70 per week (in 1942) nearly half of whom had college training to some extent. He found that their distribution by religious affiliation did not vary greatly from their relative numbers in the population of New York City; namely, 41 per cent Catholic, 35 per cent Protestant and 25 per cent Jewish. The induced abortion rate was not significantly different for the three groups, being 27.1 per cent for Catholics, 23 per cent for Protestants and 26 per cent for Jews.

Burgess, after reviewing the meager and limited research regarding the relationship of church membership to the frequency of induced abortion among various religious groups concludes as follows:

"It is clear that the differences between induced abortion rates by religious affiliation are relatively small . . . nevertheless this conclusion should not be accepted too uncritically. The findings . . . are from clinical and hospital records which make no distinction between those who are active in their religious duties and those whose identification with a religious faith is merely nominal" (21).

It is possible that future research of a truly adequate nature might disclose a significant relationship. A great deal more must be learned of the social, educational, economic and psychological background of women involved in criminal abortion procedures if we are to have a more adequate appreciation of the motivating forces which lie behind their behavior. Such basic factors, for instance, as their educational level, economic income, contraceptive behavior, marital adjustment and type of community remain to be studied intensely.

Let us turn now to an examination of the more institutionalized aspects of abortion in order to learn how the application of system, the erection of a social structure and assiduous attention to the development of social inter-relationships enables the abortionist to vastly extend his service and greatly increase his income.

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Chapter V

ABORTION MILLS AND RINGS*

THE COURT RECORDS and the files of the Kings County Grand Jury reveal the existence of two fairly complex social structures known as abortion "mills" and "rings." A mill might be defined as an abortionist or several abortionists working steadily in a fairly permanent location and aborting a dozen or so women daily. A ring may be viewed as a number of interacting abortionists or mills working intermittently at several occasionally changing locations and aborting an even more considerable number of women daily. The participants in the rings are totally or largely known to each other and clients are accommodated at the various locations depending on the pressure of referrals, the availability of operators at the moment of need, and the ability of the client to pay a sliding scale of prices.

So well organized are these social structures that they can be described and evaluated as deviant types of crescive institutions. What is an institution? A broad definition from a standard sociological work has been chosen for the term "institution".

"The organized system of practices and social roles developed about a value or series of values, and the machinery evolved to regulate the practices and administer the rules. . . . Institutions and laws are produced out of the mores. An institution consists of a concept (idea, notion, doctrine, interest) and a structure. The structure is a framework, or apparatus, or *perhaps only a number of functionaries set to cooperate in prescribed ways at a certain conjuncture*" (1).

All institutions have a fundamental function of meeting some persistent need or want. A good many sociologists hold that institu-

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tions, to be considered as such, must be legitimate or recognized by law, or at least be in harmony with the dominant moral feeling in a given culture. For this reason, it is our view that an abortion mill is probably a "deviant crescive institution." Let us now examine the structure, function, operation, integration, and component apparatus organized and maintained by the actors in the abortion mill. After such examination we will then be in a position to determine whether the mill meets the above criteria as a deviant type of crescive institution.

If the abortionist is to run his establishment with the greatest possible efficiency and safety, he must have both business and medical assistants. The Court records of those physician-abortionists whose operations were large, organized and complex enough to fall into the mill category show that the business staff consists of at least a secretary receptionist and a business manager.

The secretary is usually a young woman with qualities of shrewdness and loyalty. She is well paid (no record showed a salary of less than \$100 per week) and frequently she is given a percentage of the net profits. The success of the operation will be in no small part related to the secretary's ability to judge and handle patients. In addition to her clerical duties, she meets all prospective patients and sets the fee for the operation. As we have previously seen, the price of abortions is set in large part on what the traffic will bear. A shrewd, capable secretary has a knack of sizing up the financial status of an applicant for service. The woman's clothing, the label in her coat, her accessories, and her general demeanor are all evaluated by the secretary before she asks a fee. The secretary's ability to judge people and evaluate their social roles is of paramount importance in protecting the operation of the mill against intrusion by government investigators. She must be able to distinguish between these persons and bona fide patients. Her function is a critical one with high prestige in the mill since the other functionaries realize that on occasion her intuition stands between them and a possible jail sentence. In two of the Court cases, it was brought out that the secretary had been promoted to her key position after serving for several years as the abortionist's practical nurse.

The business agent handles contacts with the landlord, payment of all salaries, bills, bribe money, and split fees. Another perhaps

more important function is that of contact man between the abortionist and the various sources from which patients are referred. Some of the larger mills employed "runners" who served as intermediaries between the business manager and the sources of referral, thus increasing the volume and safety of the practice. The position of business manager is a highly confidential one and the majority of the Court defendants preferred to hire a relative or very good friend. Among the doctors examined by the King's County Grand Jury, five employed their brothers as business managers (2). A good many others hired brothers-in-law or sons of old friends. In every case investigated by the Grand Jury, it was found that the business agent was either a person with a degree in law or with some legal training. The business manager works for a percentage of the *net* profits and hence it is to his interest to stimulate referrals and keep bribe payments and other overhead costs at a minimum consistent with safety.

The medical staff usually consists of a practical nurse. In only one of the Court cases was the nurse found to be a graduate. Four defendants employed "licensed practical nurses" while the remainder trained girls, usually with a background of domestic service to act as their assistants. In all cases the medical assistants were found to be receiving salaries at least 25 per cent in excess of those paid by hospitals for similar work. In some cases, the medical assistants also received a small proportion of the profits. It seems unnecessary to comment on the dangers of requiring an inadequately trained person to assist in an abortion operation.

The Court records, the informants, and three convicted abortionists interviewed were in agreement to the effect that there are three principal and two secondary channels through which patients are directed to abortionists. There is no agreement, however, as to the order of significance of the primary channels. Opinion is about equally split between the primacy of the local druggist and that of the general practitioner as the chief sources of referrals to the physician-abortionist. An abortionist of several decades experience gave the Grand Jury the following informative opinion:

"The abortion specialist has so-called abortion feeders, they call them, those that feed the abortion patients to him. . . . The greatest source of the abortionist's business comes from the

general practitioner and the druggist around the corner. There is a drug store on every corner in America and they feed the abortion specialist his patients" (3).

There is general agreement that there is a greater tendency on the part of women who suspect an unwanted pregnancy to first seek relief in a drugstore than in any other way. Although many druggists attempt to satisfy such a customer by selling her a relatively expensive proprietary medicine supposed to have an ecbolic effect, it is also fairly common for the druggist to refer the woman to some abortionist whom he knows. Impounded records of convicted abortionists show that almost invariably there is a standing arrangement for a forwarding fee often as high as 50 per cent. In no case was the split fee less than 25 per cent.

Through the cooperation of an authorized informant in the New York City Police Department, we had an opportunity to examine the records kept by the business manager of a very active midtown mill catering principally to salesgirls in two very large department stores. The minimum fee in this mill was \$100. Time and again the records, kept on 3" x 5" file cards, showed payments of \$50 to "D-1" and about as frequently the same amount to "D-2." The detective credited as arresting officer explained that other seized record material identified "D-1" and "D-2" as referring to unidentified contacts in the respective drug departments of the two department stores where the bulk of the clientele was employed. There were a few more listings of "D-3," "D-4," etc., up to a high listing of "D-12" in a total of over 300 file cards. This would seem to indicate that this particular mill was, among other sources, being "fed" by contacts in twelve local drug stores none of which, when plotted on a map, were located over three miles from the mill.

A convicted abortionist testifying before the Grand Jury was of the opinion that physicians were the first line of referral and druggists second:

Q. "The referring doctors are the first source?"

A. "And the druggists second, and next are the grateful patients sending their friends and relatives and other people to them."

Q. "Is it customary to split fees with the other doctor or the druggist?"

- A. "Indeed it is, because if there were no split fees, the abortionist wouldn't get the patients."
- Q. "Just what is the general split?"
- A. "Fifty per cent."
- Q. "How is that money paid?"
- A. "In cash, of course. No checks, for obvious reasons" (4).

The question of who refers the greatest number of patients, the doctor or the druggist, can only be finally resolved by some research person with high level police contacts who could obtain permission to examine the seized records of all abortionists stored in the Police Property Clerk's office over a period of years. Suffice it to say that abundant evidence exists to show that both professions, on a statistical basis, are very active sources of referral.

The third primary source of patients lies in women formerly aborted at a mill and who pass along the information to relatives, friends and acquaintances in need of similar service. This type of referral is particularly gratifying to mill personnel who share in the net profits as no split fee is generally required.

The two secondary sources of referral discovered in the Court cases, confirmed by the informants and verified by the writers, are taxi-drivers and bell-boys. As any habitual traveler can testify, these two occupational groups are fertile sources of information to the stranger in town. This is particularly true if the inquirer desires some product or service the possession or use of which is contrary to local law or mores. In difficult cases, consultation with the bell-captain or an older cab driver may be necessary but ultimate results are assured.

A woman who goes to an abortionist's office is not in the same social or psychological position as a patient calling on a legitimate practitioner or even a woman about to make a cash purchase in a shop. Although she pays a cash fee, she is, in a very real sense, an applicant for a favor. Especially is this true if this is her first experience with an abortionist. She considers her need to be extreme and her situation urgent if not desperate. She feels that she is in the only place she knows where any real solution to her problem can be found. She also is well aware of the illegality of the whole procedure and this serves to increase and exacerbate her guilt-ridden and con-

flicted state. The abortionist and his entire staff are well aware of her anxiety, fear and guilt.

Although there may be, and probably are, some abortionists who are motivated in their practice by other than monetary considerations, not one of the Court cases concerned a medical man or amateur type who consistently displayed any real kindness, understanding, patience or delicacy in handling their patients.

In many, if not most cases, the patient has been informed of the price by the person who referred her to the physician-abortionist. Notwithstanding this, the abortionist's secretary makes every effort either to raise the agreed-on amount or, if the woman is not aware of any particular amount, to obtain as high a fee as possible. We have read extensively transcriptions of trial and pre-trial testimony of aborted women concerning their entire abortion experience. This reading, the knowledge of the informants and the admissions of the defendants makes it quite clear that almost every abortion operation is preceded by haggling and bargaining. In a mill the secretary sets the fee and she uses her bargaining talents with telling effect. The following disguised actual transcription of testimony at a New York City abortion trial was the most typical of a number which we reviewed (5).

- Q. "You say you went to the office of Dr. Glickstein on the afternoon of Friday, June __ 1959?"
- A. "Yes."
- Q. "City and County of New York?"
- A. "Yes, that's right."
- Q. "Who admitted you to the office?"
- A. "A girl, a nurse, she had on a white dress."
- Q. "I show you a photograph of two adults, one male and one female marked People's exhibit # 1 for identification. Do you identify the female in the picture as the female person whom you say admitted you to the doctor's office?"
- A. "Sure I do, I mean yes, there she is over there." (Witness points to defendant Marilyn Smith seated at table of Counsel.)
- Q. "Just answer the questions, please don't volunteer any information. What happened next—after you got inside?"
- A. "She—the nurse—had me talk to a lady who said she was the doctor's secretary."
- Q. "I show you a picture of an adult female marked People's

exhibit # 2 for identification. Do you identify it as a picture of the female who said she was Dr. Glickstein's secretary, on June ___ 1959, City and County of New York?"

A. "I do."

Q. "Did you have a conversation with her?"

A. "I talked to her, yes."

Q. "What did you say and what did she say in reply?"

A. "I asked her if the doctor did cleaning. She asked me who sent me. I gave her the little card the man in the drug store gave me. She asked me if I—how long since I missed my last period. I said six weeks."

Q. "What did she say then?"

A. "She said the price would be \$125. I said the man behind the counter told me \$75. She said I was over a month gone and the price had to be higher."

Q. "What did you do then?"

A. "I started to walk out. I only had ninety-six, maybe ninety-eight dollars on me. She said wait, how much can you pay? I said maybe eighty-five dollars."

Q. "Yes, and what did the defendant say then?"

A. "She said it would be O.K.—that the doctor could take care of me for eighty-five."

Q. "You gave her the money?"

A. "Yes."

Q. "Before the doctor examined you?"

A. "Yes."

Q. "You gave the defendant eighty-five dollars on June ___ 1959 at 161 Dexter Drive, City and County of New York?"

A. "Yes."

Q. "Isn't it true you later paid her more money that same afternoon?"

A. "Yes."

Q. "How was that? Why did you do this?"

A. "She said there would be a charge of \$10. for a local anesthetic if I wanted one."

Q. "And after that—did you pay her any more money?"

A. "Not her. I paid the nurse—the other girl \$2. after the operation."

Q. "What was that for?"

A. "A box—a little box of cotton plugs."

Q. "You paid her \$2. for a box of vaginal tampons?"

- A. "Yes. She said they would help stop the bleeding when I got home—said they were something special the doctor recommended."

In the extended transcriptions of Court testimony which were read as part of this research, it was brought out that the contact with the secretary when the money is collected is one of the several unpleasant experiences of a woman patronizing an abortion mill. One feeder testified that if he happened to know the woman he was referring or had some personal regard for her, he would advise her to leave at home practically all money above the exact fee stated. He did this because he knew that there was little or no chance of his acquaintance leaving the abortionist's office with much above cab fare (6).

The abortionist, unlike a physician in private practice, can fix his own hours. It is conventional practice to operate a mill from about 10:00 A.M. to 4:00 P.M. On Fridays and Saturdays the tempo of operations is speeded up for the dual reasons of the frequency of payday and the chance the patient has to remain in bed and recover over Saturday and Sunday.

The number of abortions performed daily in a mill is contingent first upon the efficacy of the doctor's technique, secondly, on the efficiency of his assistants and thirdly, on the number of recovery cots he can provide. Truly expert abortion specialists take the least time, performing the entire operation in from three to five minutes. This time does not include that consumed in asepsis by shaving, scrubbing and douching the affected parts, which tasks are usually performed by the nurse in attendance. Such elementary aseptic techniques, which are mandatory in good hospital practice, are often omitted in the interest of speeding up operations and increasing the mill's profits. In 27 cases of women recounting their experiences in three different mills, only five testified that they had been prepared in an elementary aseptic fashion for the procedure. Adequate testimony from doctors, complaining witnesses, informants and case records shows that anaesthetics are seldom used. Again this is related in part to the compelling desire for speed and also as a precaution against a medical accident resulting in complications or homicide. A whiff of chloroform can be dissipated readily

throughout the system whereas a full narcosis with this drug would leave traces at autopsy. When used at all, intravenous injections are a conventional form of anesthetic in many mills. In this fashion early ambulation of the patient is also assured.

The patient is often ready to leave the office a half hour after she enters. One abortionist informed a probation officer that he had performed as many as forty-five abortions on Saturdays. He estimated that some expert abortion specialists operate on four thousand to five thousand women per year (7).

It would appear that there exist a relatively small number of physician-abortionists who take what can only be described as pride in their work. One of these men, writing in a nationally published magazine described the slow, painstaking, skilled nature of his practice as follows:

"In my practice I average three operations a day. By working a six day week, I complete approximately eighteen operations in this time. This amounts to seventy-two operations a month. In my sixteen years of specializing, I have successfully performed about 13,844 abortions.

"This was without the loss of the life of a single one of my patients. I feel those figures are something of which to be proud. I feel—I'm sure—that the work I have been engaged in these past years has been a contribution to Society and has helped to straighten out the messed up lives of many people" (8).

Medical men are entirely in agreement that one of the greatest dangers in abortion procedures results from lack of proper care received by the patient following the operation. Many mills lack adequate space for sufficient cots upon which patients can recline for at least an hour or so after the operation. Also, because of the ever-present risk of detection it is necessary to require abortion patients to leave the mill at the earliest possible moment after the completion of the operation. While the patient is resting, frequently another patient is being prepared and aborted. This means, especially on Fridays and Saturdays, that the cot or cots must be vacated after a brief period to make way for the continued influx of patients.

In contrast to the one half hour or so of bed rest provided by the mill operators we find ethical gynecologists recommending at least

eight hours of complete bed rest if not a slightly longer stay in a hospital following abortion. Said Dr. Taussig:

"We should keep in mind that one of the most common causes of chronic invalidism after abortion is insufficient care and rest in the after-treatment" (9).

The fact that many patrons of the criminal abortionist do not obtain sufficient bed rest is not by any means entirely the fault of the mill staff. The testimony of numbers of aborted women at the Court shows clearly that the doctor or his nurse routinely advised them to "go home and rest for a week" and to refrain from sexual intercourse until after the re-establishment of the menstrual cycle. The fact that this advice is often ignored lies partly in the necessity for many aborted women to keep the operation a secret and also in their frequent economic necessity to return to employment quickly. Ignorance and overconfidence may also be factors involved.

Mill personnel interact also with taxi drivers. Driving a cab is often a strongly competitive occupation and the experienced cab driver is quick to detect a good "stand." This accounts for the fact that women leaving an abortionist's office often find taxicabs seemingly waiting for them. As we learned previously, cab drivers are among the secondary group of abortion feeders who refer patients for a small fee while collecting fares to and from the mill. Indeed, testimony in research case 102-H brought out the fact that the mill operator in question always insisted that ample cab fare be paid to his receptionist in advance so that there could be no delay in the patient's departure from the mill.

There is little to be said on the subject of after-care as abortionists generally make no formal provision for this, aside from providing the brief use of a cot and the routine dispensing of advice described above. If a woman has patronized a mill, more often than not she does not even know a phone number to call in case of unpleasant sequelae. In a few cases which we read the abortionist advised his patients that "if anything goes wrong" they should present themselves at the outpatient clinic of a general hospital, state that they were pregnant and had been in an automobile accident, had

a fall, or fainted on the street. As spontaneous abortion can be followed by a fever, uterine bleeding and other symptoms common to those following illegal abortion, it is difficult for a legitimate practitioner to detect a criminal involvement if the patient presents a false history and no evidence of surgical damage is present.

The midwife who procures abortions is in a much more vulnerable position legally than the physician-abortionist. She is also more apt to have stronger, more intimate primary contacts with local patrons in a rather homogeneous sub-community. In short, she has a reputation to maintain and it is not surprising therefore to learn from the Court cases and the informants that she is necessarily more interested in providing after-care, should such prove needed. The quality of this care is inadequate as is reflected in part by the Court records which show that in abortions performed by midwives, 100 per cent of the "source of complaint" came from febrile aborted women in hospitals to which they had been rushed by panic stricken husbands, boyfriends or relatives. Twenty-five or 22.5 per cent of all the Court defendants were, or had been, licensed midwives.

Of the sixty-two complaining witnesses in hospitals, five later died of sepsis. As there were only eleven homicides among all the Court cases, it is readily seen that midwives by their inept techniques and inadequate after-care contributed far more to the number of fatal cases than their proportion among the total number of defendants.

Testimony of the midwives involved in giving unsuccessful aftercare revealed that their efforts were largely confined to prescribing doses of aspirin or quinine, administering alcohol sponge baths and insisting that the patient remain in bed no matter what her necessity to leave it.

The great majority of aborted women, if the operation is successful, are apt to be quite content to attempt to repress the memory of the unpleasant experience and resume their normal pattern of living. Should serious illness occur as a consequence, however, she is apt to be questioned by hospital authorities, police, or interested relatives. If she reveals the name of her abortionist, a formal complaint may be made against him. His arrest may follow although

conviction for the offense is yet another matter. The following table indicates the source of complaint in a total of 111 convictions at the Court during the period 1925-1950:

TABLE V
SOURCE OF COMPLAINT IN 111 CONVICTIONS FOR ABORTION AT
COURT OF GENERAL SESSIONS N. Y. C., 1925-1950

<i>Source</i>	<i>Number</i>	<i>% of Total Cases</i>
Sick woman (in hospital)	62	55.9
Homicide	11	9.9
Confidential information	25	22.5
Anonymous letters	7	6.3
Doctor of a patient	2	1.8
Landlady	2	1.8
Relative	1	0.9
Coincidence	1	0.9

There is a time-worn adage in criminal and law enforcement groups to the effect that "There's a fortune in abortion." The Court cases, the informants, and extensive Grand Jury testimony all provide ample proof of the adequacy of this folk-saying in the case of most practitioners.

While exact figures are somewhat understandably unavailable, not one of the Court defendants suffered an economic loss by undertaking the illegal practice of medicine. Even midwives who, in 1936 reported an average income of \$100 per month, found themselves making about the same sum in a week by committing abortions at \$25 to \$50 per procedure (10). Licensed physicians who were tempted as Taussig says "to enter the golden but somewhat inglorious life of the abortionist," found the practice extremely lucrative notwithstanding the heavy overhead expenses previously set forth.

In the file jacket of research case 86-5, a copy of a detainer filed against the defendant which had been served on the Warden of City Prison, Manhattan, was found. This detainer, issued by the local U. S. Tax Commissioner, declared that the defendant was wanted by Federal authorities for failure to pay tax arrears, as well as "fines, fees and penalties in the amount of \$832,468.37." It will readily be seen that even a legitimate practitioner would have difficulty making a gross income of the above amount in a lifetime of practice. No record was available to show what period of years the above tax bill covered or whether the defendant had previously

filed false returns. It was verified, however, that the defendant had been graduated from medical school sixteen years prior to his first conviction for Abortion in 1936. His previous criminal record showed four prior appearances in Magistrate's Court on charges of abortion, all of which were dismissed for failure of the people to present a *prima facie* case to the effect that the defendant had committed the offense charged.

In the case of another defendant (11) it was verified through the contractor concerned that he had built (in 1928) a house costing \$165,000 in an elite section of King's County. This sumptuous dwelling still stands and is referred to in real estate circles as "the house that abortions built." The builder, prior to his first conviction for abortion in 1938, had five appearances for the same offense in Magistrates' Court and was discharged on each occasion.

A quantity of expert testimony is available to the effect that the abortion specialist with a normal business earned (in 1941) about \$25,000 per year and that doctors whose clientele came from the higher income groups earned from \$150,000 to \$250,000 per year (12).

Even a marginal type of non-medical abortionist who charges \$50 to \$60 for an operation, after he has split the fee with the feeder and deducted running expenses, receives about \$15 profit. This often represents a far more profitable practice than the painstaking accumulation of \$5 office fees and \$10 house calls. As indicated above, there are specialists who perform about four thousand operations a year. This type of practice would net them about \$60,000 per year even on a modest scale of fees.

Income from the performance of abortions is never reported as such for tax purposes and convictions for Income Tax Evasion occur from time to time. A rather typical case was reported in a daily newspaper as follows:

"10 WOMEN TELL ABORTION FEES AT U. S.
TAX TRIAL"
(Special to THE NEWS)

"Camden, N. J., Oct. 15.—Ten fearful women took the witness stand in Federal Court today and one by one testified that they had availed themselves "of a convicted Atlantic City woman

abortionist who is on trial for evading income taxes.

"All ten were from south Jersey. Some said their husbands did not know of their abortions. Several said they were unmarried. All said they paid between \$150 and \$250 for an abortion.

"\$25,000 Evasion Charged.

"They were key witnesses against Mrs. Esther T. Rudick, 54, who is charged with evasion of more than \$25,000 in federal taxes from 1946 to 1950.

"She was arrested on Jan. 17, 1951, on a charge of operating an abortion ring, convicted, given a suspended sentence, fined \$1,000 and placed on probation for five years" (13).

It would be possible to cite numerous other examples of the lucrative nature of an abortion practice. Abortionists, like other professional persons, legitimate or otherwise, often seem to succeed or fail in terms of the presence or absence of the usual criteria; namely, educational background, expert tutelage, suitable personality, good judgment, a reasonable amount of good fortune, assiduous attention to tasks at hand, and so forth. Since we have postulated that the abortion mill is a *deviant* type of creative institution, it would seem pertinent to examine now the specialized abilities, means and techniques necessary to preserve the structure of the mill from attack by social forces emanating from legitimate enacted institutions erected to reinforce and perpetuate moral and legal ideas hostile to the existence of the mill.

Since attack from any legitimate or predatory source threatens the social and economic adjustment of mill functionaries, one is not surprised to find them taking energetic counter measures both on a planned or emergent basis.

A source of ever present anxiety to the operator of the abortion mill is the possibility that someone will betray him to the police. Such reports can come from only a limited number of sources and the abortionist, insofar as possible tries to anticipate every possible contingency. We noted previously the sources of complaint in the total number of Court research cases. The records also show that fifty-six or 50.5 per cent of the defendants had previous criminal records involving abortion. Seventy-three defendants or 65.8 per cent of the total had previous criminal records involving abortion and other offenses; chiefly, Unlawfully Selling a Narcotic Drug,

Rape, and Assault 3rd degree. Some physician abortionists had two, four, eight, and in one case twelve, arrests on charges of Abortion. In forty-two or 37.8 per cent of such cases the charges were dismissed in Magistrate's Court for lack of evidence. The abortionist well knows that a complaint as such is not greatly to be feared unless it is made with a good deal of substantial corroborating evidence. To reduce to a minimum the possibility that a complaint of this type can be made, the abortionist first depends heavily on a clever *modus operandi*. For instance, he seldom subscribes to a commercial linen and towel service even though he has more need for such accommodation than a legitimate practitioner. The reason for this is that if an anonymous complaint is made against him, the police may decide to secretly subject samples of his used linen to examination. Should all or most of such linen show the presence of suspicious material, the police would have a fair inference that they were dealing with an abortionist. They might then apply to the Supreme Court for a permit to tap the doctor's telephone, citing their discovery as inferential evidence of their need for such a permit.

Some abortionists prefer to have no conversation with patients at all and to operate in a surgical mask behind an operating table screen following completion of preliminary negotiations and preparations by their nurse and secretary. In this fashion the aborted women cannot legally identify their abortionist and cannot even say whether he was tall or short, fat or thin, male or female (14).

Some of the more elaborate mills are provided with burglar alarm type warning systems which are activated by unwanted intruders. Such a system, in combination with a secret escape door to an adjoining office or building may well provide a system of defensive adaptation which will allow the evidence (the aborted women and the soiled instruments) to be spirited away even as the police simultaneously enter all known entrances bearing a search warrant. Such examples of defensive criminal technique are found not only in the Court records but in the "Yellow Press" as well. We shall consider only one illustrative example as follows:

"Doctor, Nurse Held
as Abortionists

"2500 Girls Involved
Say Newark Police

"An elderly physician and a pretty dark haired nurse came to Family Court in Newark today accused of . . . Abortion.

"On pleas of defense counsel the trial of the physician Dr. George Harley, 66, and the nurse Miss Anna Green, 28, was postponed until tomorrow. They were held in \$5000 and \$3000 bail respectively. . . .

"The physician and the nurse were the only persons in the place Chief of Police Sebold said. . . .

"Chief Sebold asserted that when he and his men invaded the 'hospital' on Saturday, a chain of green lights in the corridors blinked warning similar to the alarm systems used by speakeasies in the prohibition era" (15).

Although the Police Chief concerned had prudently waited until a Saturday, one of the busiest days of the week in an abortion mill to stage his raid, when the police entered "the physician and the nurse were the only persons in the place." Patients, prospective patients, secretary, receptionist and instruments had vanished, through the emergency exit. Subsequently, they mingled with the crowd attracted by the police activity and drifted away unnoticed by the raiders. The doctor and his nurse were the picture of outraged innocence. It was only through the somewhat accidental discovery of some business records in the "hospital" that subsequent legal proceedings against mill personnel were possible.

Another source of danger and overhead expense to mill participants may be found in the heavy demands for protection money from members of the Police Department and District Attorney's office. Although an officially authorized and expert witness (16) assured us that to his knowledge, no such connection exists today between law enforcement personnel in New York and other counties, there was a time when this was not so.

For instance, in the late 1930's, one Assistant District Attorney in King's County was sentenced to State Prison for accepting money to impede prosecution of abortion charges while a second Assistant District Attorney was disbarred following his indictment for Conspiracy, Bribery, and Asking and Receiving an Unlawful Fee (17).

In order that the reader may be afforded a synoptic picture of the defensive technique of a typical large scale mill operator in dealing with a high ranking law enforcement official, we shall summarize the activities of Drs. Nussbaum and Blank in their dealings with Assistant District Attorney McGuinness. The following highly condensed summary was prepared from the actual files of the Kings County prosecution concerned.

Early in 1928, one William F. McGuinness applied for a position on the staff of Charles J. Dodd, then District Attorney of Kings County. His application was at first rejected because of several stains on his record and the existence of some dubiety concerning the nature of his character and conduct. Notwithstanding this initial rejection, William F. X. Geoghan who succeeded Dodd as District Attorney of Kings County appointed McGuinness to his staff in 1931.

The activities of McGuinness in the District Attorney's office on behalf of abortionists were revealed when the Grand Jury probed into allegations related by two of the leading abortionists in the County (18).

Late in 1935, a New York City doctor was arrested on a charge of Abortion and, as frequently occurs, the case against him was dismissed in Magistrate's Court for lack of sufficient evidence. Shortly after the dismissal the doctor received a notice to appear before Assistant District Attorney McGuinness. After a preliminary discussion concerning an alleged complaint made by an employee of the doctor against one of the detectives in the District Attorney's office, McGuinness stated that he was looking for an abortionist to "take care" of a married woman whom he had made pregnant.

Previously McGuinness had been to see Dr. Henry L. Blank, an abortionist in Kings County, but the fee quoted was too high. Through the intercession of the doctor, who had been a classmate of Blank's, the operation was performed gratis for McGuinness. A few months thereafter McGuinness directed the doctor to inform Dr. Blank that his office was about to be raided. Dr. Blank later told the doctor that he "had taken care of" McGuinness for the tip.

George Blank, Dr. Blank's brother and business manager, met McGuinness in a restaurant and paid him \$200.

On May 25, 1938, Dr. Blank was arrested in connection with an abortion charge. McGuinness appeared at the police station as Assistant District Attorney assigned to the case. After taking several statements from Dr. Blank, McGuinness declared that there was no evidence of criminal conduct and ordered Blank's release.

The next day Dr. Blank expressed his gratitude for the favor by sending George Blank and another attorney to meet William F. McGuinness in a restaurant and by giving to McGuinness the sum of \$50.

On March 30, 1939, McGuinness was indicted for accepting a gratuity of \$200 from Dr. Blank and also for accepting \$50 from a Dr. Nussbaum for impeding the prosecution of a charge of abortion against that physician. Shortly thereafter, he pleaded guilty to both charges and was sentenced to serve from one and one-half to three years in Sing Sing (19).

The activities of McGuinness must be considered as being of a conspiratorial and protective nature. They were far more complex than mere blackmail as the gravamen of that offense involves the mere refusal to report an illegal or immoral act in return for a fee or series of fees. McGuinness, however, not only failed to prosecute Dr. Blank but advised him of the pending activities of other law enforcement groups, maintained a hedonistic social life with him and otherwise aided and abetted his illicit practice.

Lower ranking law enforcement officers have been known from time to time to engage in a frank "shakedown" of abortionists. They have little to offer the mill operator other than a promise not to make an arrest and hence their activities fall into the category of blackmail or, legally speaking, Extortion. One recent case involved a well known retired New York City Police Detective and the following account of the affair appeared in a daily paper:

**"ARREST FORMER DETECTIVE AS EXTORTIONIST,
HUNT 4 OTHERS"**

"A ring of extortionists who pose as police and prey on physicians has grown out of the current drive against abortionists. Assistant Bronx District Attorney Bottiglieri said yesterday, in announcing the arrest of a former city detective, who in 1949 was sentenced in Queens on a forgery charge.

"The ring, according to Bottiglieri, threatens physicians with arrest on abortion charges unless large sums of money are paid. "The former detective, James Broderick, 49, of 193-08 53rd Ave., Flushing, Queens, was taken into custody Saturday night on an indictment handed up Friday charging him and four others with extorting \$3,600 from Dr. John Generi, of 685 E. 183rd St., while posing as police. Bottiglieri said his office is investigating two other instances where physicians are believed to have been victimized by the ring in the "lucrative racket" (20).

Although our officially authorized informants in the Police Department and other law-enforcement agencies assured us that they had no direct knowledge of any illicit connection between abortionists and police officers, certain other unauthorized informants emphatically disagreed. After receiving positive assurance that their identities would not be revealed, they have severally and independently read and approved the following composite account of methodology. They also point out, and the authors agree, that crime committed by police officers is in general perpetrated by relatively small numbers of such men and the integrity of the New York City force as a whole is excellent.

Detective Smith becomes aware of the lucrative practice of abortionist Jones and ardently desires a portion thereof. As a preliminary step, he locates a woman who cannot afford an abortion or who is willing for a fee to pose as being in need of one. The female decoy is then conventionally recommended to abortionist Jones by a former patient or a legitimate physician who cooperates with the police, and a date is arranged for the operation. On schedule, the decoy arrives at the mill, pays the fee with funds advanced by Detective Smith and is curretted. As the outer door of the mill is opened for her exit, several detectives block her way and force her back inside.

As per instructions, the woman makes vociferous protests and insists that the purpose of her visit was entirely legitimate. In a few minutes, however, she appears to "break down" and "confesses" that she has just been aborted. At this point, one detective remains with her while the other detective takes the doctor aside. The doctor, having no means of knowing whether the raid is legitimate

or otherwise, frequently decides that the safest course is to purchase immunity. Such purchase, according to the unofficial informants, has been known to cost as high as \$1,000 per raider.

There are several possible variations of the above scheme which are used. Also, it sometimes happens that after some months have passed, friends of the original raiders make a second visit and the pecuniary results thereof are distributed among all concerned.

In the opinion of Tolnai (21) the average operator of a busy mill pays a minimum of \$5,000 in protection money to the police each year.

A few abortionists who depend on high fees rather than quantity of patient intake avoid payment of bribes to predatory groups by associating themselves with physicians of spotless legal record who certify that each abortion is necessary to the life or health of the patient and hence is quite "legal." One such mill formerly operated in the Murray Hill Section of Park Avenue and the fees charged varied from \$1,000 to \$2,000 (22).

The mill operator is also the target of extortionate demands from other unethical professional men. One such case was uncovered by a Grand Jury in Kings County in the summer of 1939. It was found that one Abraham Ditchik, a dentist practicing on the lower East Side of Manhattan, had successfully organized a system of exacting payments from physicians on the promise of protecting them from disciplinary proceedings or on the threat that on default of payment, disciplinary proceedings would be instituted by the State Department of Education. After weeks of hearing testimony from scores of witnesses, an indictment was returned against Ditchik in September 1939. It contained fifteen counts and charged him with conspiracy with certain persons unknown to obstruct justice, with attempted bribery, and with the extortion of \$29,000 from various doctors (23).

The reader will recall that we previously defined an abortion ring as a deviant type of crescive institution consisting of a loosely knit group of interacting abortionists or mills operating at changing locations and aborting a rather considerable number of women daily. We found that the various operators were known to each other, remained in contact with each other, and that patients were referred and re-referred in order to accommodate particular or

special needs of both patients and operators. The Court records, authorized informants and various substantiating sources of information indicate that the ring—as differentiated from the mill—has the following structural and functional characteristics:

1. Has two or more operating abortionists with cooperating interacting staffs.
2. A shifting physical location.
3. Aborts a relatively large number of women daily.
4. Operates seven days per week.
5. Has specialists on staff to handle difficult cases, or cases beyond first trimester of pregnancy (induction cases).
6. Frequently has relatively distant sources of client referral, sometimes on an interstate basis.
7. The “floating” portion of the ring uses portable equipment.

Rings, as distinguished from mills, are relatively rare. Only five or 4.5 per cent of the total Court cases could qualify as true rings. The authors find that most New York City newspapers, with the exception of the *New York Daily News*, use the terms ring and mill interchangeably. Most police reporters, when more than one abortionist is arrested in a certain case, are apt to write the affair up as a “ring” and hint darkly of huge numbers of women being aborted, widespread sources of referral and of the existence of some “mastermind” who coordinates the affair. Frequently, the secretary is called a “vice-queen” and the other staff members are awarded salacious titles. One can reasonably presume, we think, that the police reporters know very well that the chief differential characteristic between a ring and a mill is that the ring changes the location of its mill or mills fairly frequently (“floats”) while the true mill has a reasonably stable location month after month. Perhaps if the mill is made out to be a ring staffed by a seemingly exotic cast of characters, more copies of the newspaper may be sold, at least one suspects this to be the case.

A fairly accurately written account of the arrest by New York police of a few members of a fairly active ring appeared in the *New York Daily News* in part as follows:

“JAIL 7 (3 M.D.’s) IN A MILLION \$ ABORTION RING”

“Three doctors, a self-styled medico and three women—includ-

ing a registered nurse—were slapped into jail last night as police announced the smashing of a four-state \$1,000,000-a-year “floating” abortion mill.

“Besides the three bonafide doctors who were arrested, physicians in New Jersey, Connecticut, Massachusetts and upstate New York steered patients to the ring, police charged.

“The principal figure, an unlicensed practitioner, and one of the women were arrested in a Brooklyn apartment, where raiders said they caught them in the act of performing an abortion. The legitimate doctors and the other two women, all accused as members of the ring, were picked up later at their homes and offices. All seven were booked at the Elizabeth St. police station on abortion charges” (24).

As we had an opportunity to examine the legal evidence in the case as reflected in Court records, the possibility of exaggeration may be discounted. The defendants admitted setting up a mill in a large apartment house and then moving the mill three weeks later to a rented house in another borough. When apprehended some four weeks later, preparations were almost completed for a third move to still another borough. Subsequently, a number of steerers who had been feeding the ring were arrested in several states and a quantity of collapsible operating tables and portable surgical lamps were seized. Police, disguised as cab drivers and operating borrowed taxis joined the group of cabs which were attracted to a profitable stand outside the Brooklyn location and drove the aborted women to their homes, subsequently determining their names and addresses. Prices ranged from \$350 to \$1,500 depending on the duration of pregnancy.

Do the mill and ring meet the criteria established earlier in this chapter and elaborated in subsequent passages as deviant types of *crescive* institution? They are certainly “deviant” as their entire intent and function is completely illegal. Are they “*crescive*” in etiology? Institutions and laws are produced out of mores. According to one definitive authority, “Institutions are *crescive* when they take shape in the mores, growing by the instinctive efforts by which the mores are produced” (25). Since we are clearly dealing with deviant social structures, we can say that mills and rings arose in response to partial group protest reactions against dominant mores.

Our survey of abortion practices in history showed that there has always been a need for abortion services and techniques among widely scattered cultures. One recalls that abortion was quite legal in many pre-Christian sub-cultures and is openly practiced in some existing exotic societies. It would therefore appear that at a time and place where abortion is considered contrary to the dominant mores, the need for it persists and this pervasive need is partially satisfied in a clandestine manner.

The above element of persistent need is another aspect of an institution as commonly defined. Reuter goes on to say "An institution is a complex integrated organization of collective behavior, established in the social heritage and *meeting some persistent need or want.*" (26).

One will recall that as defined previously an institution can at minimum be "only a number of functionaries set to cooperate in prescribed ways at a certain conjuncture." The abortionist and his staff, as we have noted from the foregoing analysis, are clearly "a number of functionaries set to cooperate." The "conjuncture" is, of course, when a properly referred female carrying at least the prescribed minimum amount of cash appears at the mill, pays the said cash to the secretary and requests an abortion.

The functionaries cooperate "in prescribed ways" because of the pressure of society forcing them to do so. One recalls the pressing need for secrecy, the element of haste, the elaborate structure of *modus operandi* and the variations in technique when serving varying socio-economic groups of clients. So similar are the "prescribed ways" that the experienced investigator finds only superficial difference between one mill and another. The actors, the location, the minimum price, the sources of referral and the socio-economic status of the clients may vary but the essential structural character and operational technique of the mills remain strikingly similar.

A further aspect of any type of institution according to the same authority is an "organized system of practices and social roles developed about a value or series of values and the machinery evolved to regulate the practices and administer the rules" (27). Our examination of the social structure and material culture of the mill demonstrated, we think, that a minor hierarchy of social roles within the organization exists ranging from the abortionist down

through the most recently employed runner, porter or contact man. All have their various prestiges, motivations, roles, techniques, values and functions from which they derive psychological satisfactions and economic income as do the various employees in the most legitimate of medical institutions.

The mill is also "developed about a value or series of values." The chief value for the patients is a negative but nevertheless vital one from their standpoint; namely, the opportunity to have an unwanted pregnant condition terminated. The chief value for the abortionist and his staff is an opportunity to make a good many tax-free dollars quickly and with a minimum of effort. With these dollars a plethora of satisfying experiences may be purchased. Since, as we have seen, the abortionist is originally motivated, from a gross psychological point of view, by needs and urges which are at least quantitatively somewhat abnormal, it is not surprising to find them indulging in what Veblen called "conspicuous consumption" (28).

Since all authorities agree that in general physician-abortionists enter illegal practice and set their fees on a "what the traffic will bear" basis, their development of pecuniary canons of taste is not surprising as the amassing of large amounts of cash is the end product of their efforts.

The court cases also demonstrated the interaction of mill personnel with enacted types of institutions, associations and interest groups. Many abortionists, in common with other professional persons who depend in part upon social contacts for sources of business, are great joiners of fraternal groups, secret societies, and organizations of business and professional men, such as the Lion's Club, Kiwanis Club, and so forth. Therein, they speak of themselves as specialists in "office gynecology" which phrase is rapidly coming into use as a polite medical pseudonym for the practice of abortion. These legitimate contacts with other institutionalized structures not only provide a fertile source of referrals but serve as prestige factors should the abortionist become a defendant in a criminal action.

In one of the court cases (29) the abortionist, his license to practice at stake, pleaded not guilty and the case went to trial. His attorney offered a shaky and improbable defense to the effect that the aborted woman was "weak and debilitated" and that the abor-

tion was necessary "to preserve her health." Thereafter, the defendant brought a stream of character witnesses from various social, business, civic and fraternal groups into Court to testify to the high reputation and social prestige of the doctor. The jury found otherwise and a verdict of guilty was returned after lengthy deliberation. Prior to sentence, the judge received over two hundred letters pleading for leniency. The telephone of the investigating probation officer rang repeatedly as a series of respected individuals including clergymen offered to supply information as to the defendant's sterling character, charitable bequests, and reputation as a public benefactor. Subsequently, the imposition of a sentence of one year and six months in State Prison was suspended and the doctor was placed on probation.

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3. New York State Supreme Court, Kings County: *Op. Cit.*, p. 27.
4. New York State Supreme Court, Kings County: *Op. Cit.*, p. 28.
5. Names of persons, boroughs, places have been changed or substituted. The witness in this case has waived immunity and is in the midst of testifying about her experiences after being referred to the office of "Dr. Glickstein" by a druggist for the purpose of obtaining an abortion. From research case 85-G.
6. Research Case No. 85-G.
7. New York State Supreme Court, Kings County: *Op. Cit.*, p. 29.
8. Anonymous, M. D.: *A Doctor Speaks Out for Abortion*. *Pageant*, Vol. XIII: August 1948, pp. 8-11.
9. Taussig, Frederick J.: *Abortion Spontaneous and Induced: Medical and Social Aspects*. St. Louis, The C. V. Mosby Co., 1936, p. 171.
10. Midwife's legitimate earnings were verified as follows: By law each licensed midwife is required to report each confinement she attends to the local Department of Health in New York City. Since midwifery was and still remains a highly competitive profession, the average fees charged at a given period are commonly known to Department of Health personnel.

11. Research Case No. 88-B.
12. New York State Supreme Court, Kings County: *Op. Cit.*, p. 33.
13. *New York Daily News*: Ten Women Tell Abortion Fees at U. S. Tax Trial. October 16, 1952, p. 5.
14. Safford, Henry B.: Tell Me Doctor. *Ladies Home Journal*, December 1952, p. 31.
15. *New York Evening Journal*: Doctor, Nurse Held as Abortionists. 2500 Girls paid "Dues" Say Newark Police. October 13, 1936, p. 2.
16. Mr. Joseph J. McCullough, Special Investigator, Division of Professional Laws Enforcement, State Department of Education. Mr. McCullough has twenty-five years experience in the development of evidence against abortionists. He was active in this field when Sol. Ullman, Assistant Attorney General, was indicted for bribery on March 10, 1939 which allegedly involved the receipt of monies from a number of abortionists.
17. The first of the above public servants, William F. McGuinness, pleaded guilty to two charges of accepting money from abortionists in return for impeding their prosecution and sentenced to serve from 1½ to 3 years in Sing Sing Prison on March 30, 1939. The disbarment of the second man, Francis A. Madden was predicated on his indictment for allegedly accepting a total of \$8,000 in protection money from two prominent abortionists. On November 13, 1940, the Justices of the Appellate Division, Second Department, announced that the report of official Referee, Isaac M. Kapper, recommending the disbarment of Madden was confirmed.
18. This particular Grand Jury did not make its findings public until October 15, 1941. It will thus be seen that from the standpoint of time, McGuinness could have been active in protecting abortionists for some eight years.
19. The above synopsis represents a condensation of several hundred pages of testimony. In actuality, the various conspiracies were quite complex involving intermediaries, code words, gifts, entertainment and a surprising amount of haggling over amounts to be paid. "Blank," in this case, happens to be the true surname of the doctor concerned.
20. *New York Post*: Arrest Former Detective as Extortionist, Hunt Four Others. February 29, 1952, p. 4.
21. Tolnai, B. B.: The Abortion Racket *Forum*, Vol. XCIV: No. 3, September, 1935, pp. 176-181.

22. *Ibid*: p. 179.
23. New York State Supreme Court, Kings County: *Op. Cit.*, p. 41.
24. *New York Daily News*: Although the newspaper account of the ring's activities covered only a period of seven weeks, we determined from official testimony that the ring, as such, had been in operation for two years. April 4, 1951. p. 3.
25. Reuter, Edward Byron: *Op. Cit.*, p. 129.
26. Reuter, Edward Byron: *Ibid*, p. 130.
27. Reuter, Edward Byron: *Ibid*, p. 129.
28. Thorstein, Veblen: *The Theory of The Leisure Class*. New York, 1899, pp. 68-101. One will recall the mill operator mentioned previously with six appearances in Magistrate's Court as an abortionist who paid \$165,000 (in 1928) for "The house that abortions built." An official informant, Dr. Perry Lichtenstein, Medical Assistant to the District Attorney has shown us pictures taken of the sumptuous offices and waiting rooms of several "Park Avenue" type of abortionists who charged fees of over \$1,000. The honorific nature of the establishments is obvious from the photographs. Legal considerations prevent their reproduction herein.
29. Research Case No. 71-U.

Chapter VI

CRIMINAL ACTIVITIES ASSOCIATED WITH ABORTION

CCOURT RECORDS reveal that the practice of filing false death certificates is usual among abortionists. It was indicated both by abortionists and legal practitioners that the greatest single source of false death certificates has always been small, private sanitariums and nursing homes which are supported by abortionists. They have every facility for covering up deaths resulting from illegal operations.

A case occurred in 1939 which caused a disturbance in the Bureau of Records of the Board of Health in New York City. It is a typical example of concealment of an abortion death. A young married female died in her home at 12:20 A.M. on a Sunday in 1939. The undertaker telephoned the office of the Bureau for permission to remove the body from the deceased's home to his funeral establishment. The death certificate was filled out by the attending physician, and it listed "bronchial pneumonia" and "acute cardiac failure" as immediate causes. The funeral director, when he telephoned for permission to remove the body, must have had the death certificate in his possession or permission to proceed would not have been granted. However, the death certificate was not filed by the mortician until three days after death, although Section 33 of the Sanitary Code of the City of New York requires that it be filed within twenty-four hours.

One month later, a certificate of fetal death, signed by an assistant medical examiner of the city, was filed pursuant to Section 32 of the Sanitary Code, for the stillbirth of "X" ("X" being the young woman aforesaid). This certificate gave the same date and place of death for the fetus as had been given for the mother in her death certificate. It was dated four days after the date of death. The fetus discovered in the morgue was described as a white male of five

months' gestation. The cause of death was stated to be stillbirth. No explanation was received by the Board of Health for the irregularities of filing the apparently false death certificate of the mother or the fact that no particulars had been furnished regarding the circumstances of the stillbirth. All data on the case were collected and submitted to the District Attorney of that county for investigation.

Another example of this situation is a case which appeared in the Kings County, New York Court in 1936, wherein a doctor was charged with filing a false death certificate and causing false hospital reports to be made, in an effort to cover up an abortion which he performed and which resulted in the death of the patient. The death certificate recorded that the female had died of fibromyoma uterus contributory to vasomotor collapse. At the trial three leading gynecologists in Kings County testified that the cause of death was abortion (1). Even before the indictment was handed up, the doctor defendant admitted performing the abortion upon his patient and admitted making out a false death certificate. Yet, in spite of the doctor's statement and the expert testimony for the People at the trial, the defendant was acquitted (2).

Taussig cites the dishonesty of certain practitioners in the above type of case as one of the principal reasons why the exact abortion death rate cannot be discovered.

"The same lack of honesty appears in our mortality records, where we find cases of abortion death registered as pneumonia, kidney disease, or heart failure. The recent splendid statistical investigations of maternal mortality made in New York and Philadelphia show that in 25 to 30 per cent of abortion deaths a false diagnosis was put upon the death certificate. These errors were detected only by a meticulous follow-up of hospital records and personal interviews made by the physicians in charge of the survey" (3).

Criminal abortions are also performed ostensibly under sanction of law in certain small private hospitals, under the theory that the patient is suffering from a peculiar infection and that a diagnosis of the condition of the uterus is necessary in order to define the illness. One enterprising little hospital showed among its

records that there were performed within its confines in one year one hundred and seven diagnostic uterine curettages. The hospital records showed that the diagnosis in one hundred and four cases was pregnancy (4).

Another crime not infrequently associated with abortionists is that of purveying drugs to narcotic addicts. A case in point occurred when police arrested two druggists, two "nursing home operators" and two abortionists after observing known drug users obtain narcotics from them for several weeks (5). In another case an osteopath slashed his wrists in a jail cell while awaiting trial on charges of abortion and violation of state narcotic laws. The attempted suicide occurred after a panel of three psychiatrists had ruled that he was sane and able to stand trial (6).

Although there has never been a drug or substances which, taken orally, will produce abortion in the early pregnancy of a healthy woman without serious, possibly fatal, after effects, the medical folklore of the land holds to the contrary. Numerous unethical drug houses operating through the mails and constantly changing their firm names capitalize on the fears and guilt of thousands of women with an unwanted pregnancy, real or imagined. These advertisements appear in the pages of third-rate picture magazines of the "Hollywood" or "confession" type and are cleverly worded to avoid federal prosecution yet attract the medically ignorant and gullible (7).

"PERIOD DELAYED? . . . DON'T WORRY!

USE DOCTOR'S PRESCRIPTION! BE RELIEVED of this worry! Your Period Delay may be functional and this **DOCTOR'S METHOD** may bring prompt relief! It is a Quality Preparation of **OFFICIAL MEDICAL DRUGS!** Easy to take and **NO** harmful after effects! **SEND NO MONEY!** Pay postman on delivery of a Generous Supply packed in a **CONFIDENTIAL BOX!** **ONLY \$10.00. SEND NO MONEY! RUSH YOUR NAME AND ADDRESS TODAY! . . . TO**
MEDICOSERCO Box —, Newark, N. J."

The harassed Department of Food and Drugs of the United States Department of Agriculture constantly tests these useless and sometimes dangerous products. A flurry of "cease and desist" orders

are issued monthly to these firms and read with monotonous regularity . . .

“If the user of this medicine is suffering from high blood pressure, its use would be dangerous due to the adverse effect on the pressure caused by some of the ingredients, notably pituitary extract. In cases where pregnancy exists it would be definitely dangerous because the drugs contained in said preparation are entirely too potent to be administered without the attendance of a physician, and when given without the attendance of a physician and in an overdose it will possibly produce excessive uterine hemorrhage or rupture of the uterus with the invariable danger of puerperal sepsis or secondary infection of the uterine contents with resulting high mortality rate.”

Many of these supposedly ecbohic products become well known drug store and mail order names before the federal government can test them and forbid their distribution. When these unethical firms receive a “cease and desist” order they frequently change their name and post office box number, make a slight change in their “product” and advertise as before. Meanwhile many lower class women who fear an unwanted pregnancy but whose menses are actually delayed for psychosomatic or functional reasons take these medications with apparent “success.” Pleased and relieved, they pass the word to their friends that abortifacient drugs can be readily secured through the mails. In this fashion the medical folklore is given new impetus and credibility.

Another side line sometimes indulged in by abortionists is the channeling of out-of-wedlock babies to the grey or black market adoption sources. In this type of activity the abortionist associates himself with an unethical attorney or self-styled social agency specializing in adoption. Abortionists frequently encounter clients whose pregnancies are too far advanced to be terminated safely or who are obviously ambivalent about seeking an abortion. They then offer to pay the woman’s confinement fees and extend personal living expenses until after the birth with a promise to secure “a good home” for the newborn infant. Frequently a bonus of \$100 or so is included as a further inducement. Many homeless and impecunious young women see this package deal as an answer to their

prayers and as assuagement for their ill concealed guilt feelings. Should the abortionist also operate a nursing home as a front for his activities, this plan is made to order. In no time at all the pregnant woman finds herself employed therein as an unpaid kitchen drudge until parturition is imminent. The neonate is then "sold" by the abortionist to the lawyer or "agency" at about \$1,500 and the adoptive parents pay about \$3,000 for the infant at current prices (8). As the mother's legal consent has been obtained and the proper papers filed the entire affair is quite legal but wholly unethical.

In a previous chapter we examined the *modus operandi* of venal police officers in extorting money from abortionists. This technique is frequently employed by criminals posing as police officers with bogus shields and forged complaint forms (9). A variation of this technique occurs when the criminals conspire with one of the steerers for a ring. In one case a twenty-four-year-old woman steerer for an abortion ring was arrested. Investigation disclosed that once an abortion was completed she would turn over the name of the attending physician to her accomplices who then extorted money from him (10).

One abortionist of many years experience testified that he was robbed at gunpoint of several hundred dollars in his office. He did not report the crime to the police as he did not wish to draw any attention to himself. About a month after the robbery the gunmen were arrested in connection with another crime. Under interrogation they confessed to robbing the doctor among other offenses. As police could find no record of any complaint from the doctor, their suspicions were aroused to the effect that an abortionist might be involved. After surveillance of the doctor's office for several weeks and tapping his telephone wires the police raided the premises. The raid had been planned for a time during which a patient had been scheduled for an abortion. Unknown to the police the appointment had been rescheduled for the following day. A disappointed police lieutenant told the doctor, "We usually catch them with the meat in their mouth but we missed out on you. The district attorney will have a fit" (11).

In contrast to the enthusiastic but disappointed lieutenant we

find that from time to time police officers are arrested and indicted for being actual members of abortion rings. In one case a patrolman conspired with a former physician and former nurse to perform an abortion on an out-of-state woman in the home of a convicted abortionist in a third state. Assistant District Attorney Irwin Goldsmith, in commenting on the matter, stated that the patrolman's indictment "culminates the investigation into the activities of this ring which operated throughout the city and the states of New Jersey and Connecticut" (12).

We thus see that abortionists play other criminal roles and interact on a surprising number of social levels with a wide variety of persons.

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Chapter VII

SELF-INDUCED ABORTION

AS WE SAW IN Chapter II, the practice of self-abortion has existed since ancient times. Despite its great danger, the practice is quite prevalent although no adequate assessment of its incidence has or presently can be made. Several studies of the subject have been attempted, usually as part of larger studies (1). However, there is little point in discussing the figures obtained since the sampling techniques are generally inadequate. In addition such things as race, religion and social class are inadequately dealt with. The authors offer, for what it is worth, an "educated guess" that about 20 per cent of all induced abortions are self-induced. Interestingly enough these contribute the majority of the fatalities due to abortion.

The induction of abortion is not an easy procedure and where successful is more likely to have been spontaneous rather than actually induced. Ignorance and the lack of skill increase the possibilities of failure and greatly increase the dangers of this procedure. Interference with pregnancy is not without danger even under the best conditions.

A catheter is frequently used to attempt self-induction of abortion. This is readily obtained at the corner drug store. It is a stiff rubber tube commonly used in the hospital to draw off urine from the bladder. Certainly, in the drug store, for every catheter sold for its proper purpose, a dozen are sold for abortion purposes. After much trial and error, the woman inserts the tube into the uterus. Since this is not easily done, she seeks help from a friend or neighbor. If successful the tube directly disturbs the pregnancy, causing expulsion of the products of conception with a variable degree of bleeding. The woman may seek medical aid at this point particularly if the hemorrhage is alarming. The more common and more serious complication of the procedure is infection. The lack of knowledge of asepsis insures that this occurs in all cases. The uterus

cannot be invaded without producing some degree of infection. Fortunately the body, particularly that of a young woman, combats this without difficulty in most instances. With antibiotics the danger is further reduced but still remains significant. Infection is the most important cause of death in abortion no matter how induced.

An alternate do-it-yourself method, prominent in medical folklore, is to use some sort of thin rod with a blunt end. This, like the catheter, is introduced into the uterus to disturb the implanted ovum. An umbrella rib with a ball end or the blunt end of a knitting needle is frequently the instrument of choice. With this method the risks of infection are compounded by the danger of perforation of the relatively soft wall of the pregnant uterus.

Any large public hospital has a number of beds occupied by the victims of these abortions. The lack of any real knowledge of anatomy and the principles of asepsis is primarily responsible. This applies to the victims of the medically untrained abortionist as well as the do-it-yourself job. Despite antibiotics and other medical advances, there is still a small but significant number who end as a statistic in the "Annual Report of the Medical Examiner." Curiously enough, some of these deaths due to abortion have a notation in their case records: they were not pregnant in the first place.

A home method of several centuries standing is the use of slippery elm—a dehydrated form of tree bark. A stick is inserted into the cervical canal. Secretions cause the stick to swell, thus dilating the cervix. This method works occasionally but in most instances it fails. The stick is difficult to insert properly and to keep in place. There is great danger of infection of greater or lesser severity depending on the type of organism introduced. Laminaria tents, dried seaweed compressed into pencil-like shapes, have been popular in Germany and other European countries. They have never attained much popularity in America either as a domestic or professional means of abortion. The method of use is the same as that of slippery elm. The inefficiency and the risks are equally as great. Most frequently the tent is poorly inserted and slips out of the cervix. On the other hand the tent may be "lost" in the uterus. Removal may be difficult and painful. Some women, in an attempt to keep the tent in place overnight insert a tampon or gauze pack.

Although this may achieve its intended purpose it insures the certainty of infection by obstructing drainage and establishing a "broad highway" for micro-organisms.

There seems to be no end to ingenious devices and methods in self-abortion. Dr. Alan F. Guttmacher (2) tells of a farm woman in her later reproductive years aborting herself some twenty-eight times. He first encountered her in the emergency room at Johns Hopkins Hospital when she came a cropper on her twenty-ninth less successful attempt. Her method was both simple and original. After plucking a feather from a goose in her barnyard she would dip the point in a can of kerosene. Then, squatting over a mirror, she would introduce the quill into the cervix. This was easily possible since her uterus was prolapsed and the cervical os could be readily visualized. Continued bleeding accompanying retained placental tissue brought her to the hospital on this last occasion. A curettage "returned her to the barnyard."

At the other end of the social scale we examined an "abortion machine" designed and built by a patient of Dr. Wilfred C. Hulse, formerly chief psychiatrist at Children's Center, New York City. This novel device was based on the rod technique described above. Hulse's patient had designed the device for use on his own wife and had so employed it on several occasions with apparent success. It was well constructed of surgical steel with a stop device to prevent perforation and with a series of gears actuated by a tiny crank.

Accompanying perforation there may be injury to adjacent organs. Thus recto-vaginal and vesico-vaginal fistulae may follow perforations into the rectum and bladder, particularly when rigid instruments such as a screw driver are used (3). By mistake catheters have been introduced into and lost in the bladder. Solutions, such as soap or other, when injected into the uterus can and often do enter the venous circulation directly, causing variable degrees of hemolytic and chemical injury. Injection of air into the uterus whether intentional or accidental can and not infrequently does result in air embolism. In this instance air enters the venous circulation in sufficient volume to cause circulatory embarrassment and may cause rapid death.

In addition to attempts to disturb pregnancy by direct invasion of the uterus by instrumentation or injection of noxious material,

there are the less direct or external attacks. There is a vast folk lore of misinformation in this area. Hot sitz-baths alone or in combination with other methods are thought to be effective. In pre-literate tribal societies direct blows to the abdomen, such as having someone jump on it, are favored. Occasionally this is done in our society. This can have rather serious consequences. More frequently less strenuous trauma is used, such as horseback riding, jumping, carrying heavy suitcases, gymnastics and similar violent exertions. These efforts are as a rule wasted. Attempts at electrical stimulation to produce uterine contractions have on occasion produced electrocution.

An even less direct method is the use of poisons to attack the product of conception. As pointed out by Taussig a good deal of our knowledge of poisons has been obtained from desperate, hazardous experiments in self-abortion. Old wives tales carry this lore from one generation to the next and from time to time new brews or concoctions are devised and gain popularity. Kummer (4) reports a new method used in Germany following World War II. The word was that the powder from a particular type of 8 mm. rifle shell when dissolved in a glass of warm water and drunk in entirety would produce a prompt, if painful, abortion. It was believed that the woman taking this dubious potion would become violently ill for a twenty-four hour period but would recover immediately after aborting. However, no powder except that from the specific rifle shell would be effective.

There are many agents reputed to be abortifacients. These vary greatly in composition and purity. They may be obtained with ease or difficulty. One of the drugs commonly available is ergot. This is derived from a parasitic fungus which occurs on rye. Accidental poisoning still occurs in those areas where this cereal is grown for food. The drug is very useful in obstetrics where its only accepted medical use is for control of postpartum hemorrhage. It is sold illegally, however, for the purpose of obtaining abortion. The drug is dangerous in the quantities needed to produce abortion. Rupture of the uterus with all the dangers of occult hemorrhage and shock may occur when the drug is used to induce labor in the later stages of pregnancy.

Quinine also has a false reputation as an ecbolic agent. Like

castor oil and other purgative drugs it has little effect on a pregnancy unless taken in such quantities as to endanger the life of the woman. Despite this such unreliable agents as oils and extracts of absinthium, arnica, rosemary, nutmeg and savin have been used for centuries. Tansy tea was a favorite "remedy" in rural America. Apiole, a derivative of parsley herb, is still used widely as an abortifacient and emmenagogue. Aloes, a powerful purgative, along with such other herbs as cloves, thyme, saffron, hellebore, hydrastis, sassafras and rue still enjoys a certain popularity. In general, unless these agents are taken in quantities sufficient to produce poisoning and endangering life, they are ineffective. Spanish fly, which has caused many deaths, has not only gained a dangerous and false reputation as an aphrodisiac but also an undeserved and even more dangerous reputation as an abortive agent. Fortunately it is not readily available since it has no legitimate use.

There has been extensive amateur experimentation with a host of inorganic drugs. Metal salts, such as arsenic, mercury, copper, lead, etc. have been used—frequently with fatal results. Lead, because of its direct toxic action on placental tissue, has gained a dangerous reputation as an effective abortive agent. In the early years of this century it was found that women working in the lead industry had a high level of spontaneous abortion. This led to the frequent use of lead salts by unethical druggists and midwives as a means to interrupt pregnancy. Diachylon pills, which contained lead oleate, were used in the Nottingham region of England in the 1930's and caused a series of deaths among pregnant women. Mrs. Seagrave, alias Wardell, was sentenced to prison as an abortionist for selling "Mrs. Seagrave's Pills" which had diachylon as the main ingredient. Parry (5) describes the near fatal result when an unmarried twenty-two year old girl took these pills because of delayed menstruation. She promptly developed lead poisoning with prominent lead encephalopathy. She recovered slowly and only in part, remaining totally blind because of optic atrophy.

Phosphorus, which is a powerful liver poison, has been the cause of death of a number of pregnant women. In days gone by, when white phosphorus was used in match heads, it was not uncommon to hear that a woman had ingested match heads to produce abortion. Although phosphorus is still available—in certain rat poisons

—it seems to have lost in popularity. It produces acute yellow atrophy or necrosis of the liver which not infrequently is fatal (6).

Pituitary extracts and snake venoms have been used in the past, but they are hardly likely to be used by an amateur since they exert their action on injection. These are powerful agents avoided by professionals, except for their specific and legitimate uses.

It is obvious that abortifacients, without exception, are either ineffective and/or highly dangerous to use. The myth of their efficacy is maintained for a variety of reasons. The woman fearing pregnancy is readily convinced that a delayed period means pregnancy. The onset of bleeding—merely an irregular menstrual period—convinces her more or less firmly that the abortifacient she had used was effective—*post hoc ergo propter hoc*. Spontaneous abortion, particularly with the first pregnancy, is not uncommon and if it follows the use of some abortive agent, is falsely interpreted as a self-induced abortion. Truly, nature protects the fetus very well indeed and the price and effort required to blast it out of the uterus can be prohibitive. As often as not, many abortion patterns first include self-medication with abluent, litharge, lavender, camphor drops, pennyroyal, gin-with-iron-filings, or some other noxious brew to be followed by a more direct approach and/or a visit to a professional abortionist.

Accounts of deaths due to self-induced abortions appear regularly in the tabloid type of newspaper. The less flamboyant family newspaper tends to avoid this type of news unless it involves a professional abortionist. One can gauge the determination, bordering on fanaticism, of some of these women trapped with an unwanted pregnancy in these newspaper articles buried somewhere in the back pages. The following is an example:

ABORTION ON SELF KILLS WOMAN

A Methodist minister's daughter died today after trying to perform an abortion on herself, according to police.

She was Miss Wilma Miller, twenty-four, attractive red-headed stenographer from Waterville, Pa. The girl and her mother, Mrs. Jane Miller, came here Thursday to visit Mrs. Miller's other daughter, Mrs. Florence Pritchard, of 885 Prospect St., Bronx. They stayed in a furnished room at 883 Prospect St. Summoned there from Bedford Hospital, Dr. Minoru Wah-Hee pronounced

Wilma dead from an attempted abortion and toxic poisoning. The mother said she had warned her against performing the illegal operation. Detective George Iglesia, of the 128th Precinct Detective Squad stated that a quantity of drugs and several instruments were confiscated at the scene and will be forwarded to the office of the County Medical Examiner.

Police are satisfied with the mothers' version of Wilma's death. Pending autopsy, no charges will be filed.*

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*All names are fictitious.

Chapter VIII

ABORTION AND THE COUNTY MEDICAL EXAMINER

AS HAS BEEN indicated, criminal abortions are not infrequent but only a very small proportion come to the attention of law enforcement authorities. Most of those cases having the desired outcome are kept secret and come to light only years later, if at all, in medical histories. A significant number of cases, however, require immediate medical attention for complications. These cases then may come to the attention of legitimate physicians and may be treated in a hospital. In a proportion of instances these may be reported to the police. Many resemble spontaneous abortions, however, and unless the woman admits the criminal aspect they are accepted without further question. There are, of course, certain types of indications which definitely label the abortion as induced, and these are reported to the police. Ordinarily little comes of such a report since the woman refuses to divulge details of the abortion. She is usually coached either to admit nothing or to acknowledge the abortion as self-induced. In a very few instances, the woman is so dissatisfied that she is willing to prosecute the abortionist. This ordinarily requires a great deal of determination and courage on her part since she must sign the complaint and testify in open court regarding something that in most instances she would like to keep as secret as possible.

The large number of complications arising from criminal abortions is a reflection of the less than ideal circumstances under which they are performed. Even when performed by a physician, a criminal abortion is performed under covert and necessarily less than ideal conditions. Certainly they are not performed in a large hospital with all the available specialized medical equipment and the consultants who can assist as needed. That there are no more deaths and serious complications is largely due to the fact that the procedure is ordinarily carried out on a healthy and young woman.

Mother Nature in most cases takes care of the abuse these women subject themselves to.

When a criminal abortion is performed on a woman with a serious defect or illness, complications can usually be anticipated. Recently we autopsied a young woman who died following a criminal abortion. She had a congenital defect of the heart. The infection which followed the abortion gave rise to a bacteremia which in turn caused an acute bacterial endocarditis. Despite intensive antibiotic therapy, there was embolization from the vegetations on the defect of the heart, and eventually she died. It was several weeks before she died so that the uterus showed no evidence of pregnancy nor any evidence of the original infection which caused the fatal endocarditis. She was too sick to ever tell the circumstances of her abortion, but her boy friend, who had arranged the whole thing, informed the police of all the details. The abortionist was a middle aged woman who had had a number of brushes with the law in several different states and Canada as well. She admitted performing the abortion and described to the police how she had performed the operation on the living room floor of her home using a rubber catheter stiffened with wire. The confession was not admissible at the examination. The medical evidence unfortunately could not support the presence of a pregnancy. The girl had not been examined by a physician prior to the abortion. When admitted to the hospital the pelvic infection was red hot and therefore no attempt at examination was made until after some considerable period of time. At autopsy, as stated, the evidence was gone. Under the circumstances the abortionist was released even though she was directly responsible for the girl's death.

There are many legal hurdles that make the job of prosecuting a criminal abortionist extremely difficult. In many instances women who are "aborted" are not pregnant. This legally is not an abortion. It may be an illegal operation or an assault, but certainly not an abortion. Abortionists, of course, use many ruses to escape prosecution. The aborted woman may never actually see who performs the abortion. She may also be taken to the place where she is to be aborted in the dark, perhaps blindfolded, so that she may have no knowledge of location. This poses problems in successful prosecution.

It is often stated that the police tend to be lax in the prosecution of abortionists. We do not agree. The facts are that their efforts are often surprisingly efficient and effective. No doubt they are sympathetic to some of the women and their plight but this does not alter their continuous harassment of the abortionist. The successful prosecution of the abortionist requires a great deal of hard work and intensive effort. Ordinarily, it is necessary to locate him through one or more of his clients. It is necessary to keep him under surveillance to discover his method of operation and above all identify his assistants. This can be a long, frustrating investigation which can lead to naught if the abortionist becomes aware of being observed. If one considers all the difficulties entailed, it is surprising how successful the police are. The cost of an abortion is an index of the difficulties the abortionist faces. The dodges that the abortionist utilizes to avoid detection is another index of the efficiency of the police harassment. One abortionist operates from a state in the west flying in to other states to perform his work, leaving immediately upon completion of his work. I think most abortionists would agree that the police, at least in most metropolitan areas, are far from cooperative and are more difficult to circumvent than many people would believe.

The products of abortion are disposed of rather easily, particularly if the pregnancy is early. In most instances the tissues and fetuses are flushed down the toilet. Some abortionists, for their own protection, insist on personally viewing and disposing of these products. In this way they dispose of possible evidence against themselves. The larger fetuses are disposed of in a fantastic variety of ways. They are found in garbage cans, sewers, lagoons, parks, public toilets and even bus stops. These are brought to the Medical Examiner's Office where they are examined, catalogued and stored. The tissues are in various stages of decomposition which further increases the difficulties of identification and investigation. It becomes very difficult to connect a fetus with a specific recently pregnant woman and yet on occasion this is done.

Recently a physician came to the attention of the police as an abortionist. He had attracted attention to himself by associating with known criminal elements. As a decoy, a policewoman approached him with a story that she was pregnant and desired an

abortion. The physician was more than willing to comply. He asked for \$250, which the policewoman agreed to pay. He arranged to call her in a few days and took her to a hotel. He then raised the price to three hundred dollars. After the marked money was passed he was arrested. The prosecutor, however, could not proceed since the policewoman was not pregnant and hence no conspiracy to perform an abortion could exist. Further investigation amongst the physician's ex-clients revealed an instance where the infant born as a result of one of his abortions was born alive and despite immaturity survived for several days. Although the physician had no qualms about allowing the child to die, the friends of the mother were more queasy and as a consequence they abandoned the infant in the waiting room of a hospital. Despite efforts of the medical staff, the infant died and the body of the infant was brought to the medical examiner's office. Here it was catalogued and stored until about a year passed. This death was then connected to the activities of the physician-abortionist. The case, however, was weak in many respects, being based on evidence supplied by prostitutes, pimps and criminals. The physician did plead guilty, however, to a lesser charge than manslaughter with which he was charged.

The physician-abortionist generally is capable of producing a clean professional job which should only rarely result in any serious complications. Unfortunately, almost without exception, the physician-abortionist is a deviate in some manner. Several years ago a girl was brought to the medical examiner's office. Autopsy proved she died as a result of a particularly brutal abortion. The physician had tried to empty the pregnant uterus with a curette. He was so drunk that he could not find the cervical os and perforated the vagina entering the peritoneal cavity and tearing loops of bowel with the curette. His practical nurse was so sickened that she, along with the girl's boy friend, volunteered testimony against him. Alcohol had so robbed this man of his skills that he degenerated to the practice of criminal abortion and even this he could not perform with any greater skill than the most ignorant midwife.

Another physician who persistently returned to the practice of criminal abortion despite constant harassment by police was a sexual pervert. He obtained his sexual partners from among the clients who came to him. Many objected to his perverted attentions

but only a few complained to the police and periodically he would serve time in prison for abortion. He died by his own hand from an overdose of morphine.

It is obvious that there is no assurance of competence or even reasonable care when a woman seeks a criminal abortion. Just because the abortionist is a bona fide physician does not mean anything. Very frequently, also, the abortionist merely poses as a physician, and actually has less knowledge than a butcher. The lay abortionist lacks conception of the anatomy involved. Instrumentation may result in uterine perforation and similar serious complications. Embolism by air or other foreign material results when these are forced into the bloodstream through the denuded surfaces of the aborted uterus. However, the most frequent complication of abortion by the lay operator is infection. Ignorance of the fundamental principles of bacteriology and particularly asepsis is the reason for this. Gas gangrene is one of the more common and certainly the most spectacular form of fatal infection. This is an infection due to dirt. It grows rapidly in the dead tissues in which it is planted. About two days after the instrumentation the infection is ready to kill. It has proliferated and produced sufficient toxin to produce a fatal illness. There is a massive hemolysis or destruction of the blood. The liberated hemoglobin stains the tissues a bizarre mahogany red. It is most startling to observe a woman with this condition. Her color changes from a normal white to a mahogany color which is most characteristic and diagnostic (1).

Although infection still contributes a large proportion of the abortion deaths, it is not the contributor it was in the days prior to the anti-biotics. Deaths due to abortion are now approximately one sixth of what they were prior to 1940. Before a woman seeks the services of an abortionist who attacks the pregnancy directly by scraping the womb with a curette, insertion of a catheter or similar foreign body or injection of a chemical paste such as Luenbach's paste, they often first seek help from relatives or friends. They are frequently directed to drugstores where they can procure so-called abortifacient drugs and instruments. These are primarily intended as "do-it-yourself" projects.

In general, the drugs they obtain are ineffective often producing acute intoxication. Fortunately, in most instances, Mother Nature

manages to save them so that but few women die of poisoning. On occasion, an abortion is apparently produced by a drug obtained for this purpose. This results when a woman, who is not actually pregnant, begins to menstruate. The drug taken, whatever it may be—ergot, quinine, essential oils, etc., thus gains an undeserved reputation as an abortifacient. In some women spontaneous abortion is frequent. Actually they have difficulty in carrying a pregnancy. This type of case also may give abortifacients an undeserved reputation. In most healthy women a normal pregnancy is very difficult to disturb. A drug, to be effective, would have to produce a near lethal level of intoxication.

Potassium permanganate is often used to presumably produce abortion. This is a powerful oxidizing agent and when introduced into the vagina literally burns through the mucous membrane eroding blood vessels which produce bleeding of greater or lesser severity simulating an abortion. The hemorrhage at times is so severe as to require surgical intervention and blood transfusions. Despite all this the pregnancy is usually not affected (2).

The drug approach having failed, the do-it-yourself operator attempts more direct methods. She may attempt inserting some pointed object such as a knitting needle, umbrella rib, wire from a coat hanger, or slippery elm. These being introduced blindly and with considerable timidity generally prove ineffective. Where desperation or determination causes the woman to penetrate the uterus or the vagina infection is introduced into the pelvis and peritoneal cavity. This is even more likely to occur if the woman is helped by a friend or a relative.

Several years ago the death of an attractive young woman was reported to the medical examiner's office. She was found dead in bed. The body was nude and there were no marks of injury. The father, with whom she lived, reported that he found her dead. He could give no medical history. Autopsy demonstrated the presence of a pregnancy in the first trimester. There was no apparent cause of death. It was suspected that she died in the course of an attempted abortion. By a ruse the police got the father to admit that he attempted to abort his daughter. He had first procured a rubber catheter from a druggist. He then tried to insert this into the uterus after placing his daughter on the kitchen table. The catheter, stiff-

ened with wire, caused a reflex cardiac arrest upon entering the cervical os. Although this type of complication is not common, it does occur. It is an emergency that can occur during almost any type of surgical procedure and in a hospital it can usually be treated with success. In this instance, the father had no idea what happened and certainly could do nothing to save his daughter's life. The man pleaded guilty to the abortion.

More recently a well dressed young woman was found dead behind the wheel of her late model car. She had been observed to park her car and remain sitting there. After a time the youngsters who had observed this brought her peculiar behavior to the attention of their parents. The police moved her body to a hospital where she was pronounced dead. Investigation of the car revealed a partly filled bottle of vinegar, a douche bag, a rubber catheter and a fountain syringe. At autopsy it was established that she was pregnant. The cervix showed no trauma but the mucus plug was absent and a small amount of blood was present in the vagina and cervix. The placenta had been partially detached from its bed. The fetus was of about two months gestation. Death was due to air embolism. There was abundant air in the pelvic veins and the right side of the heart was distended with a bloody foam. Investigation indicated that she had attempted to abort herself most probably with the help of a girl friend and died by reason of the injection of air into the uterus. It is probable that she tried to inject vinegar into the uterus and incidentally also injected sufficient air to cause death. It would seem highly improbable that she could have left her girl friend's house under her own power. Death due to air embolism is ordinarily quite rapid and yet eye witnesses established that she had driven to the spot where she was found alone. This was a few minutes away from the house she had left. Possibly the witnesses were in error or perhaps she was driven there and abandoned. It is possible, however, that the injected air was trapped in the uterus and vagina and was absorbed more slowly from the rather limited denuded area in the uterus. This is highly unusual but has been reported (3).

Although fatalities do occur, they are not frequent. In Wayne County, which includes Detroit, there were nine officially recorded fatalities due to induced abortion in 1962 and fifteen in 1961. This

area has a population of 2.7 million. This would indicate that the mortality rate is well below 1 per cent. Of course, this is an extremely high rate if one considers that the individuals are young healthy adults. Somewhat more than half of these deaths were due to self induced abortion as one might expect.

The problems facing the medical examiner in investigating abortion deaths are rather frustrating. Anatomical evidence is difficult to obtain and at times completely absent. The mechanisms of death are somewhat difficult to explain to the investigating police and courts. This means that the autopsy pathologist must cooperate in the investigation more completely than in any other type of death and his presentation of evidence must be more detailed and more careful than in most any other type of case. In a great measure the degree of success the police and prosecutor have depends on the skill of the pathologist and the degree and facility of communication between these agencies (4).

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Chapter IX

ABORTION AND THE LAW OF HOSPITAL, PHYSICIAN AND PATIENT

IN PRIVATE AND public hospitals abortion cases are a frequent source of trouble, both real and potential. While medically unnecessary abortions may not be performed in an ethical hospital, it is common to admit cases of incomplete abortion whether spontaneous or criminal. Indeed, as we have seen previously, some abortionists may commence a case wherever they practice and then instruct the client to go to her own doctor or to a hospital when serious symptoms occur. The physician who attends a case of this sort can be in a precarious position. If he examines and treats the patient in his office and she should die, an element of suspicion can arise. Good practice requires that he hospitalize the patient after as brief an examination as possible. This should be followed by a detailed examination with the aid of consultants. The law presumes medical necessity until a preponderance of testimony to the contrary beyond the bounds of reasonable doubt can be presented.

Specifically exempted, in most statutes, are those abortions performed to save life. The jury determines on the basis of the evidence produced whether the abortion was criminal or otherwise and whether, if intentional, the act had medical justifications (1). If the hospital and its medical staff are to be protected, a careful and detailed history should be taken in *every* case of abortion of *any* type requiring surgical intervention. If the history is sparse, slanderous accusations can be made from several quarters concerning the reputation of hospital and physician. A necessary element of the crime of abortion is intent. This crucial element can sometimes be detected in the history given. In one case a man beat his pregnant common law wife during an argument, injuring her head and thoracic region. She aborted shortly thereafter and he was convicted for causing the abortion. On appeal, conviction was reversed as it could not be shown that the defendant intended to cause that type of injury to her. Hospital records proved a vital part in that case (2).

A competent medical opinion should be secured before it is concluded that an abortion is of criminal origin. Some women abort habitually and the fact that a female has aborted following medical treatment or an accident does not constitute evidence, of itself, of criminal etiology. Spontaneous abortion may be caused by malformation of the uterus, malposition, a tumor of the uterus, diseases such as tuberculosis and a lengthy array of other causes. Syphilitic mothers not under treatment may bear a premature or immature stillborn infant. A carefully prepared, detailed and thorough record may sometimes determine the physician's good or bad faith. Some hospitals require patients who are admitted in a state of threatened, impending, or post-criminal abortion to sign a statement to the effect that they were admitted in such a condition and absolving the hospital and attending or consulting physicians from all blame for the condition or any future event connected with the ethical treatment of it.

State law specifically requires consultation in New Mexico, Georgia and Maryland. In the absence of consultation more rigid proof of the medical necessity for the abortion is needed. The establishment of guilty intent cannot be accomplished solely by showing that the physician failed to obtain a consultation. Additional evidence is needed to corroborate the State's claim that the abortion was for other than medically indicated purposes (3).

Abortion is punishable as a separate crime in a number of states irrespective of whether the female involved was pregnant or not (4). In other states the element of proof for abortion requires the prerequisite of the proof of pregnancy (5). In still other states pregnancy is not a material element of the crime of attempting to procure an abortion (6). The statutes generally fall into three types: (A) "any woman supposed to be pregnant" (Kentucky, Indiana, Delaware, Rhode Island, Vermont, Pennsylvania and Wyoming); (B) "any woman with intent to procure an abortion" (Florida, Iowa, District of Columbia, Connecticut, Ohio, Massachusetts, Virginia and West Virginia); (C) "any woman whether pregnant or not" (New York, Minnesota, Missouri, and Washington).

The state generally bears the burden of proof to show that the abortion was not therapeutic; that is, medically justified (7). Proof of the actuality of pregnancy and a subsequent operation are, in

and of themselves, insufficient to show a criminal act (8). In one case a physician admitted that he had performed a D. & C. on a seventh-grade schoolgirl because she had a rising temperature, an accelerated pulse, and was flowing, indicating an infection of some sort. The attending nurse corroborated his testimony. A prosecution witness testified that the doctor did not take the girl's pulse or temperature and that the girl was in school up to the time of the operation. The doctor was convicted as the jury believed the operation was not necessary to save her life. The case illustrates a situation in which the presumption of good faith was overcome by testimony casting a more than reasonable doubt on the presumption (9). It is sufficient to demonstrate a potential peril to the life of the mother. Such peril need not be imminent. A defense of potential peril should be well buttressed with proof of what other and prior measures were taken to alleviate or overcome the potential peril.

In the case of an unmarried fifteen year old girl a physician was charged with procuring a criminal abortion. He testified that "as there was no life in the fetus you have to facilitate the miscarriage. The fetus was dead and if I didn't produce a miscarriage it might produce death, the condition she was in at the time, by producing blood poisoning." The jury found him not guilty as they believed in the medical necessity for his acts (10). It is often a medico-legal question as to whether a given abortion was criminal or therapeutic. Since it is presumed the physician acted in good faith, the prosecution must show by competent medical testimony that the pregnant condition of the female neither imminently nor potentially imperiled her life. The physician-defendant must then by his own testimony and/or that of expert testimony of others, show that the operation was necessary on the grounds of therapeutic necessity. The jury will then determine the facts after being instructed in the law by the judge.

There are honest differences of opinion among practitioners as to what constitutes sufficient cause for interrupting a pregnancy. Medical literature on the subject contains conflicting statements. Recent advances in medical therapy, particularly in the use of sulfonamides and antibiotics can now allow certain pregnancies to be brought to full term that formerly were terminated rather routinely (11). Fewer and fewer pregnancies are being terminated for cardiac

disease and an ever increasing list of other diseases in recent years. Once again, the necessity for the physician to have at least one consultant is simply good judgment. Legally speaking, each case can be judged on its own merits. The ethical practitioner through skill, knowledge, and routine precautions can easily see to it that the "merits" in his favor are overwhelming and preponderant (12).

If it is obvious from the examination or the admissions of the patient being admitted to the hospital that a criminal abortion has been committed, then the person taking the patient's history should note the following: Were instruments used? What type? By whom? For what purpose and in what manner? If there is no adequate medical necessity it is always a crime in the United States to use instruments on a female with the intent of aborting her (13). Were any drugs or "any substance" prescribed and administered? By whom? Where were they obtained or purchased? By whom? All manner of aphrodisiacs, purgatives, ecboolics, emmenagogues, pastes, herbs, antiseptics, soaps, chemicals, escharotic agents and a long list of noxious substances have been used in attempting to induce abortion. There is seemingly no drug currently in existence which will act as an infallible abortifacient in a normal, healthy woman. Nevertheless there are some drugs which, in some cases, will induce an abortion in the early stages of pregnancy, albeit with serious side effects and sequelae. Therefore, the laws impose criminal liability upon the person who administers the substance or drug. Additionally, all others who aid, abet, advise, or prescribe for such substance or drugs are also criminally liable for their acts unless the act was necessary to preserve the life of the woman. The presence of the person on the occasion of the taking of the medicine is not necessary to convict him of "administering or prescribing." It is also not a defense that the medicine was not taken; or if taken, that it failed to procure an abortion (14).

A person who supplied a woman with an alleged abortifacient drug which she administered herself was found to be a principal to the crime (15). There is also criminal liability if one "advises" others to administer the drug (16). A higher court sustained a conviction where a person supplied the female with a drug which she took and no abortion followed (17). In a similar case a physician represented that he was prescribing an abortifacient while, in actu-

ality, the substance was only a mild laxative (18). If there is evidence that a person mailed a drug to a pregnant woman with an intent of procuring an abortion it is sufficient to come within the prohibitions of the statute (19). Under one statute advising the use of a tobacco solution in a syringe to procure an abortion was held to be criminal under a statute forbidding the administering of "any substance" (20).

The mere presence of clean abortion instruments such as a curette, a speculum, a catheter and a set of cervical dilators in a physician's bag or office is no proof of the intent to perform an abortion or its performance. Should a woman die in a doctor's office the presence of soiled instruments may, however, constitute damaging evidence against him (21). In an abortion case a witness testified that the woman was found outside the building in a moribund state and that a physician's office in the building contained contaminated abortion instruments. These facts, together with additional probative evidence, were enough to find the physician guilty (22). Should a physician own a building where an abortion took place, no legal inference can be drawn from this fact as such. Evidence must be shown that he had knowledge of the abortion or participated in it (23).

A urethral olive shaped electrode was employed by a chiropractor on a pregnant female. He then instructed her to go to the emergency entrance of a hospital and say that she had fallen out of a motor vehicle. Subsequently she aborted and complications set in. At the trial it was shown by competent testimony that an abortion could be produced by means of such equipment used by the defendant in the manner related by the complaining witness. A conviction followed (24). Additionally, evidence was offered that the defendant also administered another type of treatment with intent to procure an abortion on the same woman a few days prior to the above treatment. Such evidence was declared admissible (25). In another state a charge was prosecuted for an attempt, by means of instruments, to procure an abortion. The court held admissible proof of three similar attempts on different occasions, and this was held competent to demonstrate "guilty intent" and the fact that the abortionist was aware of the woman's pregnancy (26).

Any person who assists in an abortion procedure is equally

guilty as the person who manipulates instruments or administers any drug or substance. A conviction for the crime of abortion was obtained even though it was shown that the physician in question did not handle the instruments himself. The fact that he aided and assisted was no less criminal than the actual manipulation of the instruments (27). In another case the defendant made arrangements for the abortion, gave the female involved the exact fee known to be required, suggested that she inform the abortionist that she was a married woman and then deserted her. He was found guilty as a principal (28). A druggist who arranged for an abortion by a physician who had lost his license was convicted and his conviction was sustained on appeal (29). One doctor sent a patient to another doctor for an abortion and subsequently caused her to be admitted to his hospital for completion of the operation following which she died. The former medical man was convicted as a principal to the crime (30).

Usually, but not always, a female giving consent to her own abortion under criminal conditions is not regarded as an accomplice to the crime. She is not criminally liable in the District of Columbia (31). She is regarded as a victim in Pennsylvania, not as a criminal (32). She is not an accomplice in New York State but can be charged with the separate offense of "killing a child in attempting miscarriage" (33). The crime is against the life of the child in New Jersey (34). A woman is guilty as an accomplice in Alabama unless she cooperated in the sincere belief that her life was in danger if she did not have the operation (35). A woman may be convicted as a co-conspirator to commit the crime of abortion on herself (36). In the states in which she is regarded as a victim, and not as an accomplice, she may testify for the prosecution. As always, the jury must evaluate the veracity and relevance of her words.

Unless contrary evidence can be shown, it is presumed that communications between patient and physician are for a lawful purpose. If lawful, they are considered privileged. However, they will be held not privileged if it can be demonstrated that they were not connected with diagnosis or therapy. Examples would be a request to the physician to commit the abortion; a letter from one medical man to another enlisting the latter's aid in performing the

surgery; or in cases where the physician is consulted by the woman's boy friend or husband about the operation.

Any material communicated to a physician by a patient with a view to aiding successful diagnosis or therapy is privileged. It will constitute hearsay as to him if she accuses others of producing the abortion except if her accusations constitute a dying statement (37). A physician may be liable to prosecution unless he divulges all facts in his possession which may aid the police in apprehending the abortionist. Such facts are never privileged as they refer to the commission of a crime. Any therapy he may give subsequent to the abortion is privileged however (38). Should there be an autopsy on the victim he may testify as to its findings (39).

In some states the law requires that known or suspected abortions be reported to the proper authorities (40). The majority of abortions are criminal as indeed many of the so-called therapeutic abortions are criminal or quasi-criminal. It is simply prudent practice to notify the proper authorities of all deaths following even suspected criminal abortions. This should be done before death, if possible, in the same fashion as other injuries such as gunshot wounds, human bites, etc. resulting from crime are reported.

If a physician or other person causes a death resulting from an illegal abortion procedure, the penalties range from second-degree manslaughter to first degree murder. If first-degree murder is charged, then malice aforethought must be shown (41). A legal abortion may result in a charge of manslaughter if it can be demonstrated that the physician had been wantonly, wilfully or grossly negligent during the patient's course of treatment and/or surgery (42). It is also manslaughter where death follows the act forbidden by law. In an illegal termination of pregnancy there was a uterine puncture with resulting intestinal damage and a fatal termination; the physician was convicted of manslaughter (43). Any person who, believing the woman to be pregnant, uses or induces the woman to use, instruments on herself for the purpose of procuring an illegal abortion is guilty of manslaughter if her death follows as a result of such instrumentation, even if the woman was not in fact pregnant (44). It has been held immaterial that no pregnancy exists in the woman as the doctor is not charged with causing the death of a quick child (45).

A dying declaration was admissible in evidence in homicide

cases at common law. A dying declaration is made admissible in civil cases by statute in Oregon, North Carolina, and Arkansas. In the states of New York, Ohio, Pennsylvania, Kansas, Mississippi and Massachusetts such declarations are admissible as a result of judicial decisions. The victim must make the dying declaration under the firm and solemn belief that death is impending and death must have occurred from that injury. If possible the physician in the case should record the dying declaration of his patient.

A married woman died as a result of an illegal abortion and her husband was permitted to testify to a dying statement by her to the effect that the doctor had admitted to the deceased that he was responsible for her moribund condition (46). The witness who presents the dying declaration is subject to cross examination and is considered as giving testimony tending to prove facts of which the dying declaration constitutes original evidence (47).

In a proceeding to revoke the physician's license it depends upon the law of the state as to the admissibility of the dying declaration of the woman concerned in such a case. In the statutory proceeding in California such evidence was held not admissible (48). However, in Nebraska it can be used in evidence against the physician in license revocation proceedings and it was held not restricted to homicide cases (49).

There is wide variation of decisions as to whether there may be recovery of civil damages from one who has procured an illegal abortion which had harmful sequelae. In general, recovery of damages will not be allowed if the woman had consented to the illegal surgery (50).

Two persons were sued by a woman for inducing her to undergo an attempted illegal abortion by a physician whom they had located. Recovery was denied by the Court which held that since she went to have the operation of her own free will and accord, no recovery should be permitted from the defendants (51). By statute, a woman who consents to a criminal abortion in Minnesota may not recover damages in view of the fact that legally she is "equally at fault." The same statutory limitation holds true in Oklahoma, Idaho and Washington. Even if husband and wife both consent to an illegal abortion which subsequently was negligently performed, neither can recover damages (52).

In a few states where a death results from an illegal abortion,

recovery is permitted (53). In one case, however, even though it was shown that the instruments used in the fatal operation were far from sterile, recovery of civil damages was disallowed (54). It is a fairly general rule that since the deceased person involved herself in an act of moral turpitude by consenting to submit to the illegal procedure, the administrator of her estate may not recover damages (55). On the other hand, if "abandonment" can be shown on the part of her physician following the illegal operative procedure, recovery of damages will be permitted if it can be demonstrated that death resulted from his failure to give her the necessary *ex post facto* treatment. Even though a physician has chosen an illegal field of medicine he has no more right to abandon a patient than he would have if he were practicing legally and ethically (56). A case is cited where an aborted female was left without care and developed septicemia and peritonitis of which the physician had knowledge. He failed to advise her family of her critical condition and the Court allowed damages (57).

Higher courts have generally upheld the revocation of a physician's license following his participation as a principal or an accessory in an illegal abortion procedure. A state administrative body or medical board may hear testimony given by accomplices to the act, notwithstanding the fact that in a criminal court such testimony would not be permitted when uncorroborated by additional evidence (58).

A physician can be found innocent of the crime of abortion after trial and still lose his license for unprofessional conduct (59). A physician was convicted of manslaughter and subsequently pardoned. The pardon did not restore his right to practice medicine even though it restores all civil rights and privileges which are removed by conviction for the felony (60). Unless there is some specific act, a mere willingness to procure an illegal abortion is insufficient ground for the revocation of a physician's license (61). A physician was found guilty of unprofessional conduct by a state educational board and his license revoked after it was proved that he had performed a pelvic examination on three special investigators, told each of them that she was pregnant and set a time and fee for their respective abortions (62).

The action of the state board as to the license revocation must

be considered in the light of the abortion statute which read as follows: "The procuring or aiding or abetting or attempting or agreeing or offering to procure a criminal abortion constitutes unprofessional conduct within the meaning of this chapter;" the word "pregnant" was omitted. The charge was that the physician committed certain acts with the intent of procuring an abortion. The defendant attempted to show that there was insufficient evidence to demonstrate the pregnancy of the women. The court affirmed the license revocation as the woman need not be pregnant under the statute (63). In the reverse of this situation, where the statute requires the woman to be pregnant, it has been held that such revocation of license is not permissible if the non-pregnancy of the female in question can be demonstrated (64).

Using the mails to send a notice or letter containing information as to where abortions may be obtained and by whom they could be procured was held to be a crime for which the physician's license could be revoked as such actions constitute a crime involving moral turpitude. The physician denied committing any criminal act. The court held that in sending such information through the mail he intended to set up a chain of circumstances, for a fee, which would culminate in criminal abortion (65). However, it is lawful for a physician to use the mails to disseminate information concerning abortions deemed necessary to save the life of an expectant mother (66).

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Chapter X

ATTITUDES OF PHYSICIANS AND MEDICAL ORGANIZATIONS

IT WOULD BE a rare physician indeed who could honestly say that he had never been approached by a long respected patient, good friend, relative, or a tearful unmarried pregnant girl pleading for his aid in eliminating an unwanted pregnancy. Sometimes the temptation is strong indeed, particularly where ties of blood or friendship are involved. In general the present abortion laws prohibit any direct action on his part.

The general practitioner is most frequently the brunt of these appeals. Although the temptation to yield is often great, medical and personal conscience prevents him from succumbing. The emotional pressures are extreme at times and then he may refer his supplicant to an abortionist—if he knows of one. Unless he is himself a part of an abortion ring, in the sense of a feeder to whom a monetary kickback is made, the general practitioner and particularly the specialist is unlikely to have any good knowledge of where to obtain an illegal abortion. He is more likely to have heard of the inept operator whose patients have to be saved by legitimate medical treatment. This is particularly true of the gynecologist to whom falls the task of salvaging those women who have been poorly handled by an abortionist, as not infrequently happens. Since today most physicians can make a satisfactory living practicing legitimate medicine the great majority of them decline even to discuss abortion with their patients (1).

When faced with a *personal* abortion problem, the physician, of course, seeks someone with a medical background, preferably a gynecologist. He recognizes the inherent dangers in the operation and certainly wants to minimize them. Those physicians who operate beyond the pale of the law, however, are rarely the more skillful ones and, therefore, do not appeal to their more legitimate brethren. Even for the physician, it is not easy to find a suitable

operator. Dr. G. Lotrell Timanus, now retired, was a well known physician-abortionist in Baltimore for over twenty years in the period between the two World Wars. He built up a clientele of about 350 physicians who referred cases to him. Unlike the average abortionist, he kept meticulous records and even did some sociological research as to the distribution of his patients by occupation, age, marital status, number of living children and history of abortion (2). In a total of 5,210 patients the medical profession, relatives and associates were distributed as follows (3):

Patient M.D. herself	7
Wife of M.D.	58
Relative of M.D.	12
Graduate Nurse	270
Student Nurse	20
Patient Medical Student	4
Wife of Medical Student	4
Sexual Partner M.D. or Medical Student	26
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The strong pressure upon physicians today to perform "therapeutic" abortions with little or no purely medical indication is a fairly recent phenomenon in the history of medicine. Fifty years ago the major percentage of criminal abortions in the United States, as well as in Europe and Asia, was accounted for by midwives. The midwife came to America from continental European countries where she had flourished for centuries. Her function was to attend to births. German and Scandinavian midwives were especially well trained for their duties. As an adjunct to their obstetrical work many midwives had a prosperous side line in abortions. Today, except in backwoods areas, midwives have almost passed from the scene. With immigration reduced to a trickle and the Americanization of the already arrived immigrants completed, the need for the midwife has been eliminated. The pressure for abortions has been transferred, in part, to physicians. The number of full-time and part-time physician-abortionists has, however, shown only a slight increase in recent years. A rise was also noticed in the depression of the 1930's but that rise could be explained in part by economic factors (4).

Although the pressure by the public for therapeutic abortion has increased, the medical indications for therapeutic abortion have

shrunk to the vanishing point. Two factors have acted to produce this shrinkage. First, therapy has been developed for many conditions which formerly it was thought could be treated only by termination of pregnancy. The second has been a gradual change in medical philosophy. Twenty-five years ago many physicians held the attitude that if a pregnant woman were seriously ill, particularly with certain diseases, such as rheumatic heart disease, etc., the thing to do was to eliminate her pregnancy. Now it is a rare instance where illness is even considered a contra-indication to pregnancy (5).

The past twenty-five years have also witnessed the creation in the West of what has been referred to as the "affluent society." Such a society constantly demands an increase in both the quantity and quality of the goods and services it consumes. This applies to both the legal and illegal goods and services. Subtle pressures from widely diverse social sources seem to have induced a small but definite number of physicians to enter the field of abortion. Certainly the ratio of physician-abortionists to all physicians is slightly greater today than it was seventy-five years ago when the midwives flourished. Although the size of this increase cannot be estimated with any degree of accuracy it is apparently quite small.

In most instances it is economic pressures and personal inadequacies that force a physician to enter the illegal field of abortion. A few of these have the mental reservation that as soon as they have accumulated enough cash to give them a new start in legitimate practice they will abandon illegal activity. In our review of court cases and Grand Jury testimony we found such resolutions to be in vain for the most part. One doctor (see appendix A-4) quit after amassing a small fortune and went off to Europe to study. After qualifying himself as a plastic surgeon he returned and entered that field. In short order various "difficulties" arose and he again took up his curette. In the medical profession there is an axiom, "Once an abortionist, always an abortionist." The rare exceptions to this situation seem to occur most frequently among physicians who have performed abortions only incidentally to their legitimate practice. Through friendship with physicians of good reputation, charity work, membership in fraternal orders and ap-

pointment to the staffs of small hospitals, these part-time abortionists may in rare instances free themselves of their illegal activities.

In big cities there are generally a few small hospitals where such men are welcomed. In New York City there was once a hospital that had three ex-abortionists as chiefs of three services. They labored mightily to build up and maintain that institution and wrapped themselves tightly in a cloak of respectability (6).

The known full-time medical abortionist leads a lonely professional life. He is shunned by his colleagues although some of them might admit the necessity of his existence. This understandable attitude has limited interest in and development of new techniques. However the by-products of research in other fields; viz, antimetabolites (7), have gradually been adding to the abortionist's armamentarium.

It is a relatively recent event to have physicians of national reputation speaking and writing on the social repercussions of our abortion laws. Frederick J. Taussig, M.D., pioneered in this field by publishing "Abortion: Spontaneous and Induced" in 1936 (8). This work was primarily a medical book with a few chapters covering induced abortion from a sociological and historical point of view. As one might expect the book had no effect on the public although it did encourage other physicians to study the effects of criminal abortion on maternal and child welfare. In 1942, Howard C. Taylor, Jr., M.D. served as chairman of a conference on abortion under the auspices of the National Committee on Maternal Health, Inc., held at the New York Academy of Medicine. He edited the proceedings and compiled them in a slim volume (9). Due to the war and a pre-conference agreement with several participants, the results of the conference received little newspaper coverage. Despite this there has been a considerable increase in interest in the medical aspects of the subject by the public.

As it should be, public statements are made only by the medical specialists interested in the field, such as Guttmacher, Calderone, Rosen and Kummer. Individual physicians and their societies in general avoid the utterance of public statements. Inquiry indicates no unanimity of opinion amongst the doctors as to the desirability of the existent abortion laws. Although there is a general accep-

tance of the present laws there are many who desire a radical revision of these laws making abortion purely a personal matter between patient and doctor.

In general the medical profession and particularly its societies, including the American Medical Association, appear to regard the whole abortion problem as a social rather than medical problem. From a medical standpoint the physician has less and less reason to perform an abortion and, therefore, as Bernard Hirsh, attorney for the American Medical Association, has stated: "The Association recommends that each doctor protect himself from charges of illegal abortion by following the requirements set up by some states and most hospitals. . . . In states where it is illegal, it is unethical. In states where it is legal, the doctor must be guided by his own conscience" (10).

The late Dr. F. J. Taussig stated that he knew of "no other instance in history in which there has been such frank and universal disregard for a criminal law" (11). Dr. Alan F. Guttmacher has repeatedly emphasized with some exaggeration that "the abortion laws in the United States make hypocrites of us all." According to him in excess of 90 per cent of the "therapeutic" abortions performed at Mount Sinai Hospital in New York City did not strictly conform to the statutory requirements "to preserve the life of the mother" (12). Sydney Bolter, M.D., a Detroit psychiatrist, cited a recent study of California hospitals which revealed that "up to 80 per cent of therapeutic interruptions of pregnancy were accomplished for reasons other than the physical health of the mother." He points out that as medical indications for abortion shrink steadily, patients and physicians are calling upon psychiatrists for a recommendation to interrupt the pregnancy. He warns that psychiatrists are often being exploited as a "court of last appeal" by persons both lay and medical who desire abortions with little or no medical reason, and declares that the psychiatrist "has no more right to break the law than anyone else in our society" (13).

Since most states have statutes demanding that the mother's life be endangered before an abortion can be legally performed, psychiatrists are often consulted as to the possibility of suicide of the mother if an abortion is not performed. Actually, in the experience of medical examiners this is a very rare conclusion to a

pregnancy. However, not a great deal is known concerning the psychodynamics of suicide. In most instances where the patient is threatening this, it is extremely difficult for a psychiatrist or anyone to evaluate the reality of the threats. Experience has shown that they should never be ignored as certainly only a disturbed person would make them, but it is necessary to evaluate whether the termination of the pregnancy itself would aggravate the psychiatric condition. Most frequently an expert realistic appraisal of the situation leads to the conclusion that abortion is contra-indicated both legally and psychiatrically.

Many physicians feel that "humanitarian" and "socio-economic" indications are properly not medical indications. Dr. Joseph P. Donnelly, medical director of Margaret Hague Maternity Hospital, N. J., speaking at a conference on abortion under the auspices of the Planned Parenthood Federation of America said: "We should be doctors of medicine, not socio-economic prophets. . . . Slums and delinquency exist. It may seem very easy to sit around here and say that certain cases will be aborted and that will solve the problem, but I am afraid it is going to take public housing, good health care, high minimum wages, family allowances and the general raising of the standards of the American people to solve these problems. It looks very easy to eliminate the unfit and the poor socio-economic risks from our civilization with the curette and thereby to build a better society, but I think it is simply a distinction without a difference between this type of reasoning and the reasoning of a man of unhappy memory who thought he could raise the standards of society by eliminating the so-called unfit with the gas chambers of Buchenwald" (14).

On the other hand, Jerome H. Kummer, a Santa Monica psychiatrist willing to desert the psychiatric field and invade fields not properly his—economics and internal medicine—deplores the present medico-legal framework which drives women to the hands of the criminal abortionist (15).

"Economic factors are taken into account everyday in medicine. Suppose you have two women, both pregnant, both with cardiac conditions that pregnancy will aggravate. They both want to have their babies; one is wealthy and has servants who can take care of her and her other children during her pregnancy.

You'd let her have the baby. But the other, with five kids, living on the top floor of a walk-up tenement, doing her own work—you'd do a therapeutic abortion and sterilization. You can't ignore economic factors."

Alan F. Guttmacher, formerly Director, Department of Obstetrics on Gynecology, Mount Sinai Hospital, New York City, takes a middle-of-the-road position:

"Of course, *to have no induced abortions at all*, whether legal or illegal, would be our goal, but that is unattainable, obviously. Therefore, I should like to see a more permissive law, so that those of us who do carry out what we honestly consider to be needed therapeutic abortions would not be doing so with a haunting feeling that our acts are half-legal, or pseudo-legal. I personally am not satisfied with the current laws, because obstetrics and gynecology cannot operate honestly within their framework" (16).

As the physician finds fewer and fewer medical indications for therapeutic abortion, the psychiatrist and social scientist have become the chief apologists for the procedure. This is properly where the onus of support should lie. The vast majority of abortions are not performed for medical reasons and the legalization of the procedure is becoming more and more the problem of the social scientist. Physicians, if they are to remain within the law, and most would and do prefer this, insist more and more vocally that laws be modified to permit abortion. Since the pressure arises from the public and the social scientists it behooves them to spearhead any legislative changes. As matters stand, it is unlikely that these will be made in the near future.

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Chapter XI

PRESENTENCE INVESTIGATION IN ABORTION CASES*

THE BASIC FUNCTION of a careful and detailed presentence investigation is to enable the sentencing judge to impose a sentence which will protect society and at the same time aid in the rehabilitation of the offender. Both the conduct of the investigation by a probation officer and the ultimate imposition of sentence by the judge concerned are serious matters. Errors of commission or omission in these cases can be costly both in human and financial terms. It will not be the purpose of this chapter to instruct the reader in the mechanics of presentence investigation as there is ample material in print on that subject (1, 2, 3).

Our purpose is to point out several areas in the defendant's background and criminal record, if any, which we think merit more attention than if we were dealing with an offender convicted of another type of offense. In many types of crime, particularly those committed rather quickly, information received by interviewing the complaining witness is frequently rather scant and superficial. Often the complaining witnesses in such cases were so frightened during the commission of the crime that they remember little. Often they cannot remember what the offender's exact words were or any of the more detailed aspects of the offense. Not so with abortion cases. The complaining witness in an abortion case was intimately involved in the commission of the offense. She was fully aware that she was engaging in the perpetration of an illegal act. Although tense, apprehensive and often in pain during the commission of the crime one will find that she remembers a good deal. If the probation officer knows the correct questions to ask, his subsequent report can contain a good amount of information as to the

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defendant's *modus operandi*, aseptic technique, sobriety, the amount of his fee, the extent of his practice, something of his professional skill and many other vital areas.

A crucial matter in the report is the establishment of the defendant's motivation in committing abortion. Was it largely financial? Or, as so often happens, were neurotic drives involved? For instance, in the case of "George Braunstein" (Appendix A-4) the defendant, after the abortion was completed and while the complaining witness was bleeding vaginally, proposed that they engage in an act of perversion. Another complaining witness, also aborted by the same former physician, reported to the probation officer that the defendant offered to cut \$50 from his fee if she would walk around his office in a pair of old lady's shoes that he kept in his desk. Yet another witness in the same case reported that Braunstein had fondled her breast and playfully offered to spank her. We thus see that Braunstein was deeply disturbed and under powerful compulsion to continue committing abortions. His subsequent sentence to a prison term reflected the feeling of the Court that psychopathic factors of a compelling nature motivated the defendant's conduct. The judge was also influenced by the concensus of all concerned that Braunstein was not amenable to psychotherapy; had little insight into his conduct and no observable remorse for it.

Grand Jury minutes, if available, are a fertile source of information. In one case, fifteen women aborted by a former medical student testified against him before the Grand Jury. Ten reported that the defendant and his female assistant had taken about five minutes to shave, douche and otherwise disinfect the area concerned. The remaining five reported no aseptic preparation. In this case it appeared that under the pressure of patients waiting to be aborted even minimum aseptic preparations were being eliminated. A check of the calendar disclosed that the five women reporting no aseptic preparation were aborted on a weekend which is almost always a time of heavy patronage in a busy mill. It is a rare abortionist who keeps any records at all. Often the arresting officers may have apprehended the defendant at a time when he was not engaged in the conduct of illegal operations. Once again the complaining witness, or even better several complaining witnesses,

can give information as to the quantity of his practice. How many other women were in the waiting room or resting on recovery cots? Did she see others arriving while she was on the premises or leaving them? How many recovery cots were provided? Any number over two would indicate a busy mill.

It is well known that the prices of abortions are set at the highest point commensurate with the socio-economic class of clientele served (4). Often "extras" are tacked on after the operation. In one case we investigated, the doctor's receptionist, after the operation, sold the patient a small quantity of commercially made vaginal tampons which had been removed from their box and tied together with a strip of gauze bandage. This fifty cents worth of merchandise was sold to the distracted patient for \$2.00 at which time she was told that, "The doctor recommended them." It is a rare abortionist who uses any anesthetic but we have noted an occasional one who will use a brief whiff of chloroform as an "extra" for \$10.00 or so additional. A small quantity of five grain sulfonamide pills is sometimes dispensed without charge to take "if there is any fever."

The general circumstances of the woman's overall abortion experience will usually, but not always, give clues to the quantity and quality of the abortionist's practice. Such sophisticated practices as the use of code words, intermediaries, runners, transportation personnel and hotel rooms may be indications that the abortionist is working with a ring as previously defined. If the abortionist operates in a mask behind a screen and never personally meets or examines the patient, we are surely dealing with an experienced professional. Frequently the abortionist was first sought out by a boy friend, husband, mother, father or other relative of the complaining witness. These circumstances should be examined. It sometimes occurs that factors other than the easy amassing of a good many tax-free dollars by the abortionist are at work.

In the case of "Alvin H. Starbuck, M.D." (Cf. Appendix A-2), the doctor was a recovered mental patient who was apparently attempting to cope with his overwhelming anxieties by the daily consumption of several pints of alcohol. When arrested he had not practiced legitimately for almost a year and performed two or three abortions a week to keep himself in whiskey. His nurse-receptionist

and other parasites made off with most of the money, but he either did not know or care about this as long as the whiskey held out. After arrest he was recommitted to a mental hospital with a diagnosis of "schizophrenia, paranoid type, with alcoholism." He made a good recovery, became active in A.A. and was discharged as "improved." Placed on probation, he found a position as pharmacist in a chain drug store. In due time he "successfully" completed his term of probation and was discharged. In his case, as with similar ones, the heavily overworked probation officer was not fully satisfied that his probationer never took up his currette again. He never had the time for sufficient surveillance in his case.

By the time the defendant is seen by the probation officer for presentence investigation purposes, usually weeks or months have gone by. Frequently the defendant has had time to rationalize his behavior and erect psychic defenses of various sorts. For this and other reasons it is often profitable to seek out the arresting officer to learn in detail the circumstances surrounding the arrest and the defendant's general attitude at the time. Especially is this true if the defendant was apprehended *in flagrante*. Was he defiant? Was he remorseful? Did he actually seem a bit relieved? Did he try to deny guilt, shift blame, project hostility, escape? A frequent defense in abortion cases resulting in death is an account of how the woman in question suddenly appeared at the abortionist's door and died while he was in the act of helping her. This defense ignores the ethics of the alleged situation. A layman could and should do nothing but call for immediate medical aid. A physician should commence assistance to the woman and at the same time summon further medical aid and an ambulance. Lay and medical abortionists seem to do neither, although *ex post facto* they often try to make it appear that they tried to.

Although it is impossible to generalize about abortionists, or any other type of offender, certain patterns of behavior frequently emerge. We made an extensive statistical analysis of 111 consecutive convictions for abortion at New York County Court, New York, between the years 1925-1950. It was found that only thirty-one or 27.9 per cent of the sample were currently licensed medical doctors. Since there were several who had lost their licenses or who were licensed abroad, let us say that roughly one-third of the sample

were physicians. Another one-third of the group was made up of licensed midwives, registered and practical nurses, chiropractors, physiotherapists and others on the fringes of medicine. The final one-third was made up of out-and-out amateurs who had discovered, one way or another, that "There's a fortune in abortion." Their occupations before or while committing abortions were found to be as follows (5) :

Barber	1
Petty criminal	3
Unskilled labor	5
Skilled Labor	5
Quacks	6
Clerks	3
Amateurs	4
Prostitute	1
Public Assistance	3
Upholsterer	1
Salesmen	2
	<hr/>
Total	34 or 30.6% of N.

Those versed in the niceties of criminal statistics insofar as they apply in medical sociology would be quick to point out that the above sample is made up entirely of defendants convicted of a felony (abortion). They would be right. If we take into account the unknown hundreds of persons permitted to plead guilty to the crime of Unlicensed Practice of Medicine (a misdemeanor) in the same sampling period and political jurisdiction then we can assume that the proportion of persons committing abortion with no medical training would be higher.

The research showed that the physician-abortionist almost always employs the D. & C. (dilatation and curettage) method. The amateur type prefers to pack the uterus, puncture the cervical plug, use abortifacient pastes, insert catheters and other methods not medically approved. In assessing the mitigating and aggravating circumstances of those found guilty by plea or trial of abortion, especially where a homicide results, one must consider the function of medical ignorance. We recall one case at the above Court that fitted this pattern.

John L——, a twenty-two-year-old unskilled laborer was sitting in his furnished room one Sunday afternoon when his girl friend, Virginia C——, visited him. She announced that two days

ago she had visited a gypsy woman for the purpose of obtaining an abortion. The gypsy, for ten dollars, had inserted a rubber catheter into her uterus and had told her to walk around until bleeding commenced and the fetus was expelled. Nothing had transpired as yet. After the couple had consumed a few cans of beer, Virginia suggested that he attempt to pour water up the catheter, to see if this would produce the desired results. Failing to force any appreciable amount of water up the catheter Virginia suggested that John blow on the catheter. John blew vigorously into the catheter which had the effect of dislodging the catheter from the uterus into the upper vaginal canal and causing Virginia to lose consciousness. John tried to revive her with cold compresses as her body jerked convulsively. Perceiving that she was dead, John hid Virginia's body in an upstairs closet and, in a panic, visited a series of bars while trying to decide what to do. Finally he visited a priest and confessed all. The priest induced him to go to the police with him.

As homicide was involved John was charged with Abortion, Manslaughter, and Assault as well as a somewhat lugubrious series of misdemeanors: Illegally Transporting a Dead Body, Failure to Report a Crime, Unlicensed Practice of Medicine and Failure to Report a Fetal Death. The autopsy report read in part:

"Numerous thrombi were found in the large sinusoids of the uterus and numerous clots within the pulmonary circulation. Vacuolations were found throughout the sinusoidal circulation of the uterus, apparently due to an impact of air. Fine petechial hemorrhages were found in the brain stem, and tiny emboli were present in the cerebral circulation.

"*Diagnosis:* Thrombosis of the uterine sinusoids, following trauma. Passage of air or other clotting agents into the brain, with cerebral embolism."

Investigation disclosed nothing which conflicted with John's version of the events and he was placed on probation for two years.

Our experience with professional, non-medical, female abortionists tends to confirm that of Bromberg (6) and Keve (7). We feel that the untrained female abortionist is reacting, in large part, to an unconscious need to reject children or to deny them to others of her sex by reason of certain emotional deprivations in her own

background. Certainly the case of "Frieda Lorgara," a Licensed Midwife (Cf. Appendix A-3) fell into this common category. She had a long history of court appearances for Abortion and Homicide the great majority of which were dismissed or discharged in lower courts. In speaking of clients who were crippled or made ill by her somewhat forceful ministrations she told the investigating probation officer, "They had their fun—now let them pay for it." Her Court psychiatric report read in part:

. . . "The defendant is without psychosis and should be characterized as an unethical type with a strong need to be punishing, domineering, and even sadistic toward members of her own sex. She feels inadequate as a woman and has some masculine traits both psychological and physical. Her almost compulsive need to amass cash causes her to deprecate her very real financial holdings and she has an irrational fear of poverty which is deeply rooted on a neurotic basis.

. . . "There is an unusually large clitoris present which extends beyond the prepuce and the labia. The mammae are seen to be flat with undersized involuted nipples. Hirsutic growth is remarkable and somewhat masculine in distribution."

Every deed has a secret motivation—could we but discover it. Functionally, the investigating probation officer is expected to postulate at least a generalized assessment of the defendant's motivation in committing his offense. Sometimes this is readily apparent for the trained investigator as we have seen in the foregoing cases with their fairly obvious motivational dynamics. What, however, of the idealistic medical school graduate who establishes a legitimate practice for several years and then, as Taussig says, enters "the golden but somewhat inglorious life of the abortionist." What made him do it? There is generally no unitary cause. For some clues we can turn to the files of one of the largest, most expert, and long continued Grand Jury investigations into the question of criminal abortion ever conducted (8).

Among the physician-abortionists examined by the above Grand Jury were some who had been honor students in medical school and a few who could be counted among the poorest students in their class. The bulk of them impressed the Jury as average students from average medical schools. We thus see that the stereotype

of the physician-abortionist as a broken down graduate of a second-rate medical school is not true. The Jury asked a formerly successful abortionist, one who had made a not inconsiderable fortune in that field what, in his opinion, would cause a doctor to choose an illegal rather than a legal field. Here is his answer (9).

“Well, an abortionist to my mind is born out of the pressure incident to existence, out of economic stress and strain, out of poverty, and perhaps even in recent years there has been a different type of man that went into this sort of business perhaps out of a realization of the doctor’s need to do good that he is not accomplishing.”

A second physician was asked the same question by the Jury and he replied:

“Every doctor, every young man graduating from medical school, does so with the honest and sincere desire to be a great practitioner of medicine, to perhaps be a great diagnostician, or perhaps a great benefactor seeking to serve humanity, but somehow the world doesn’t go along with his plans, most of the time he can’t find a chance, and the years go on and he can’t make a living, and every once in a while a woman will come in with \$50 or \$75, and if he knows her and has been treating her he listens to her story, and it is so easy and so simple, that is what he thinks, and there comes a time when it accomplishes its work.”

The Grand Jury concluded in its presentment that the primary reason for doctors becoming abortionists is because the practice itself offers a lucrative field to individuals who have been unable to establish themselves successfully in a legitimate practice. While superficially one would be generally in agreement with this conclusion one must probe more deeply and ask *why* the physician was unable to establish a lucrative legitimate practice. Was he under pressure from relatives to enter the field of medicine in the first place? When, after graduating, the expected financial returns did not roll in as anticipated by all, was his self-image damaged? If so, why didn’t he accept a salaried position in medicine?

Many abortionists will attempt to rationalize their behavior by pointing out all the “good” they have done by preventing “ruined lives,” etc. One cannot deny, however, that whatever reasons the

defendant advances for adopting an illegal practice he has, by his actions, repeatedly shown a disregard for human life and hence has disqualified himself as a suitable person to engage in the practice of medicine.

In some jurisdictions the probation officer is allowed to make a formal recommendation in his presentence report as to the disposition of a given case. In others this may not be permitted and in such jurisdictions the judge must arrive at a disposition on the basis of the facts, opinions, reports, and conclusions set forth. While any officer in any jurisdiction must evaluate the usual areas of strength and weakness in the defendant's personality, background and probable future environmental circumstances, the officer in an abortion case should, in our opinion, pay special attention to the following factors:

1. Why did the defendant enter the field of abortion originally?
2. What needs, drives and urges in his make-up are being satisfied by his involvement?
3. Does he have the strength, under the realities of the conditions of probation, to desist from further practice?
4. Are realistic substitute satisfactions available, if guided by probation supervision?
5. Does it appear that his insight into his own problems has improved as a result of his conflict with the law?
6. Does he display any compulsive behavior, such as gambling, heavy drinking, or repeated illicit sex involvement, which requires large sums of money for its satisfaction?
7. Does his background display a generalized ability to learn from experience, or has he basically been struggling with the same type of problems for many years?
8. If psychotherapy is definitely indicated and the defendant seems amenable, is such service available without charge or within his means?
9. What is the attitude toward the defendant of his spouse, relatives, or children? Will they be a positive factor if probation is granted?

Even with the best of skill, training and experience, arriving at rational answers to the above and other questions is a difficult process. Once the probation officer has recorded his answers the judge

must impose sentence. Prison or probation? If the decision proves erroneous, it will be written in blood on a tablet of pain.

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Chapter XII

ABORTION PROBLEMS—INDIVIDUAL AND SOCIAL

TO SAY THAT most women have severe guilt reactions following a criminal abortion is obviously untrue. Post-abortal reactions range from apparent unconcern to the prodromal or actually psychotic. There is also great variation in the length of time the reactions persist.

The aborted woman has undergone a period of psychological and social stress terminated by a fairly unique—for her—type of trauma—the abortion experience itself. Her reaction to this chain of unpleasant experiences will not be *essentially* different from her reaction to any other type of prolonged psycho-sexual stress situation such as a long continued absence of a loved one, an unhappy love affair, divorce or the death of a loved one. Persons react to such stress essentially as they react to any other type of stress; that is, by a total mobilization of their ego-strengths. Such a reaction, buttressed by all the compensatory mechanisms of rationalization, compensation, projection, fantasy and displaced aggression will be heavily conditioned by the content of her entire background—economic, social, educational, religious, etc. This will determine the *type* of recovery, whether fast or slow, complete or partial, easy or painful. The abortion, *qua abortion*, as a rule will not be the dominant factor in the stress reaction, unless death or severe physical injury results.

Moralists, some theologians and some psychiatrists, particularly orthodox Freudians, would disagree with this view. They point out that any type abortion, including the therapeutic, is a *rebour*s, against the grain. They maintain that this is “unnatural” and that the person involved in an “unnatural act” *must* suffer in a unique and special way because both the unconscious edicts of the body and the highly explicit edicts of society have been violated.

Such critics fail to recognize the historical and sociological significance of abortion practices in other eras and among other societies. Freud, hardly an authority on anthropology, wrote of his experiences with upper middle-class patients in turn-of-the-century Vienna. That world has vanished forever. Certain alleged psychiatric entities may have been found there because of the prevailing values, mores and folkways of that vanished world. Freud's error was to assign universality to these inferences. Malinowski, living among the Trobriand Islanders of the Southwestern Pacific, found no evidence of "penis envy" or "castration complex" (1, 2). How could he? Sexual values and their social expression are strikingly different among the Trobrianders and the nineteenth century middle-class Viennese. How could a Trobriand girl suffer from "penis envy" when there was practically no role conflict in that society? She was happy to be a woman in a society where a woman's roles were fully delineated and rewarded.

There were and still are social groups where induced abortion is not only permitted but may, on occasion, even be considered a laudable act. This, in general, is not true of the western world. The woman seeking an abortion is in conflict with her milieu and herself. The amount and depth of this conflict will determine the character of her reaction to this stress. It may consist of the deepest guilt feelings to no more than a sense of relief.

The social or other professional worker having to do with women with post-abortual problems must exercise extreme caution. It must be remembered that the guilt feelings may lead to projection of blame and displacement of aggression. Especially is this true in a married woman living with her husband. As with other marital problems it is well to remember that "it takes two to tango." Some neurotic women seem to take a but faintly concealed delight in bringing out fears and speculations around an old abortion experience. Would the child have been a boy or a girl? Perhaps twins? Did I commit a sin? Is my dysmenorrhea due to the abortion? Am I now sterile? And, so forth.

A woman does not seek an abortion in a psychological and social vacuum. One feels that if some patients did not have an abortion to react to, they would seize upon some other traumatic

experience in their past to wring their hands over. As with most psychic problems, only if the patient can be brought to the point where she can have at least a modicum of insight into the reasons behind her abortion experience, can symptomatic relief be obtained. If one can help her to find the basic answers to the question "Why did I do as I did?" then, therapy may be under way.

One should never neglect the role of religion in these problems. For many, abortion involves a moral question of fundamental importance. The fact that it may or may not be a moral question to the professional worker does not relieve him of the responsibility of seeking the aid of the church. This is particularly true for the Catholic woman since her church severely condemns abortion to the point of excommunication.

There are women who have multiple abortions and display no observable moral concern or psychological reaction. These are found on all social levels. Apparently they practice this as a form of birth control. This attitude is common in Japan where the number of induced abortions approximates the number of live births. This category is at one end of the spectrum of post-abortual situations. We are dealing with a sick woman in a sick situation. The abortion may temporarily relieve the immediate personal or social situation but in most instances the maladjusted woman remains in an even more stressful situation.

In this connection one recalls the well publicized case of the American woman who obtained a legally induced abortion in Sweden after she had taken the drug thalidomide while pregnant and feared the subsequent birth of a deformed child. After her abortion an examination of the abortus did reveal abnormalities.

There are many and varied reasons why a woman will avoid professional help. These include superstition, fear, ignorance and shame. Even in those foreign countries which have governmental commissions to which application is made for abortion, many requests are denied. In Finland a follow-up study of over 1,000 women whose requests for abortion had been denied by the Social Consulting Bureau in Helsinki disclosed that 40 per cent of them had obtained illegal abortions or spontaneously lost their pregnancies. In cases where the wife was the sole or chief support of the family, the percentage rose to 63 per cent. Over three-fourths of the

applications for abortions had been rejected by the medical commission (3).

In Oslo, Norway, the National Health Clinic, founded in 1951 and supported by municipal tax funds, has operated a special service for women who claim they need an abortion. This agency apparently accepts social as well as medical reasons for abortion. A great proportion of the medical reasons for abortion in Norway are psychiatric. Dr. Bard Brekke refers to many of these cases as "worn-out housewives" neurasthenia (4).

In America there are no such consultation centers where women who feel a compelling need for an abortion can go. In the larger hospitals in major cities there are "abortion committees" but these are primarily devices to protect the physician from the legal consequences of performing an illegal operation. Since medical indications for "therapeutic" abortion are today practically nil, it is difficult to establish a legal basis for the operation. The anonymous disinterested committee, it is believed, may serve as a bulwark against possible prosecution by the state or more realistically against suit by the patient herself or her husband. It is not unusual for doctors to be victimized by their patients. The hospital is also fearful of suit on the same grounds and even more fearful of the accompanying publicity.

If the problem merely involved the prostitute, alcoholic or drug addict, it would be simple. These women have their own problems and pregnancy is the least of them. The prostitute because of disease is relatively sterile; moreover they are skillful in avoiding pregnancy. The alcoholic and drug addict are too preoccupied with their habits to be concerned with sex.

Abortion is a multifaceted social problem. One can trace its relationship to social class, level of education, economic status, race, religion and literally scores of other social aspects and indices. One can also study abortion from the standpoint of various disciplines: theology, public health, medicine, law, genetics, ethics, sociology, economics, statistics and a baker's dozen or so of specialties. It is also a subject which is political dynamite in the western democracies. Attempts to pass new legislation, such as suggested by the American Law Institute in its "Model Abortion Law," or to amend present laws are studiously ignored in legisla-

tive circles. Discussion is largely confined to medical and sociological circles (5). Such episodes as the Bourne case in England (see appendix D) and *l'affaire Finkbine* in America may arouse public interest briefly but certainly fail to arouse any groundswell sufficient to be felt in the legislative capitals.

Abortion has at times been called a "class crime." In theory only the well-to-do can afford to get adequate service and in general the price does determine to some degree the quality of the service. A high price, however, does not guarantee excellence. The risks involved can be as great or even greater. The operation is illegal and it is obvious that those who perform it are not likely to be the most reliable citizens. The best service available in a community may leave considerable to be desired. The desirability of a particular abortion service is difficult to evaluate since one cannot consult any book of specialists or county medical society. Since the average price (about \$300 at today's prices) is relatively high, the field does attract the greedy with little or no medical background. Even though the mortality and morbidity rates are high they can get away with a poor level of service since the human body has tremendous recuperative powers and the majority of their patients recover. If any surgeon doing work in the limelight of a hospital practice were to carry as high a rate of morbidity and mortality in his surgery he would be considered a butcher. Who is to check the results of an abortionists work? Certainly there is no chief of service watching over his shoulder. There is no committee reviewing his charts—there are no charts. Of course, the cheaper the price paid for an abortion the more inadequate and often the more dangerous is the procedure likely to be. When the price is less than a hundred dollars it is more than likely that the operator has little medical background—chiropractor, alcoholic dentist, *sage femme*, etc. .

Still another social problem, that of lax law enforcement, is generated in large part by poorly defined abortion laws which the legislators are afraid to revise in any direction. Even under ideal conditions it is difficult to prosecute an abortionist. Adequate proof is difficult to obtain within the restrictions of the law. The ambivalent attitude of the public and their legislators does not help matters. Is it a wonder that a law enforcement officer is more likely

to consider taking a bribe from an abortionist than from a narcotic pusher? That officers on various levels have perceived abortion money as "good" has been documented by every grand jury investigation of the abortion racket since the famous Kings County, New York, investigation of 1938-41 (6).

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Chapter XIII

TRENDS AND POSSIBLE FUTURE PATTERNS

IN THE FOREGOING chapters we have seen that there is a slowly rising tide of discontent with the present abortion laws among physicians and the laity. This discontent is becoming steadily more vocal. One effect of this has been an increasing number of carefully researched articles on abortion appearing in large national magazines during the past ten years. In America public interest has not reached the status of a "social movement" as yet because the leaders and interested persons are not organized for political action at this writing.

In England a true social movement as regards abortion was formally inaugurated on February 17, 1936, as The Abortion Law Reform Association. This group was formed "to work towards the repeal of the present abortion law and substitute a law freeing the medical profession from all legal restrictions except those required by medical or humanitarian considerations" (1). Early leaders and officers in the Association were Drs. Joan Malleson, Sidney Smith, Frederick J. Taussig, Robert L. Dickinson, Eustace Chesser as well as Professors Glanville Williams, Julian Huxley and the Rt. Hon. Lord Horder, M.D. Mrs. M. S. Garrett was employed as Executive Secretary and continues in that position. After a ten-year interruption caused by World War II, enough public backing was generated so that on February 27, 1952, a bill to allow physicians greater freedom in abortion matters was introduced in Parliament. Under bitter attack it failed of passage.

In Japan abortion was fully legalized in 1948 to cut the birth rate and since that time the number of abortions has run neck and neck with the annual number of live births. No country in the western world has as yet sanctioned abortion upon demand. A good many, however, have very broad permissive regulations which can fit a wide spectrum of circumstances. Sweden will grant permission

for reasons of health. Additionally, Swedish physicians can examine a patient's socioeconomic position to determine if the birth of another child would impair the mother's mental or physical strength. Sweden also has statutory "humanitarian" regulations—if the patient is imbecilic, psychotic, under fifteen years of age, or if the pregnancy resulted from incest, rape, or other criminal coercion. Eugenic reasons are also considered—if it is thought probable that the child would be born with serious defect. Finland, Iceland, Denmark and Norway have similar practice. The Swedish government admits that the *total* number of abortions probably holds at about a constant figure: that is to say, an increase in legal abortion is counterbalanced by a decrease in criminal abortion (2).

It is not our purpose here to make a survey of abortion laws in the western hemisphere. Suffice it to say that with the exception of England, France, Spain, West Germany, Italy and several Latin American countries, abortion for non-specific medical situations is permitted for a variety of reasons in many countries. Quite recently several serious proposals to modify American abortion law have been put forth. The American Law Institute, a group of lawyers and judges working with physicians and sociologists, has drafted a proposed statute which would legalize abortion if the physician—

"believes there is a substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother or that the child would be born with grave physical or mental defect or the pregnancy resulted from rape by force . . . or from incest."

The suggested new law would require that two physicians state their reasons for the abortion in writing. Similar proposals were submitted to the California and Illinois legislatures in 1961 and 1962. In California these proposals were incorporated in the "Therapeutic Abortion Act" and followed suggestions by Herbert J. Packer and Ralph J. Gampell of Stanford Law School (3). The bill was introduced to the California Legislature on April 12, 1961, by Assemblyman John T. Knox of Contra Costa County. At this writing it is assigned for study to the Interim Committee on Criminal Procedure. Its advocates hope that it will again be pre-

sented to the legislature in 1964, but there is the possibility that the bill will be permitted to "die" in committee.

The Knox bill sets forth "Minimal Procedural Requirements" for a legal abortion. These include the approval of a therapeutic abortion hospital committee which should hold regular meetings and be certified by the State Department of Public Health. The committee must be composed of at least five members, including at least two specialists in obstetrics, one in internal medicine and one in psychiatry. The prospective abortee must give her written consent and so must her husband if she is married. If a minor or otherwise incompetent, then the written consent of her parent or guardian must be obtained. Additionally, the request must be corroborated by the written opinions of at least two more physicians, at least one of whom must be a specialist in the condition put forth as the reason for the abortion and none of whom are members of the above committee. The bill requires the operation to be done in an approved hospital by a licensed physician and suitable records must be kept to show compliance with the minimal procedural requirements (4).

Many readers will recognize that the Knox bill simply would legalize (with certain further protections) a procedure already in effect in many American hospitals. Probably the most advanced form of this procedure is to be found at Mt. Sinai Hospital in New York City which institution was one of its pioneers. Each application for an abortion is passed upon by an "abortion board" which is a standing committee of the medical staff. The board's permanent chairman is the chief of obstetrics and gynecology. Board members are comprised of the senior representatives of the departments of medicine, psychiatry, pediatrics and surgery and are replaced from time to time. Whenever there is a case to be heard the board meets weekly. Two days prior to the meeting five copies of two letters from the two separate physicians recommending abortion are delivered to the board chairman. He causes these to be circulated to the various committee members. This allows them time to familiarize themselves with the case prior to the meeting. It also allows them time to consult medical literature bearing on the case should this prove necessary. One of the two consultants who wrote the letters must be present at the board meeting to answer such ques-

tions as may be asked. Present also will be the obstetrician who is scheduled to terminate the pregnancy. Should some esoteric medical problem arise during the board's deliberation an appropriate expert from this specialized area may be called in as a consultant.

When all the evidence has been presented and the pro's and con's thoroughly debated, the board meets in executive session. As far as Mt. Sinai Hospital is concerned, a decision to validate abortion must be unanimous. In view of the board's carefully observed policies the number of applications is relatively low while the ratio of accepted applications is quite high. It appears that the acceptance rate is so high because the staff is well acquainted with board policy on most problems and are hesitant to submit a case unless favorable action seems assured. Hallway consultations with board members are conventional. Dr. Guttmacher tells of one occasion when he was asked by telephone if the board members would probably authorize the abortion of a healthy young woman who was pregnant by her father. When he assured his caller that it would not, the case was never presented (5).

The authors are of the opinion that the general pattern of the "abortion board" in a hospital setting is growing in popularity and acceptance. It may well be that it constitutes the "wave of the future," at least the foreseeable future. It may be a "bridge" between the chaotic and often illegal practices of the present and some type of future legal change in the statutes. It would not be the first time in the history of social change that a well intentioned but actually pseudo-legal technique was adopted until the law is brought into line with prevailing practice.

As we have seen in earlier chapters, the Catholic objections to direct abortion are extremely well taken if one grants the philosophical and spiritual assumptions upon which they are based. In any event, no real problem exists any more as purely medical indications for therapeutic abortion have shrunk almost to the vanishing point. Under the principle of double effect the cancerous uterus of a Catholic woman may be removed for grave medical cause and there is no objection if it be in a pregnant condition. The termination of the pregnancy was not morally intended and the operation was performed for other reasons. The foregoing observation is simply an introduction to our further opinion that any

proposed change in a state's abortion laws must take Catholic public opinion into account. It is no accident that the two states currently involved, at least on the discussion level, are California and Illinois—both heavily non-Roman Catholic in population. One could hardly imagine a New York State senator of any faith (or no faith) actually introducing a bill on the subject at the present time.

In less well organized hospitals, particularly small hospitals, *bona fide* requests to interrupt pregnancy received from physicians are handled far less systematically than at Mt. Sinai. Some hospitals bend over backward to conform with existing law—come what may. If a pregnant patient is admitted following a serious suicide attempt (a rare event) and is still threatening to take her life she is placed in a closed psychiatric ward to await delivery. Other hospitals stretch the law mightily, particularly on psychiatric grounds. We have not found any ethical hospital that would approve an abortion for purely socio-economic reasons, but some do under a cloud of psychiatric verbiage. Applications from physicians whose patients are pregnant incestuously may be debated at length in some institutions or quickly denied in others. Pregnant schoolgirls who are also emotionally disturbed but not psychotic may be officially aborted, or they may not. The current confusion of policy in many hospitals was brought out at a recent conference on abortion. During a heated discussion on policy and future trends one of the participants, Howard C. Taylor, M.D., was moved to remark, "I sometimes wish I were an obstetrician in a Catholic hospital so that I would not have to make any of these decisions. The only position to take in which I would have no misgivings is to do no interruption at all. All so-called indications have a relative validity only" (6).

Also at the above conference, Sophia J. Kleegman, M.D., brought out the fact that indigent patients in municipal hospitals receive differential treatment in the matter of therapeutic abortion when compared to patients in a physician's private practice. Said Dr. Kleegman, "Psychiatric indications for therapeutic abortions are insignificant in number in municipal services but high in private practice, for 80 per cent or more of therapeutic abortions in private practice are performed for psychiatric indications" (7). Dr. Kleegman then pointed out some possible (and at least to

her) desirable future patterns which, if followed, should reduce the incidence of criminal abortion:

- “1. The emotional and socio-economic status of a patient is so inextricably intertwined with her medical problems that they must be taken into consideration in every phase of medical practice, including therapeutic abortion.
 2. The great disparity for making available contraceptive service and therapeutic abortion between private and ward patients is an inequality for which the medical profession must take the major responsibility.
 3. The differences in these areas of attitudes and practices of the same gynecologist and the same psychiatrist toward the private patient who has social and economic status and toward the service patient who has no one to intercede for her, constitute a social inequality for which we are also primarily responsible, and this applies especially to the unmarried girl”
- (8).

While political, legal and social committees or groups formed to study possible revisions of existing abortion laws have merit, mere revisions of such laws *in and of themselves* will not have a profound effect on the overall abortion picture. The Swedish experience has demonstrated that relaxed abortion statutes cause criminal abortion figures to decline while abortions designated as “legal” increase. The total number of interrupted pregnancies seems to remain virtually constant. Guttmacher has said that to have *no abortions at all*, either criminal or therapeutic, should be our goal. This goal is manifestly impossible in our time. Therefore, as we draw this survey of the practice of criminal abortion to a close, let us examine some of the facets of our contemporary culture which, if stimulated and expanded, could cut drastically the incidence of criminal abortion:

1. *Greatly increased medical research concerned with the discovery of new techniques for the spacing of pregnancies acceptable to both Catholics and Protestants.*

The medical and sociological aspects of family planning have given rise to numerous books in recent years. The permutations and combinations of the pro's and con's of this subject are intimately associated with religion, politics, economic level, education,

social class and a host of minor factors. Considerations of space and purpose preclude our exploration of this thorny sociological thicket here. The interested reader is advised to consult the bibliography for works by Rainwater, Himes, Stone, Fr. Gibbons, Guttmacher, Haire, Sulloway and Pope Pius XI.

For the vast majority of Protestants and Jews there is no problem as to spacing of pregnancies. They may choose, or not choose, between the whole gamut of birth control methods, such as they are. For the devout Roman Catholic, however, there is but one theologically acceptable method and this is periodic abstinence—the so-called rhythm method. One might legitimately ask at this point, "What has all this got to do with criminal abortion?" Simply this, if there were available some simple, cheap, fully effective, totally acceptable, and aesthetic method of avoiding conception, the incidence of criminal abortion would drop sharply. There is a good deal of *a priori* evidence available to back this contention. A large, but unknown, proportion of illegal abortions are sought because of this problem. Surely a significant drop in the number of pregnancies would be reflected in criminal abortion statistics.

Fr. William J. Gibbons, a Jesuit scholar attached to Fordham University and one of the top population experts of the Catholic Church, sees only two possible physiologic approaches that his Church might approve (9). The first might be some technique of controlling the monthly cycle so that ovulation could take place at a designated artificial time—for instance, forty-eight hours after a specific drug dosage was given—and then timed abstinence would be completely protective. The second approach might be some simple method of anticipating the spontaneous, normal advent of ovulation by forty-eight to sixty hours, possibly by a chemical color test involving a sample of saliva or urine or an improved method of basal temperature measurement.

Many governments including our own have recently allotted grants-in-aid for research in the control of reproduction. This governmental concern has little to do with the abortion problem but reflects dangers seen in connection with the world-wide population explosion, foreign aid, communism and related matters. Prospects for research in this matter seem bright with promise. It is

quite possible that a few generations hence our present methods of birth control might make a quaint exhibit in a medical museum.

2. *Greatly expanded efforts in the fields of sex education for children and adults.*

Traditionally, sex education has been a parental function. In recent years, partly as a response to parental laxity in this area, the public schools have included such instruction in their curriculum. The public school approach to this problem has itself greatly improved in the last twenty-five years in most areas. No longer, we trust, are the freshman boys herded into the gymnasium to view a film on the physiology of human reproduction followed by a "sex lecture" from the football coach. In the authors' day the girls were given the same annual treatment with the lecture being given by the domestic science teacher, a maiden lady of uncertain age. The basic difficulty with giving instruction in matters of sex (or alcohol, driving a car, etc.) is that the expert impartation of technical facts is only part of the task. Sexual behavior, as well as all behavior, is heavily conditioned by a person's general personality and particularly by his spiritual, moral and ethical training. This being the case, the home, the school, and the church must do a better teamwork job in this area. There is evidence that all three are increasing their efficiency, as today's average teenager is far more knowledgeable sexually than was his grandfather.

3. *Greatly expanded efforts on the part of physicians and medical associations in educating the public as to the dangers of abortion.*

As previously noted, one of the major factors in the area of abortion is the profound, long standing and dismal silence which surrounds it. If the American public ever became well aware of the mounting evidence which shows that about one pregnancy in every five terminates in some type of abortion, we feel there would be a strong reaction. The present progress in the fields of cancer, poliomyelitis, tuberculosis and venereal disease could never have occurred without a nationwide educational program conducted through the mass media. Some readers will recall the furor which occurred in 1927 when a large life insurance company first mentioned the word "syphilis" in one of its advertisements. For many

persons today the word abortion is virtually a "dirty word." One commonly meets people who consider the whole subject as obscene and refuse to discuss it. Virtually any worthwhile public project can be achieved if enough interest and publicity is generated. The current drive for the use of automobile seat belts is a case in point.

We feel that the medical profession, backed up by the social and behavioral sciences, should take the lead in this educational campaign. If it lets the problem go by default, then it is only a matter of time before other groups will rise to the task as occurred in England. Not only should the dangers of abortion be expounded, but concerned women should be directed to persons or institutions where their situation could at least be discussed or examined within the bounds of law, medicine, and ethics.

The authors are deliberately refraining from making any suggestions at this point as to specific changes in the law of abortion. To do so, we feel, is to put the cart before the horse as no change at all seems possible before the rather large program of public education mentioned above can be well under way. A tremendous amount of conference work on a very high level must first take place on this complex and involved subject. The American Law Institute has completed many years of study and has published its Model Penal Code. The work of the National Committee on Maternal Health, Inc., and the Planned Parenthood Federation of America on the subject has been published. Certainly the interest in the control of population will *increasingly* focus medical and legal attention on the problem of criminal abortion as an undesirable and wasteful by-product of the population explosion.

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APPENDIX A

FIVE TYPICAL pre-sentence investigation reports made by several urban Probation Departments in the cases of five persons convicted of Abortion follow. The cases are of various types of offenders and include examples of mill and ring structure and *modus operandi*.

All names of offenders, courts, officers, institutions, schools, hospitals, persons, judges and jurisdictions have been changed, altered or shifted. Accordingly, no identification should be made with any particular person or place nor should any be inferred.

The format of the reports necessarily had to be changed to protect the identity of the courts concerned. Their content remains the same, however, with the exception of the above steps taken to preserve confidentiality.

It should be pointed out that the practice of abortion in urban areas follows a definite pattern depending upon the type of abortionist studied and his method of operation. Therefor, any alleged resemblance between any of these cases and an actual case is purely fortuitous and tangential.

CASE I—FRANK BOYLE, "M.D."

Case I is that of a typical "quack doctor," that is to say a person of little or no medical training who comports himself in the community as a duly trained and licensed physician.

One notes the presence of the usual combination of false and fraudulent "diplomas," the excessive use of electrical devices, the psychopathic expansion of the ego, the circumstantial defensiveness, the lack of insight, and the callous disregard of the welfare of others.

I. Resume of Legal Background

PREVIOUS COURT APPEARANCES			DIS- POSITION
DATE	OFFENSE	COURT	
Oct. 17, 1925	Larceny From Person <i>Springfield, Mass.</i>	Police Court	Probation— one year

Oct. 17, 1925	Unlawful Practice Medicine	Municipal Court	Probation & Fined \$100.
Dec. 18, 1927	Unlawful Practice Medicine	Municipal Court	Probation & Fined \$200.
		<i>Mineola, N.Y.</i>	
Nov. 16, 1943	Unlawful Practice Medicine	County Court	County Jail —one year
Jan. 18, 1944	Unlawful Practice Medicine	County Court	County Jail —one year

Synopsis of Indictment and Complaint

On July 17, 1948, about 9 P.M., at 617 East 115th Street, this county, the defendant, Frank Boyle, by means of certain instruments, feloniously aborted Mary Dunbar.

Account of Instant Offense

Identity of Complainant:

Miss Mary Dunbar residing at 505 West 49th Street, this County.

At the above indicated time, the complainant informs us that her "boy friend," John Carter, paid the defendant \$75 to abort her. She adds that the defendant, who is not a physician, used a machine and a catheter which he inserted into her uterus and advised her to keep therein for several days. Two days later, the complainant removed the catheter and had Carter advise the defendant that nothing had transpired.

Carter then obtained two brown pills and an ointment from the defendant. When the complainant took these, she began to have chills and fever. She so advised her mother who summoned the family physician. The latter, not being aware of the complainant's condition, felt that she had symptoms of appendicitis.

Some hours later, when the complainant's illness became more severe, she related her true condition to her mother who made arrangements for her admission to the Wilson Memorial Hospital at about 11 P.M. on July 20, 1948. Hospital authorities immediately informed Detective William F. Mangano of the Vice Squad of the complainant's condition. From her, Detective Mangano learned that the defendant had attempted to abort her. He arrested Boyle on July 16, 1948 after he admitted the offense.

Circumstantial Factors

The defendant frankly admits the offense for which he received the sum of \$75. Since 1925, he has been convicted in Springfield, Massachusetts, and Mineola, New York on four prior occasions for the Unlawful Practice of Medicine. For many years, he has apparently dispensed various nostrums, pills and electrical treatments to the ignorant and gullible.

While a patient in the County Psychiatric Hospital in November of 1942, Boyle was found to have "no anatomical knowledge, whatsoever" and gave untruthful statements concerning his education and background. He then attempted to simulate amnesia for events surrounding his arrest. He has no bona fide degree of any kind but has received numerous "certificates" from various correspondence schools. It has been ascertained that in 1922-1923, he took a course at the Dinshah Spectro-Chrome Institute in Malaga, N. J. in "a system of healing by attuned color waves." When this institute was destroyed by fire on January 3, 1945, an article appeared in the Philadelphia Record stating that the "Spectro-Chromemeters are intricate electrical gadgets festooned with multi-colored lights which are supposed to diagnose disease."

The New Jersey State Board of Medical Examiners which prosecuted several of Dinshah's "graduates," reports that the "meter is nothing but the old—and discredited—Abrams method." The Saturday Evening Post of November 19, 1947, contains a lengthy article discrediting the claims of the inventor of the Spectro-Chrome machine and also mentions numerous brushes of its inventor with the law. Boyle admits that he has been licensed in this State only as a masseur.

Detective Mangano states that he found a set of dirty medical instruments in the defendant's apartment, as well as many medicines and herbs. He is of the opinion that Boyle is a "professional abortionist." He adds that the Police Commissioner had received an earlier complaint about Boyle unlawfully practicing medicine for which he had not been arrested.

The complainant was a patient at the Wilson Memorial Hospital for eighteen days, at a cost of \$180. She has since fully recovered, although she complains of irregular menstruation.

Complainant's Attitude Toward the Defendant

She desires that the leniency of the Court be extended to the defendant.

II. Aspects of Environmental Background***Vital Statistics:***

A Negro, the defendant, who appears to be a bigamist, claims to be 51 years, six months old and a native of Barbados, British West Indies. The Probation Department of the Springfield, Massachusetts Municipal Court gives his age as eight years older while by his marriage license he is now nine years younger. Verification of his age is awaited from Barbados. An alien, he has lived in this city approximately sixteen years.

Childhood and Education:

He relates that he was graduated from the Royal High School in Barbados, British West Indies at the age of twenty. His detailed school record is not yet available but it is apparent he has had at least an elementary education. Upon leaving his native city in about 1916, he allegedly went to Dublin, Ireland where after working for a short time in a factory, he was inducted into the Royal Navy, in which he became a Chief Petty Officer. This cannot be true as no Negro attained such a rank at that time.

After that war ended, he somehow acquired a Certificate from the Monroe School of Osteopathy and Chiropractics in London, England. In 1921, he came to this country where he states that he spent the next two years studying medicine at Middlesex University in Boston, Massachusetts. Recently, that university was closed and their files are now in the custody of Brandeis University of Waltham, Massachusetts.

The Registrar of the latter institution reports that the defendant applied for admission to the second year, pre-medical class in the College of Arts and Sciences for the session 1923-1924. Boyle claims to have degrees as Doctor of Naturopathy, Doctor of Osteopathy and Doctor of Philosophy. He also indicated that he was a graduate of the Pelman Institution in Georgetown, British Guiana and had attended Queens College, in that city. He was accepted

subject to verification of his credentials which he never presented and for that reason, was not admitted.

His course at the Dinshah Spectro-Chrome Institute in Malaga, N. J., was around 1923, according to the Director who writes that the defendant studied "a system of healing by attuned color waves." This course required several weeks but Boyle now relates that he has kept in touch with that school by correspondence, in order to be apprised of any new developments in their instruments.

During his pre-adolescence, the defendant states that he was reared by his parents in fairly comfortable circumstances and that they accorded him religious instruction which obviously made no lasting impression on him. There is presently nothing to indicate wayward or delinquent problems during this phase of his life. It would appear however that his father put great pressure upon him to achieve professional status and perhaps over-stimulated him.

Parental, Familial and Environmental Factors:

The defendant describes himself as an only child of Vincent J. Boyle who allegedly died in 1917, and Sarah nee Jones whose demise occurred two years later, also in Barbados, British West Indies. He can give no information concerning their deaths as at that time, he was living in London, England. Verified details of his background are not now available.

He asserts that on August 10, 1921 in Boston, Massachusetts, he married Jane Williams, then aged 21, of whom there is no issue. They separated about four years later when, Boyle avers, he went to Chicago, Illinois to become an Instructor in the College of Drugless Physicians and Surgeons, which is no longer in existence. A short time later, a Mr. Jackson to whom the defendant states he had given Power of Attorney, squandered his funds in Springfield, Massachusetts, causing him to lose two houses and other funds. Thereafter, he did not return to Springfield or again see his wife of whose present whereabouts he disclaims all knowledge.

The defendant admits that he bigamously married Ruth Benedict, now aged 28, in this city on November 7, 1932. Direct verification of this marriage is also awaited. There is no issue of this union but the defendant states that his second wife has a son, John, aged four, born out of wedlock. He claims that he left her about five

years ago but that they are on friendly terms. The address, 2001 Sixth Avenue, this County, apartment 5N, which Boyle gave as his bigamous wife's residence, is untrue. There is no such apartment in that building or anyone so named.

When arrested in 1943 for the Unlawful Practice of Medicine, the defendant was cohabiting with June Leslie at 42 East 104th Street, in this County. There, an inspector for the State Department of Education found that the defendant had a Spectro-Chrome machine and numerous other medical instruments which apparently had never been sterilized.

For the past three years, Boyle has lived in a sparsely furnished, five-room apartment at 617 East 115th Street, this County, at a monthly rental of \$26. The instant offense was committed there. A male lodger pays \$10 weekly. In the neighborhood, he is known as "Doctor Boyle" while his mail box contains the name of "Boyle, P.H.D." Thus, he is regarded as "a professional man" and accepted fully by the unwary. In his domestic life, he has been as unconventional and unstable as in all his other activities.

Economic Activity:

The defendant was arrested on July 26, 1948, released under \$2,000 bail on July 29, 1948 and has continued at liberty.

As already indicated, Boyle has apparently maintained himself during the past 20 years by dispensing various nostrums and medicine therapy to the indigent and ignorant. He also teaches "all subjects" including geography, spiritualism, metaphysics and anatomy. He has special and advanced classes in these subjects, also in "Oriental sciences." In 1943, the State Department of Education found that Boyle had many "patients" to whom he gave "medical treatment" for various ills. He also professed to cure ills by "laying on of hands."

His claim of employment on a part-time basis, in the past five years by Wilma Ricardo of 444 Dwight Avenue, this County, as a waiter, was found to be untrue. His alleged employment at a drug-store for two years ending in June of 1944 and his sale of a candy store for \$1,000 about five years ago, which Boyle claimed to have maintained for two years, could not be confirmed.

III. Predisposing and Precipitating Elements

Results of Mental and Physical Examinations:

The County Court of Nassau County remanded him to the Psychiatric Division of the County Hospital on October 8, 1943. Their report dated October 25, 1943, revealed that Boyle was not psychotic or mentally defective. He was found to be of normal intelligence, having scored an Intelligence Quotient of .99 on the Wechsler Test. He was found to be a psychopathic personality and attempted to simulate amnesia for events surrounding his arrest.

The defendant's mental status now appears unchanged but he claims to be suffering from diabetes. A recent test made at the Morris Avenue Laboratory, disclosed the presence of sugar in a specimen of urine which Boyle submitted.

This Department also arranged for the venereal examination of the defendant at the Board of Health. Their findings were negative.

Evaluation of Personality and Behavior:

Of well-developed physique and brown complexion, Boyle has a dignified and professional manner. During our interview, he misused various words and gave considerable untruthful information. Essentially a quack doctor, he has lived for many years through malpractices, frauds and abstract teachings. His education, mostly by correspondence courses, has seemingly qualified him for nothing more than charlatanism.

The defendant has apparently effected some "cures" resulting from hysteria or other psychological causes. By so doing, he developed a reputation in his neighborhood and as a consequence, acquired a large following of gullible illiterates. From them he has derived considerable funds by his malpractices. He believes in his own goodness and one feels that he is sincere, in many respects. However, his exceptionally limited medical knowledge, is a menace as his methods of treatment are likely to endanger the patient's life or aggravate a condition already present. In this respect, he can be classified as an egocentric psychopathic personality with a tendency toward swindling and spiritualism.

On October 17, 1925, in the Police Court of Springfield, Massachusetts for Larceny, Boyle was placed on Probation with an order of restitution in the amount of \$100. At that time he was also convicted of Unlawfully Practicing Medicine for which he was placed on Probation and fined \$100. His arrest involved the treatment of one Vincent Whitmire who was suffering from blindness. The defendant had told Whitmire that he could be "cured" after he had examined him. The latter thereafter made a number of visits to the former's office, received medicines with which to bathe his eyes, and to be taken internally. Later Whitmire became a lodger and boarder in Boyle's home and during all that time, he was treated by the defendant whom he paid a total of \$117. When his eye condition became worse, Whitmire demanded the return of his money and when refused caused the arrest of the defendant. Boyle made restitution, paid the fine and was discharged from supervision on October 17, 1926.

On December 18, 1927 for Unlawfully Practicing Medicine, the defendant was again placed on probation by the Springfield Municipal Court and fined \$100 and to pay \$25 in restitution. He paid the fine but failed to make restitution, disappeared a short time later and a bench warrant was issued for his arrest. Springfield Probation Authorities now report that they doubt very much if their Court would be interested in the service of that warrant unless Boyle should, at some time, be found in Massachusetts. That offense specifically involved treating a cripple, Alexander Weaver, a number of times for the sum of \$35, in fees. The defendant had posed as a registered physician to the complainant while a policeman had found a sign in the hallway of his home, indicating that he was a physician.

On November 16, 1943, in Nassau County Court, the defendant was convicted of the Unlawful Practice of Medicine and was committed to the County Jail for six months. Between August 7th and November 10, 1942, at 47 Roosevelt Drive, Mineola, the defendant had practiced medicine in Violation of Section 1250, subdivision 7, of the Education Law of New York State, on approximately nineteen persons. One patient, Clement Sims, stated that he had been told by Boyle that he had a "gonococcus germ in the knee." The defendant then syringed Sims' knee with lysol and hydrogen perox-

ide. He also applied wet bandages of C.N., a strong disinfectant. Sims' condition became serious and on January 7, 1943, he was admitted to Van Dyke Hospital. He was later transferred to Oceanview Hospital where, on June 14, 1944, he died from tuberculosis.

While then at liberty on bail, awaiting sentence, Boyle continued to engage in the Unlawful Practice of Medicine. Three investigators from the State Department of Education visited his offices at 617 E. 115th Street in this County. One investigator complained of dizzy spells and headaches, whereupon Boyle prescribed that she drink two bottles of Guinness' Stout, each day and take special baths which he would give her. These baths were to be given while the patient wore a protection of white paper containing peculiar oriental characters. Boyle also cast this investigator's astrological sign and asked for a fee of \$50. For an additional fee of \$5, he offered to massage "any part" of the investigator's body which she felt "needed some stimulation."

The defendant told another investigator that he had cured a case of imbecility, ordered her to drink yellow split pea soup for constipation and to breathe very deeply. He also prescribed special baths, electricity and yellow vegetables. On September 17, 1943 he was arrested, and on January 18, 1944, following his conviction for the Unlawful Practice of Medicine, he was sentenced by the Nassau County Court to one year in the County Jail, the term to run consecutively with the one imposed on November 16, 1943.

Recommendations for Treatment

In view of his mature years, the serious nature of the psychiatric diagnosis, the long history of anti-social behavior involving the illegal practice of medicine, his almost total lack of insight with regard to his actions and the danger he presents to the community, it is recommended that Boyle be placed in a closed, controlled environment where such special treatment, if any, as may be deemed desirable can be afforded by the Department of Correction.*

CASE II—ALVIN H. STARBUCK, M.D.

The case of Dr. Starbuck and his co-defendants, which include a combination Nurse-Secretary, is an excellent example of a mill

*NOTE: Subsequently Boyle was sentenced to serve not less than two nor more than four years in a State Prison.

operated by several physicians. It has certain of the characteristics of a ring but cannot be so designated as it did not shift its physical location ("float"), had only local referrals, used hospital type equipment, and its volume of operations was (relatively) small. The business manager, although known to exist, was never apprehended. Although it was never proved from a legal standpoint, strong evidence was assembled by the District Attorney's office to the effect that one or more members of this mill sold morphine to trusted addicts for \$3.00 per $\frac{1}{4}$ grain injection.

I. Resume of Legal Background

DATE	OFFENSE	PREVIOUS COURT APPEARANCES	DISPOSITION
		COURT	
Nov. 2, 1944	Abortion	White Plains, New York Westchester County Court	Pending

Synopsis of Indictment and Complaint

From January 3rd to February 20, 1945, in this County, the defendants conspired with each other to commit the crimes of Abortion and Assault, and in furtherance thereof, at 86 West End Road, on February 8, 1945, criminally aborted Rosita Ramirez; on February 15, 1945 criminally aborted Wilma Cohen, and on February 18, 1945 the defendant Millard accepted \$375 from Ruth Ingersoll, whereupon the defendants assaulted her with their hands and certain instruments with intent to abort her, against the Peace of the People of the State of New York and Their Dignity.

Account of Instant Offense

The following is based upon information secured from the District Attorney's Office of this county and Policewoman Elaine Haverstraw attached to the District Attorney's Office.

On or about October 20, 1944, the District Attorney of Atlantic County, Atlantic City, N. J., reported to the District Attorney of this county that one Jean Baxter was a patient in the Harding Hospital, Atlantic City, N. J., being treated for an incomplete abortion, which had been performed in this county. Policewoman Haverstraw began an investigation and at the hospital secured information from Jean Baxter indicating that the abortion had been performed at 86 West End Road in this Jurisdiction by a man she did not identify.

Subsequent investigation revealed that one Frank Roman, alias John Roman, was performing abortions at the 86 West End Road address, and that he was frequently assisted by Dr. Alvin H. Starbuck. On May 15, 1945, Detective Henry Regan of the District Attorney's staff, accompanied by several other detectives and a physician attached to the District Attorney's office, went to 86 West End Road. In response to the knocking of Detective Regan, Ruth Millard opened the door of the house and all entered. In an adjoining room, which could be fully observed through a partition, a man, later identified as Dr. Michael Shea, was performing an abortion. He was permitted to complete the operation, so as not to endanger the life of the patient, and then Dr. Shea and Millard were arrested. On May 16, 1945, Dr Starbuck was arrested.

On May 21, 1945, Dr. Shea, while on bail for the instant offense, committed suicide by hanging, and on June 18, 1945 in this Court, the action as pertaining to him was abated by Judge Killain.

On May 20, 1946, Ruth Millard was placed on probation by this Court after pleading to Abortion to cover four other indictments.

Circumstantial Factors:

Starbuck's plea of guilty to Indictment A-B607-J also covers Indictment H-5614-G, which charges the defendants with conspiring to commit Abortions and actually aborting Alice Haggerty alias Dawn O'Dea, Josephine Hart and Evelyn McCoy, in return for various fees.

Millard's plea to the instant indictment also covered two other indictments. Indictment V-E 801-A charges that during a period from on or about February 17, 1945 to on or about May 1st, 1945, at 86 West End Road, she and Dr. Michael Shea conspired to commit abortions and actually aborted four women.

Indictment J. S. 805-B charges that on August 15, 1945, Ruth Millard and Frank Roman criminally aborted Jean Baxter, omitted to report a foetal death, unlawfully practiced medicine, and feloniously possessed a narcotic drug, to wit: 128 grains of Morphine.

During the investigation by the District Attorney's Office, it was learned that on February 28, 1945 in Westchester County

Court, on a charge of Abortion, Roman was committed to State Prison for from two to four years. On March 10, 1945, also in Westchester County Court, he pleaded not guilty to Abortion, which case is now pending. On September 10, 1946 in this Court, he pleaded guilty to Indictment J. S. 805-B and on the same date sentence was suspended by Judge Avis and he was returned to State Prison.

At the time Millard was taken into custody, a complete set of curettement instruments were being used by Dr. Michael Shea, which was his personal property. Millard acted as nurse and receptionist to Dr. Shea and the two other defendants, Starbuck and Roman. Fees, which varied in amounts from \$75 to \$600 were received. Ruth Millard, in explanation of her conduct, stated that in the latter part of 1943, she rented three rooms in her house to Dr. Michael Shea, Dr. Alvin Starbuck and Frank Roman. She "eventually" became aware that they were performing abortions. She took all messages as the telephone was in her apartment, and admitted that occasionally she took care of patients in her home, for which she received \$50 a week. Ruth Millard is a graduate physiotherapist and could not help but know what was actually happening.

According to Policewoman Haverstraw, in the early part of 1943, Millard was allegedly sending patients to be aborted to one Dr. Henry D'Arcy, who subsequently was convicted of Abortion in Westchester County Court and sentenced to the Penitentiary on February 16, 1944. Ruth Millard was summoned before the Grand Jury, to which body she denied having sent any patients to Dr. D'Arcy. She was not held. However, during the D'Arcy investigation he admitted to the District Attorney that Millard had sent him patients.

Starbuck freely admits the offense. He does not recall any of the aborted women by name or the dates on which he aborted them, but states that he was doubtless involved as he committed "about three hundred abortions" at the residence of Millard. Originally, Starbuck claims he became involved in committing abortions "as a favor" to Millard, whom he had known for some months previous to the instant offense. He claims that he is unaware of the exact fees

charged the aborted women by Millard, but admits that he received from \$50 to \$75 for each abortion, depending upon the size of the fee collected from the patient, by Millard. He explains that his co-defendant acted chiefly in an administrative, financial, clerical and nursing capacity, as far as the abortions were concerned. He denies an allegation by Ruth Millard to the effect that he cohabited with her and promised to marry her. He states that he merely "fooled around" with her occasionally.

According to information received from the District Attorney's Office, on November 2, 1944 Starbuck was indicted on a charge of Abortion in the Westchester County Court, but before he was apprehended he was committed to the Westchester County Hospital for psychiatric observation. Subsequently, Starbuck was transferred to Eastern State Hospital and later to Central State Hospital. At the latter hospital his diagnosis was "Schizophrenia, Paranoid Type," with a history of alcoholism. He was discharged from Central State Hospital on January 5, 1948 to the custody of the Department of Correction, for arraignment in this Court. The above-mentioned Westchester indictment is still pending against him.

The aborted women suffered no physical ill effects, except Jean Baxter who is now a partial invalid as a result of the abortion and is supported by the Department of Public Welfare.

II. Analysis of Environmental Background

Vital Statistics:

Starbuck, who is divorced, was born on January 3, 1900 in White Plains, New York, according to verified records of the Department of Health, and is therefore forty-eight years, two months of age. He has lived in this County since he was two years of age.

Childhood and Education:

The defendant was reared by his parents under comfortable economic circumstances in this County. His father, a hardware salesman, at an early age encouraged the defendant to become a dentist, if not a doctor. According to his mother, the defendant was a most conscientious boy who studied hard to get through his various educational courses, paying his way in part by working as

a clerk in his uncle's grocery store on Dexter Drive. Verified records indicate that the defendant graduated from James Lanier High School in this County at the age of nineteen, after achieving an excellent academic record.

During the year 1925-26 Starbuck was enrolled in extension courses of Fairfax University, preparatory to enrolling himself therein as a premedical student. According to records of the university, he was registered from September, 1926 until June, 1928. The dean of that institution reports that the defendant's academic accomplishment was mediocre, though not unsatisfactory. On the latter date he did not officially withdraw from the college, but simply failed to re-register. He is recalled as a serious student who did not participate in any campus activities. There is no evidence in his file of any misconduct.

Records of the Medical Society of this County indicate that the defendant received the degree of M.D. from the Medical School of the University of Marseilles, France, in 1932, and that his license to practice medicine was endorsed by the Regents of the University of this state in 1935.

According to various relatives and a psychiatric summary received from Central State Hospital, the defendant commenced to consume alcohol at a relatively early age. While working after school in his uncle's grocery store, it was noticed that at times he drank beer despite his youth. According to a brother of the defendant, Starbuck was considered by him to be somewhat over-serious and a bit over-studious as a boy. Aside from the before-mentioned consumption of alcohol while working, his brother does not recall any unusual behavior displayed by Starbuck as a child. He feels, however, that the defendant was never able to confide his emotional difficulties to others and his frequent repression of such difficulties as a struggling student was responsible in part for his later difficulties in life.

In general, the defendant's early years were characterized by careful rearing by conscientious parents under comfortable economic conditions. By application to his studies and working long hours as a sales clerk after school, the defendant acquired the degree of M.D. in 1932 when he was thirty-two years of age.

Parental, Familial and Environmental Factors:

Starbuck is the oldest of three children born to Gregory Starbuck, a hardware salesman, who died in 1943 at the age of sixty-five, and Maria nee Schlitz, now aged sixty-nine. Following the death of her husband, Starbuck's mother married one Leonard Anderson, and now resides with her second husband at 887 Bedford Avenue, Philadelphia, Pennsylvania. In a well-written letter, she informs us that her first husband, the defendant's father, maintained his own wholesale hardware business in this County for over thirty years. She feels that the defendant's legal difficulties are a rather direct result of an unhappy married life, which in turn aggravated the defendant's alcoholic tendencies. She advises us that upon the defendant's eventual release, she will invite him to come to Philadelphia and live with her.

According to verified records, Starbuck married one Elise Miller on January 12, 1943 in this city. Information received from various relatives and from Central State Hospital, where the defendant was treated for two years for Dementia Praecox and alcoholism, shows that the defendant's wife was a heavy drinker, and would often drink to a greater extent than Starbuck. Hospital records reveal that most probably because of a progressive schizophrenic process and increasing alcoholic tendencies in the defendant, his marriage to Elise Miller became involved in difficulties early in 1944. At that time he commenced to become abusive and accuse her of infidelity, while indulging to excess in alcohol, on a daily basis. As a result, he commenced to show some impairment of memory to the extent that he forgot about keeping appointments. On September 30, 1944 at the age of 44, Starbuck was admitted to Eastern State Hospital, where he was diagnosed as: "without psychosis, alcoholism." He was discharged therefrom on October 14, 1944 as cured.

Prior to the above marriage, the defendant married a French girl whom he brought over to the United States, about 1934. After living with her for several years, he divorced her, allegedly because she acquired a serious cardiac condition. The girl returned to her parents in France. We learned of this marriage from hospital records, which give no details as to the woman's name, and the de-

fendant himself made no mention of this first marriage, when interviewed.

According to verified information, Elise Miller, the defendant's second wife, received an interlocutory judgment of annulment, granted by the Supreme Court of this State, on the 27th day of April, 1947. This decree became final on July 21, 1947. The defendant states that he has no idea of the present whereabouts of his former wife. His relatives were also unable to supply us with such information.

When instantly arrested, the defendant was residing with his wife at 138 Lefferts Place, in this County where he maintained an office for the practice of medicine. No children were born of the marriage. Although the instant offense was committed in 1945, Starbuck did not plead thereto until May 10, 1948, as he became a voluntary patient at Central State Hospital on October 17, 1945 and was not discharged until January 21, 1948. While in the hospital, his diagnosis was "dementia praecox, paranoid type," with a history of alcoholism.

Since his discharge from the above hospital and at the present time, Starbuck is living, rent free, with friends, Mr. and Mrs. Ralph Consistre, in a neatly-furnished, well-kept six room house at 81 Willow Road in this County. Starbuck states that he is supporting himself at present on money borrowed from his mother some months ago. The above residence is located in a desirable neighborhood, and Starbuck is well regarded by the Consistre's who impress us as a respectable married couple.

Starbuck has a married sister, Joan Fidell, aged 30, who resides with her husband, who is employed as a salesman by the Revere Engine Works, Atlanta, Georgia. The defendant's only brother, George, aged 35, resides in Altoona, Pa., and is a welding boss for the Richmond Diesel Motor Corporation.

Economic Activity:

Arrested on May 16, 1945, Starbuck was at liberty on bail until he was committed to Central Hospital on September 21, 1945. Discharged from that hospital in January, 1948, he has since been at liberty on bail.

Verified records of the Medical Society of this county indicate

that the defendant has practiced medicine in this city since he acquired his license in 1935. Starbuck formerly maintained an office for the practice of medicine at 138 Lefferts Place, and previously at 898 St. John's Avenue in this County. He was admitted to membership in the County Medical Society on November 18, 1943 and dropped for non-payment of dues on December 31, 1947, while he was hospitalized. As a result of the instant offense, Starbuck's license to practice medicine has been suspended, although the secretary of the County Medical Society informs us that the defendant will be eligible to re-apply for membership in the Society, should he again be permitted to practice medicine.

On May 12, 1948 the defendant became employed as a drug clerk at a salary of \$50 per week plus commission by the Atlas Drug Company branch in the town of Cohoes, New York. He works on a day shift at present. No report is available concerning his conduct or ability, as we did not wish to jeopardize his position.

The defendant's practice of medicine in recent years suffered a severe economic decline because of his increasing alcoholic tendencies. He would forget appointments with patients and frequently receive them while he was intoxicated. When not intoxicated, however, according to his sister, Starbuck displayed a deep interest in his patients and accepted numerous charity cases, often remaining with them for several hours in the night, with no hope of financial return.

Presently well employed as a drug salesman, the defendant's future economic adjustment would seem to depend rather directly upon his ability to abstain completely from alcoholic beverages and upon the questionable state of his mental health.

III. Predisposing and Precipitating Factors

Results of Mental and Physical Examinations:

The Psychiatric Clinic of the Court reports that the defendant is without psychosis and of high average, if not superior, intelligence. There is a history of long-standing, severe alcoholism and an episode of mental illness of two years' duration. His prognosis from a psychiatric point of view is considered guarded and hardly favorable. Presently, his affect is fairly flat, his insight is poor and he can definitely be regarded as a schizoid type of personality.

Evaluation of Personality and Behavior:

Starbuck is a slender man of average height with brown eyes and blonde hair, who is habitually dressed in well-tailored clothes of a conservative pattern. When interviewed, he seemed somewhat depressed and a bit apathetic. He recounted in a frank manner, the extent of his involvement herein, in a somewhat discouraged and listless tone.

Starbuck was reared by conscientious parents under comfortable economic circumstances. Apparently his father, a drug salesman, over-stimulated the defendant, to some extent, in his desire to make the defendant a dentist, if not a doctor, come what may. By dint of hard study and long hours of work in his father's drug store after school hours, Starbuck acquired a Bachelor of Science degree and subsequently one in medicine. Admitted to practice in 1935, he divorced his first wife, a French girl with a cardiac condition, whom he had married abroad while studying medicine. For a few years thereafter, he had a series of unhappy love affairs and never seemed quite able to make an adequate adjustment to the opposite sex.

Even while employed in his uncle's grocery store as a clerk, during his student days, Starbuck was seen to consume beer and ale during working hours. As time went on, his alcoholic tendencies increased, and on January 12, 1943, he married his second wife, who is described as a heavy drinker, and who, on occasions, would consume more liquor than the defendant. Early in 1945, just prior to the instant series of offenses, Starbuck had a number of violent altercations with his wife, and commenced to drink as much as two quarts of liquor a day. He became abusive, assaultive and chronically irritable. He accused his wife of infidelity and became practically impotent. His mind seemed to be befuddled. His memory was faulty and under the influence of alcohol, he became grandiose and expansive in manner and developed a good many ideas which seemed to be entirely unconnected with his sober state. He talked about going into show business, of getting connected with the musical line and of making a bizarre amount of money. He would forget about appointments with patients and often receive them in an intoxicated state.

His wife indicated to the investigating probation officer that when the defendant had a couple of drinks, he seemed to be more accessible, more friendly and more bearable than he was when sober. His practice included a good many people in the lower-income brackets and many of them did not seem to mind his taking to excessive drinking. Finally, he was admitted to Eastern State Hospital on September 30, 1944, on a physician's certificate. He was somewhat confused and disoriented, and had difficulty in doing simple arithmetic problems. He accused his wife of putting a lot of things in his commitment papers, to make sure he was hospitalized. His condition steadily improved from the day of his admission and he was discharged on October 20, 1944 to the custody of his wife. His diagnosis at that time was: "without mental disorder, alcoholism."

On his discharge from the above hospital, he started drinking heavily on his way home, and was intoxicated that same night. He kept drinking every day and would get up in the night time and drink. He used to have two quarts of whiskey or more a day and was drunk every day, all day. He would have arguments with his wife because she wanted him to stop drinking. Early in January 1945, he beat his wife in the night and for this reason she left him on January 10, 1945. He remained in this city at his mother's house, but would visit his wife in an intoxicated condition, accuse her of having a lot of boy friends and was extremely jealous. On March 10, 1945, he asked his wife to let him have a divorce because he wanted to marry another girl, whom he had known for only three weeks. Then two weeks later, he said he did not want a divorce because he did not love the other girl and accused her of having homosexual tendencies.

As time went on, he would tell fantastic tales and have visual and auditory hallucinations. He complained of seeing rats, snakes and other animals. Chronically restless, shaky and sleepless, he visited his wife's home in Manhasset, New York, on September 11, 1945, and drank two bottles of whiskey. In the afternoon, he started moaning, coughing and vomiting. His wife called a doctor, who immediately brought the defendant to Central State Hospital, to which he was admitted on a voluntary application the same day. On October 14, 1945, a diagnosis of "Dementia Praecox, Paranoid Type, With Alcoholism" was made.

His contact with reality gradually improved during the next two years and on January 5, 1948, he was discharged to the Department of Correction for arraignment in connection with the instant offense. His condition on discharge is given as "improved." At the hospital, he joined Alcoholics Anonymous and states that he has not consumed any liquor since his release.

We are apparently dealing here with a middle aged physician of definitely schizoid personality who shows some mental and physical after affects of both his recent psychotic episode and ten years of excessive drinking. He appears to be making strenuous efforts to rehabilitate himself, has ceased drinking and became employed as a retail drug salesman. His prospects of future social adjustment seem only fair, however, as he remains schizoid in make-up, has little insight into his difficulties and most probably is under temptation to recommence drinking. Upon his eventual release, he should be encouraged to maintain his work with Alcoholics Anonymous and to continue selling drug supplies with a view to his possible rehabilitation as a doctor.

Assistant District Attorney Moran of Westchester County informs us that in view of the defendant's plea of guilty in this Court, the indictment charging Abortion now pending against Starbuck in Westchester County Court will most probably be dismissed. Assistant District Attorney Moran has informed us that he will move for the dismissal of the above indictment after Starbuck's case in this Court is disposed of.

The Westchester County indictment charges one count of Abortion and was filed November 2, 1944. It is alleged that on October 2, 1944, Starbuck criminally aborted Diane Swanson, a waitress, aged twenty-eight, at 5113 White Plains Road. The matter came to the attention of the District Attorney of Westchester County when Diane Swanson became a patient at Eastchester Hospital for treatment of an incomplete abortion. She has since fully recovered.

Recommendations for Treatment

It is noted that Starbuck's license to practice medicine has been revoked by reason of his conviction herein. He is now in a somewhat deteriorated mental condition following two admissions to mental hospitals involving strong schizoid trend and alcoholism.

He has totally abstained from alcohol for three years. Economically, he is employed on a level which does not call for much aggression or provoke anxiety. He is an officer in a local chapter of Alcoholics Anonymous.

Extensive case work contact with the defendant by the Probation Department further shows that he now has little interest in medical matters and little interest, neurotic or otherwise, in the female sex. Although he describes his former life as "a mess," there is little emotional content behind the description. We feel that the defendant is now fairly well adjusted on an economic and social plane which he can manage and derive modest satisfaction from.

We feel that a three year period of supervision by this Department with accompanying psychiatric treatment will benefit the defendant and protect the interest of society.*

CASE III—FRIEDA LOGARA, FORMER MIDWIFE

Case III is that of a former midwife who gradually lost interest in her profession in which she had fine training and a license to practice same. Seemingly impelled by deep seated feelings of inadequacy and insecurity, she embarked upon a career as a full time abortionist in which occupation she amassed a good amount of cash. As time went on, she became careless in her methods and was involved in four homicides due to abortion but charges were dismissed in all cases because of lack of evidence.

One notes the use of the catheter technique so frequently used by midwives, the development of a neighborhood reputation as a *sage femme*, and the use of her own home as a base of operations.

I. Resume of Legal Background

DATE	OFFENSE	PREVIOUS COURT APPEARANCES		DISPOSITION
		COURT		
June 21, 1921	Abortion	Brooklyn, New York	Magistrates' Court	Discharged
April 11, 1922	Abortion		Grand Jury	Discharged
June 28, 1923	Homicide		Grand Jury	Dismissed
Dec. 23, 1924	Homicide		Grand Jury	Discharged
Nov. 11, 1928	Homicide		Homicide Court	Discharged

*Subsequently, Starbuck was placed on probation for a period of five years. As no clinic or other recourse could be located which could afford Starbuck intensive psychotherapy on a weekly basis without charge, the latter portion of the above recommendation could not be implemented.

June 23, 1931	Abortion	Magistrates' Court <i>Garden City, N. Y.</i>	Discharged
May 26, 1941	Abortion	Nassau County Court	Sentence Suspended
May 26, 1941	Manslaughter 1st	Nassau County Court <i>New York, N. Y.</i>	State Prison 2 to 4 yrs. (Paroled April 15, 1944)
July 15, 1944	Vio. of Parole	Division of Parole	Warrant Filed

Synopsis of Indictment and Complaint

On or about June 14, 1944, at 18 Lawrence Drive, the defendant, Frieda Logara, assaulted Elizabeth Murphy by the use of certain instruments and other means with the intent to abort her, the same not being necessary to preserve the life of Elizabeth Murphy or that of the child with which she was pregnant and in so doing omitted to report a fetal death and practiced medicine without having a license therefor.

Account of Instant Offense

Identity of Complainant:

Detective Jack Regan of the Special Squad attached to the District Attorney's office is the complainant.

The following is predicated upon the statement of Detective Regan, who is also the arresting officer.

Elizabeth Murphy of 29 Roosevelt Road, Orange, New Jersey, who is twenty-five years of age, married and the mother of four children, became aware in May of 1944 that she was about two months pregnant and, not wishing to have another child at that time, she made inquiries and learned from a friend of the activities of the defendant, Frieda Logara, as an abortionist.

On June 14, 1944, about 10:00 A.M., Mrs. Murphy went to the defendant's home at 18 Lawrence Drive, where she submitted to an examination by the defendant who agreed to abort her for the sum of \$75 which Mrs. Murphy paid. The defendant then placed the woman upon a kitchen table and inserted a rubber catheter into her uterus which brought about bleeding. She then left. Mrs. Murphy has indicated that subsequently she believes the foetus was expelled.

Three days after her visit to the defendant's home she became violently ill and summoned her family physician who upon exam-

ining her ordered her removed to the Jenkins Memorial Hospital for treatment. Subsequently, she was found suffering from septicemia as well as lacerations of the cervix and her condition became critical.

The Police Department of Orange, New Jersey was notified of the complainant's condition by the hospital authorities and the Orange police notified the District Attorney of this County. Subsequently, Detective Frank Regan with Mr. Fullen, then of the Homicide Bureau, apprehended the defendant in front of the Atlas Bus Terminal. The following day she was taken to the Jenkins Memorial Hospital where the complainant identified her and she was then formally placed under arrest.

Circumstantial Factors:

When the home of the defendant at 18 Lawrence Drive was searched on June 19, 1944, a piece of hollow rubber tubing about two feet long and about the width of a finger, was found by the arresting officer which Assistant District Attorney O'Leary suspects may have been used in abortions. The defendant's son, John Logara, testified at the trial that he formerly was a professional blood donor and on one occasion, when he was giving blood, a piece of tubing had been tied around his arm and he subsequently discovered that he had taken it home with him.

The defendant continues to deny that she aborted Mrs. Murphy although admitting that on previous occasions she had performed abortions. Her previous Court record shows eight arrests on charges involving abortions. On May 26, 1944 she was convicted in Nassau County of Manslaughter 1st Degree, involving an abortion and was sentenced to State Prison for a term of two to four years. She was paroled in April of 1944 after serving four years. As a result of the instant offense, a warrant for Violation of Parole has now been filed against her for Manslaughter 1st Degree.

Subsequent to her release on parole it was discovered by the State Parole Authorities that, although the defendant had received no license to practice midwifery since 1935, she was listed as a midwife in the telephone directory and she was immediately ordered to have her name removed. However, she is still so listed in the most recent directory.

As a result of complications arising out of the instant offense, Mrs. Elizabeth Murphy spent about five weeks in the Jenkins Memorial Hospital and her medical bills amounted to about \$400. She has now essentially recovered but suffers from painful and irregular menstrual periods.

The defendant's instant conviction marks her second felony conviction.

II. Aspects of Environmental Background

Vital Statistics:

Frieda Logara describes herself as a native of Antwerp, Belgium, who was born on February 12, 1880 and is, therefore 63 years, ten months of age. Because of present conditions in Europe her date and place of birth cannot be verified. She relates that she arrived in this country in June of 1915 and she has lived in this city for the past thirty-six years. She claims to have become a citizen on February 10, 1917, in Essex County by virtue of the naturalization of her husband, Michael Logara. She is a widow.

Childhood and Education:

The defendant relates that she completed the grammar grades of a government school in Antwerp, Belgium, at the age of fourteen and thereafter she avers that she attained the equivalent of two years of our high school at the Ecole Professionale of Antwerp. Thereafter she claims to have received a diploma as a midwife from the Women's Clinic, Berlin University, in Berlin, Germany where she allegedly studied for fourteen months. She is literate in German, French, Flemish and English. While her school records are not available, she appears to have had the education she claims and apparently received some training as a midwife.

According to the defendant's brother, she was reared in a simple, good home by her parents. She relates that her father, a factory worker, was blinded in middle age and he subsequently earned a living by making brooms at home. Her parents were favorably regarded by neighbors and the defendant during this phase of her existence was amenable to discipline and caused her parents no concern. We have been unable to establish any relation-

ship between the character of her early life and upbringing and the delinquencies of her adult life.

Parental, Familial, and Environmental Factors:

The defendant's father, Hans Schaeffer, died in Antwerp, at the age of sixty-eight in 1898. Her mother, Frieda Krause, who had followed the defendant to this country in 1918, bringing with her the defendant's three children, died in this city at the age of seventy-two in 1935.

The defendant now relates that on June 9, 1899, in Rotterdam, Holland, at the age of eighteen, she married Wilhelm Koenig, ten years her senior whom she claims to have divorced there in 1905 because of his infidelity. Three sons were born of this union; Frank, who died at the age of thirty-five in 1935 in this city, leaving a wife and child; Rudolph, aged forty and married, who is now employed as a boilermaker and lives with his wife and daughter at 19 Oak Street, a house owned by the defendant, which is operated as a furnished rooming house. He states in June of 1942, he took over the premises from his mother to whom he pays \$25 a month from its earnings. A son, George, aged thirty-six and married, is now serving in the United States Army. His wife, Georgene Logara, was a codefendant with the defendant when arrested in 1941 in Nassau County and was similarly convicted and received a like sentence in State Prison. She since has been paroled.

The defendant relates that she married Michael Logara, two years her senior, in this city on January 21, 1920. She previously had informed the Probation Authorities of Nassau County that this marriage occurred on December 19, 1919 in White Plains, New York. She states that her sons, who were then small, thereafter bore Logara's name. The defendant relates that Logara, a welder, subsequently became a general contractor and earned about \$200 a week. Before his death in 1926 she states that he had suffered from a liver ailment and had lived on a farm which he had bought in Glen Mills, Pennsylvania, where his death occurred.

She subsequently relates that she married Randall Baldwin, fifteen years her senior and an Irishman in this city on November 17, 1926. She describes him as having been an assistant hotel

manager who died of cancer in Mercy Hospital on October 19, 1939. There was no issue of this union. Verification of the defendant's two marriages and the deaths of her last two husbands is awaited.

At the time of her commitment to State Prison in 1941, she had been maintaining a four room apartment at 117 Meeker Boulevard. There was evidence that she had performed abortions there and a woman was in the home at the time of the defendant's arrest who admitted that she had gone there for the purpose of having an abortion performed. Police seized a quantity of rubber catheters concealed behind a sofa.

The defendant states that thirteen years ago she bought a private house at 18 Lawrence Drive which thereafter was operated as a furnished rooming house. The assessed value was \$28,000 and the defendant states that there is now a \$15,000 mortgage upon it while during the past thirteen years she has paid off another mortgage of \$11,000. She states that the deed to this house is not now available. She claims that prior to this Fall the property was in the name of her daughter-in-law, Georgene Logara, but it has now been placed in the name of her son, Rudolph.

She also admits that she owns a house at 11 Honeysuckle Road, which she inherited from her third husband. She states that this property is now in the name of Georgene Logara but at any time the defendant can take it back as she had Georgene sign it over to the defendant without Georgene realizing that she had done so. The premises are rented out for \$75 a month but the defendant claims that she secures none of the income. The defendant also asserts that she owns a house at 44 Monroe Avenue, Utica, N. Y., which is leased to Florence Albright, who pays \$125 per month in rental.

When the State Parole Commission investigated the defendant's holdings it was claimed that the defendant received \$225 monthly rental. She also admits that she has about \$10,000 in mortgages and about \$30,000 in cash but she claims that since she cannot at present get into her safe deposit, she is unable to give proof of this claim. However, according to her son Rudolph, her claims are true.

After being paroled from State Prison in April of 1944, the de-

defendant went to live in her fourteen room furnished rooming house at 18 Lawrence Drive and used the parlor floor, consisting of three large furnished rooms and kitchen, for her own use. Previously, while she was in prison, her brother, Gerd Schaeffer, the only other survivor of six children of whom she is the eldest, and who operates a rooming house at 151 Wilna Street, had attempted to care for her premises. The defendant's son states that his mother always treated her children well although she possibly dominated them. She is the money getter for the family as neither her brother nor her two sons own any other property.

The defendant, who is aggressive and acquisitive, has lived an arduous existence bending all of her energies toward the acquisition of money and property. She has not been content to operate her legitimate enterprises in order to earn her living but has resorted to anti-social means in order to satisfy her need for as much money as possible. This need would appear to have a neurotic basis as hereinafter described.

Economic Activity:

Arrested on June 18, 1944, the defendant has since been in custody.

She claims that her third husband left her about \$6,000 while her second husband left her about \$13,000 and her brother states that this was his understanding. She has also earned funds by operation of her own house as a rooming house and claims that she only made a living after all expenses for upkeep and repairs were met.

A licensed midwife for many years, she was not granted a permit in 1935 because her house was run as a rooming house and not a private residence. No protest was ever made over the denial of this permit. Despite the fact that she was unlicensed, the defendant reported four cases of legitimate births in 1937 from 18 Lawrence Drive and is at present listed in the telephone directory as a midwife.

The defendant is a woman of some ability who has turned every effort, whether illegal or legal, towards securing money and still more money. It is difficult to characterize her occupational history but it is quite evident that she has operated as a professional abortionist.

III. Predisposing and Precipitating Elements

Results of Mental and Physical Examinations:

A report from the State Prison indicates that the defendant, when examined there in 1941, attained a mental age of twelve years and an Intelligence Quotient of .81 and was declared to be of essentially normal personality. She was found to suffer from mild hypertension and diabetes melitus. She at present appears to be of dull normal intelligence.

The psychiatric clinic of this court reports that the defendant is without psychosis and should be characterized as an unethical type with strong need to be punishing, domineering, and even sadistic toward members of her own sex. She feels inadequate as a woman and has some masculine traits both psychological and physical. Her almost compulsive need to amass cash causes her to deprecate her very real financial holdings and she has an irrational fear of poverty which is deeply rooted on a neurotic basis.

Physical examination reveals three well healed scars extending from the pubis to a point just to the left of the navel. Her claim that they were caused by caesarian sections is probably true. There is an unusually large clitoris present which extends beyond the prepuce and the labia. She is mildly diabetic and should have semi-annual physical examinations to check this condition. The mammae are seen to be flat with undersized involuted nipples. Hirsutic growth is remarkable and somewhat masculine in distribution. A marked systolic murmur at the apex was found as well as a condition of moderate hypertension. Blood pressure 200 over 120. It is recommended that patient be referred to a cardiologist as she is in standard cardiac category II-b. Dental caries coupled with a slight post-nasal drip are responsible for chronic fetid breath. Wasserman and vaginal smear were negative.

Evaluation of Personality and Behavior:

Frieda Logara is a tall, large framed, slender woman with a questioning and shrewd expression. She is forceful, opinionated, egocentric, and particularly embittered because of her present predicament. While at State Prison she was described as a chronic complainer. Her dominant traits are her acquisitiveness, which

amounts to greed, and her almost masculine aggressiveness. It appears that she has allowed few inhibitions to impede her conduct or interfere with her desires during a long period of her life. She has shown a marked determination and ruthlessness in attaining her objectives.

She has always been regarded as an energetic and assiduous worker who is shrewd, single-minded and rather cold emotionally. Even though she has a sufficient legitimate income, she was unable to resist the opportunity to earn funds with little effort through performing illegal abortions. By nature a gambler, who has been successful in the past, she now shows herself to be a poor loser and she attempts to blame others for her predicament. She admits performing abortions in the past but continues to deny aborting Elizabeth Murphy. She has a cold, almost sadistic outlook on life and has little regard for the patients who were made ill or crippled by her forceful ministrations. When asked to comment on their predicament, she replied, "They had their fun—now let them pay for it."

Her personal habits are normal. She occasionally drinks beer, knits assiduously and infrequently visits the motion pictures. Her chief interest in life has been the pursuit of money which suggests deep-rooted feelings of insecurity which were probably carried over from an unhappy childhood. Essentially she is an amoral person who shows little appreciation of the social and moral implications of her conduct.

Between 1920 and 1940 she was before the Magistrates' Court on three occasions charged with Abortion and Homicide (Abortion) but in each instance was discharged and during the same period the Grand Jury on 3 occasions dismissed charges of Homicide and Abortion against her.

On May 26, 1941 the defendant was found guilty in the Nassau County Court of Manslaughter 1st Degree and Abortion on separate indictments. The codefendant on both indictments was her daughter-in-law, Georgene Logara, who was also found guilty. On the Manslaughter charge the defendant was committed to State Prison for a term of two to four years. On the Abortion charge sentence was suspended. The Manslaughter charge involved the performance of an abortion upon one Rita Kildare at 18 Lawrence Drive, with the result that the woman died at Jefferson Hospital on September 10, 1940.

On August 18, 1941 the defendant appealed her conviction to the Supreme Court of Nassau County, but the judgment was affirmed.

Paroled on April 25, 1944, she made her formal reports but the instant offense occurred only three months after she had been released from State Prison. According to the records of the Division of Parole, on several occasions police women had gone to the defendant's home and by subterfuges had arranged with the defendant and her daughter-in-law to have an abortion performed but before the witnesses got on the table the defendant and her daughter-in-law, who had apparently become suspicious, would state they could do nothing for them. It was the opinion of the Health Department and other persons interested that the defendant had been performing abortions for some time. She has a reputation in her neighborhood as an abortionist.

Recommendations for Treatment:

Because of her relatively advanced age, long history of practice as an abortionist during which at least four deaths occurred at her hands, and her present defiant attitude, it is felt that the defendant presents a very poor risk as a candidate for physical and psychiatric treatment on probation. The defendant has been an active abortionist for about twenty-five years and there is every indication that she will return to this practice if released in the near future.

We feel that the interests of society will be best served if the defendant be incarcerated for a period of several years with the question of her release prior to the expiration of her maximum sentence being left to the Division of Parole.*

CASE IV—GEORGE BRAUNSTEIN, FORMER M.D.

Case IV is that of a doctor of medicine who had lost his license to practice several years before his present arrest as a result of a conviction for Abortion. The defendant, George Braunstein, had been an abortionist for twenty-five years and had operated a mill

*Subsequently, Frieda Logara was sentenced, as a second felony offender, to not less than four nor more than eight years in State Prison. She received a course of physical therapy but was considered not amenable to psychotherapeutic measures by reason of her advanced age, dull normal mentality, and deeply rooted criminotic patterns coupled with strong lack of insight.

from which he derived a lucrative income. His legal background shows that he practiced abortion from 1921 to 1941 during which he was arrested seven times but seldom found guilty due to insufficient evidence. The case offers an excellent example of mill structure and operation.

I. Resume of Legal Background

DATE	OFFENSE	PREVIOUS COURT APPEARANCES		DISPOSITION
		COURT	COURT	
June 10, 1935	Abortion	<i>Newark, New Jersey</i>	Magistrates' Court	Discharged
July 19, 1940	Homicide (Abortion)		Grand Jury	Dismissed
April 21, 1943	Abortion		Grand Jury	Dismissed
Dec. 29, 1944	Abortion		Magistrates' Court	Discharged
May 16, 1946	Abortion (To cover four Indictments)		Grand Jury	County Jail— Nine Months
May 17, 1947	Manslaughter 1st Degree (Abortion)	<i>Utica, New York</i>	County Court	Dismissed

Synopsis of Indictment and Complaint

Between June 15, 1950 and September 11, 1950, at 101 Linden Lane in this County, the defendant, George Braunstein, to procure the abortion of fifteen different women, used and caused to be used certain instruments and various other means and techniques to procure such abortions which were not performed to preserve the life of said women or the lives of the children with which they were then pregnant; and specifically on September 11, 1950, at 101 Linden Lane in this County, the defendant criminally aborted one Winifred Meagher.

Account of Instant Offense

On August 17, 1949, Ruby White called on the defendant, George Braunstein, who represented himself as a licensed physician with an office at 101 Linden Lane, to discuss her condition, as she believed that she was pregnant. After examining her, Braunstein advised her that she was pregnant, and after a discussion with her, agreed to abort her for \$375. She agreed, whereupon Braunstein placed her on an obstetrical table and after applying a local anesthetic, she was aborted by Braunstein. He "packed" her and gave

her relevant medical advice and a number of penicillin tablets and she went home. She thereafter fully recovered from the effects of the abortion.

On August 13, 1950, again finding herself in a pregnant condition, Ruby White returned to the defendant's office at the above address, where upon examining her, Braunstein assured her that she was pregnant and again agreed to abort her for \$375. She agreed to the defendant's proposal and after she had removed her skirt and panties, he placed her on the obstetrical table, administered a local anaesthetic and again aborted her. She had paid him \$375 prior to the operation as he demanded his fee in advance and after receiving medical advice and penicillin tablets from him, she returned to her home at 15 Butterworth Drive, also in this County.

She telephoned him the next day as she had severe pain with some bleeding from the vagina and he asked her to return to his office for further examination. She came to his office as he suggested, but he did not examine her. Instead, he made an indecent proposal involving cunnilingus to her. She rejected his request and again returned to her home, and on the following day, she became ill and began to hemorrhage. On August 15, 1950, she was admitted to St. Jerome's Hospital, in this County, and upon being examined by a physician, it was ascertained that she had been criminally aborted.

The police were notified by the hospital authorities and after learning from Miss White that the defendant had performed the abortion, they communicated with Detective Walter Logan of the Morals Squad. The latter and Detective Helen O'Leary of the District Attorney's Office also interviewed Miss White at the hospital and learned that Braunstein had aborted her on the above occasions.

On September 11, 1950, at about 6 P.M., Detective Logan apprehended Braunstein in his home at 101 Linden Lane, and after questioning, Braunstein admitted knowing Miss White as Jean Howard. He then denied aborting her, but admitted charging her \$375 for some medical advice. After finding thereat several surgical instruments used for abortions, a complete physician's office equipment and records listing the names of various women, Braunstein

was taken into custody, and later, when identified by Miss White and various other women as an abortionist, Braunstein was arrested.

Circumstantial Factors:

Detective Logan states that Braunstein, who was formerly a licensed physician, but who was disfranchised from the practice of medicine in 1946 following his conviction for Abortion in Newark, New Jersey, had his home and office at 101 Linden Lane where he had a complete physician's examining and operating room whereat were found various surgical instruments, an obstetrical table, a bottle of chloroform, a mask for applying anaesthesia and various other items used by physicians.

The detective adds that he also found the defendant's office records in his handwriting which listed the names and addresses of various women, the dates of their menstrual periods, the dates of their visits to his office, the amount of money which he had charged them, etc. The detective adds that although Braunstein was not licensed to practice medicine here, he still had his name listed in the telephone directory with "Dr." preceding it, which was a deceptive nomenclature.

Detective Logan and Detective Helen O'Leary of the District Attorney's Office regard the defendant as a professional abortionist, who seemingly had an extensive clientele and who was known as such throughout the City. They add that he had "steerers" who referred pregnant women to him and that women whom he had successfully aborted had likewise referred other pregnant women to him.

Indictment No. J-102-B, which charges Braunstein with fifteen separate counts of Abortion cites the following women as having been aborted in his office at the above address:

Detective O'Leary adds that there were names of numerous other women in the defendant's own handwriting, all totaling about one hundred and eighty, who were likewise aborted. She points out that notwithstanding his advanced age, he was very active in this illicit practice.

The defendant's plea also covered Indictment Number F.A.-801-B, which charges him with two counts of Abortion and two

TABLE VI
 POST-ABORTAL INFORMATION COMPILED BY MEDICAL ASSISTANT TO THE DISTRICT ATTORNEY IN THE BRAUNSTEIN CASE

NAME	AGE	MARITAL STATUS	ADDRESS	DATE OF ABORTION	COST	SEQUELAE
Ruth Johnson	39	Widow	62 Dexter Drive	6/15/50	\$375	Menstrual molimina
Eivira Macon	33	Married	14 Oslo Road	6/17/50	\$300	Fully recovered
Rita Misbach	28	Married	104 Michigan B'ld.	6/18/50	\$250	Cervical atresia
Mary Watkins	43	Married	1177 East Avenue	6/22/50	\$250	Fully recovered
Jean Alton	20	Single	12 Beaver Street	6/27/50	\$300	Fully recovered
Wilma Winston	27	Married	112 Lefferts Pl.	7/3/50	\$300	Chronic headache
Anita Lawson	31	Married	225 Agate Street	7/15/50	\$300	Fully recovered
Susan Cohen	29	Single	735 West B'ld.	8/5/50	\$250	Oligomenorrhea
Elaine Roper	33	Married	87 Walnut Road	7/28/50	\$200	Fully recovered
Helen Murphy	31	Single	50 South Street	8/14/50	\$500	Fully recovered
Loretta Barnet	16	Single	89 Hudson Avenue	8/29/50	\$500	Fully recovered
Jean Jorgeson	38	Divorced	181 Jerome Street	9/2/50	\$250	Pelvic actinomycosis
Frieda Wojtulewicz	29	Married	404 Thompson Street	9/3/50	\$400	Fully recovered
Bertha Bronnikowa	31	Married	505 Myrdal Street	9/4/50	\$400	Fully recovered
Marcia Kane	36	Married	196 Atlas Court	9/11/50	\$350	Fully recovered

counts of Unlawful Practice of Medicine pertaining to the aborting of the aforementioned Ruby White for which he received a total of \$750. She was hospitalized on the second occasion as a free patient at the St. Jerome's Hospital for twenty-one days and has since fully recovered.

His plea also covers Indictment Number J.S.-802-C, which charges him with two counts of Abortion and one count of Unlawful Practice of Medicine, specifically that on October 24, 1949, he aborted one Elizabeth Larsen, aged twenty of 749 Roosevelt Road for \$270; and on November 25, 1949 aborted one Jean Adams, aged thirty-four of 191 Beech Avenue for \$300. Both women are married. Mrs. Adams recovered from the abortion, while Mrs. Larsen was hospitalized for two weeks in the Mercy Hospital as a result of the criminal abortion. She has also since fully recovered.

Braunstein had been arrested on six prior occasions for similar offenses since June 1935, and in two instances his patients died. In both of these instances, as well as on three other occasions, the charges were eventually dismissed. On May 16, 1946, following his plea to a charge of Abortion, to cover three indictments, each pertaining to abortive practices, Braunstein was sentenced in Newark, New Jersey to the County Jail for nine months. The District Attorney's Office has filed an Information against Braunstein, charging him with being a second offender.

Braunstein at first refused to make a direct statement relative to his criminal practices, but finally admitted that he had performed abortions for a number of years.

The files of the State Department of Education reveal that on June 18, 1930, the defendant's license to practice medicine was suspended for one year following a hearing on unethical practices prepared by an inspector of that Department. The defendant was then also charged with malpractice as he was performing abortions at 101 Linden Lane where he conducted the so-called Maplewood Maternity Clinic.

He was disfranchised from the practice of medicine following his conviction in Newark, New Jersey in May of 1946.

II. Aspects of Environmental Background

Vital Statistics:

The defendant, who is a widower, claims that he was born seventy-seven years and six months ago at Wogwod, Bulgaria and that he has been a resident of this city for approximately forty-nine years.

He is a naturalized citizen, having been naturalized on July 28, 1905, in the U. S. District Court, Southern District of New Jersey. At that time, the defendant claimed that he was born in the aforementioned city in Bulgaria on October 17, 1874, which would now make him seventy-seven years and six months of age.

Childhood and Education:

The defendant states that he attended school in his native city in Bulgaria and completed the Lyceum, which he describes as being equivalent to our college education from which institution he received the degree of Bachelor of Science.

Subsequently, he relates that he attended for five years the School of Medicine at the University of Bologna, but did not complete his medical education, as he migrated with several of his brothers to this country.

He matriculated at the College of Medicine, Lexington University in New Jersey in 1905 in the fourth year class and was graduated with the degree of Bachelor of Medicine on November 22, 1906. According to the records of this college, he was admitted on the basis of a diploma of Bachelor of Science issued by the University of Bologna on June 30, 1897. He was admitted to the practice of medicine in this state on December 23, 1908.

According to the defendant, he had been accorded religious training, and he was reared by parents who were in modest financial circumstances. It appears that the defendant during this phase of his life was concerned principally with his education.

Parental, Familial and Environmental Factors:

The defendant is the oldest of seven children born to Jacob and Yetta Braunstein nee Cohen who were natives of Bulgaria and who

are presently deceased. According to the defendant, his father died in Italy at the age of fifty-eight of cancer in 1900, while his mother died in this city at the age of sixty-nine in 1912 from tuberculosis.

The defendant has a married sister, Rita Meyer, aged seventy-four, residing at 87 East End Avenue in this county and a married brother, Max, aged seventy-two, who was last known by the defendant to be living in Trenton, New Jersey. Two other brothers, Jacob and Joseph, are deceased.

On July 7, of 1906, in this city, the defendant married one Bertha nee Rabinowitz, who was five years his senior. However, his wife died in this city during June 1944 from a cerebral hemorrhage. They have four married children, two daughters and two sons, all of whom are residing in this city. The defendant's son, Max, is a social investigator in the Department of Public Welfare.

It has been ascertained from his children that the defendant had always amply provided for his family to whom he was generous and had given each of his children opportunities for an advanced education.

For the past thirty-nine years, the defendant has been living at the 101 Linden Lane address, which is a fourteen room private dwelling of expensive construction. The defendant states that he had originally paid \$56,000 for this property which he now believes is assessed at about \$43,000, and in which he had an equity of about \$21,000, which has been assigned recently to his children. The defendant's property is now in a somewhat rundown condition.

In former years, when the defendant had a more extensive abortion practice, he had lived in and maintained his household in accordance with what his neighbors describe as "a grand style."

As far as can be ascertained, except for his unethical medical practices, the defendant was otherwise favorably known in the vicinity where in former years he was considered to be somewhat of a benefactor to the unfortunate and a member of several fraternal and civic organizations.

Economic Activity:

The defendant was arrested on September 11, 1950 and was released on bail the same day. He is presently at liberty.

Because of his poor health as well as his present predicament,

Braunstein recently assertedly has not been engaged in performing abortions and has been allegedly dependent upon his children for his maintenance.

It is quite evident from the foregoing that the defendant recently had resumed his criminal abortive practices from which he had a lucrative income. It appears from the defendant's own admissions that he had shared at least part of this income with those who "steered" pregnant women to him to be aborted.

As previously indicated, Braunstein was admitted to the practice of medicine in this state on December 23, 1908 and had until 1946 been a practicing physician at 101 Linden Drive. In former years, he had enjoyed a substantial income from his abortion practice, but has recently lacked the physical stamina to do "more than one or two jobs (abortions) a day."

III. Predisposing and Precipitating Elements

Results of Mental and Physical Examinations:

The Psychiatric Clinic of this Court reports that the defendant is without psychosis and of basically high average intelligence. He is classified as the unethical type with sadistic personality features and his physical examination was within normal limits for a man of his age.

The examining psychiatrist states that Braunstein could not repeat to him the standard dosages for anti-biotic drugs in common medical conditions indicating that he has lost all interest in keeping abreast of recent medical advances.

The County Physician, Dr. Alexander Mishkoff, who interviewed the fifteen aborted women appearing herein states that Braunstein apparently has recently attempted to stimulate his failing sexual powers by indulging in practices involving cunnilingus and mutual masturbation. One of the complaining witnesses, Susan Cohen, was aborted "for half-price" (\$200) as she allowed him to spank her lightly and thereafter, at his direction, walked back and forth in a pair of old shoes he kept in his desk. Three other women testified that he tied their hands and feet to the obstetrical table "so they wouldn't fall off." One woman, Joan Alton, testified that upon her return home following the abortion during which she was

anasthetized, she found her pubic hair parted as if by a comb and tied in a series of knots. Another woman, Frieda Wojtulewicz, declared that as Braunstein approached her with a curette, he paused and drank a half glass of whiskey, stating that he "needed it to steady his hands." The sadistic tendencies of the defendant are obvious. Their etiology and duration are unknown. From a perverted standpoint, one could definitely state, however, that Braunstein derived psychological satisfaction from performing abortions.

The defendant states that he is suffering from arterioclerosis, coronary sclerosis, chronic bronchitis and rheumatism. The defendant's contention in this regard is substantiated by Dr. Jacob Witzenheimer of 405 Hudson Street, who recently examined the defendant.

Evaluation of Personality and Behavior:

Notwithstanding his advanced age, Braunstein is a fairly alert, responsive individual who, however, has little of the professional air or manner about him, as he is careless of his appearance and dejected in demeanor. He is a reasonably intelligent person who, although a medical practitioner for a number of years, has failed to make an acceptable occupational adjustment. He seems to be an essentially inadequate personality who was incapable of meeting the problems of a normal practice and, as an expedient, resorted from the beginning to the role of a professional abortionist. Tragic as it may seem, he did not prove to be even a good abortionist.

Basically, Braunstein is a shrewd and unscrupulous person who has failed to profit by his past experiences as he resumed his malpractice, apparently feeling that the financial returns therefrom warranted the risk. He also deems that he was a benefactor to society by virtue of his abortion practices and claims that he has "saved countless lives, minds, and reputations."

He is described as a devoted father and husband, as he, until recent years, had amply provided for his dependents. In his professional life, however, he showed little regard for the high character of his calling and his activities as an abortionist so deadened his moral sense and his professional ethics that he continued his activities despite his previous criminal blunders and long after ad-

vancing age had robbed him of what skill he might have originally possessed.

Previous investigations of Braunstein show that in the heyday of his practice of abortion in the early 1930's he maintained an expensive, even sumptuous way of life. His house furnishings and office equipment were costly. His hobby was collecting rare wines as well as miniature bottles of spirits. On three occasions he traveled to Europe always engaging a suite with a private stretch of deck. On one occasion, he "resigned" from the medical profession and went to Vienna ostensibly to study. Upon his return, he claimed to have qualified himself in plastic surgery although there is no evidence that he ever practiced this art.

One can only speculate concerning the origin of Braunstein's sadistic personality features. Perhaps they were in latent or even overt form when he was a young-man—perhaps they are now blatantly in evidence due to advanced age and a rising consumption of alcohol. At any rate, he is now and has been for some years a menace to the life and health of his patients and has been involved in at least two homicides following abortions.

On June 10, 1935, Braunstein was discharged in Magistrates' Court when arraigned on a charge of Abortion after he was alleged to have criminally aborted a woman in South Orange, New Jersey, who required hospital treatment. On July 19, 1940, a charge of Homicide, involving an abortion, was dismissed against the defendant by the Grand Jury in Essex County, New Jersey. According to the records, the defendant on June 2, 1940, at 101 Linden Lane, allegedly aborted a seventeen year old girl, who was then pregnant, and as a result of which she died the same day in Mercy Hospital.

On April 20, 1947, at Utica, New York, the defendant and another physician of this city, were arrested for Manslaughter 1st Degree, charged with criminally aborting a woman who subsequently died at Lever Memorial Hospital, Chataqua County, New York. The other physician, one Reuben Rabinowitz, allegedly performed the abortion while the defendant was alleged to have assisted him. An indictment charging them with Manslaughter 1st Degree was dismissed on May 17, 1947.

On April 21, 1943, a charge of Abortion against this defendant was dismissed by the Grand Jury of this County. On the occasion, during the evening of March 23, 1943, at 101 Linden Lane, the defendant allegedly aborted a woman who was pregnant and who later required medical treatment at Morris Hospital. On December 29, 1944, he was again discharged in the Magistrates' Court when arraigned on the charge of Abortion.

On May 16, 1946, following his plea to a charge of Abortion, the defendant was committed by this Court to the County Jail to serve nine months. This plea covered three indictments, which charges involved the aborting of several women in his office at 101 Linden Lane, who subsequently were hospitalized as a result of his malpractice.

Recommendations For Treatment:

In view of his advanced age, the steadily growing danger he presents to society, his lifelong history of medical malpractice involving at least two homicides, and his almost compulsive need to continue in illegal practice which now involves the satisfaction of neurotic needs with sadistic overtones, it is recommended that Braunstein be confined in a closed, controlled institution where society may be protected from his apparently compulsive behavior. Institutional officials may be guided by the medical report and by the results of electrocardiograms which will be forwarded as soon as interpretation is done. Release prior to expiration of maximum sentence should, we feel, be entertained by the Parole Board only if the defendant's physical condition is such that he would be unable to perform an abortion. So strong are the defendant's compulsive-sadistic tendencies that he is not considered amenable to any therapeutic process or regime now known.*

CASE V—VINCENT SERRA, M.D.

Case V illustrates the organization of a medium sized abortion ring which operated a number of floating mills simultaneously for several years. The administrator of the ring, Vincent Serra, M.D., had been a full time abortionist for some twenty years before his

*Subsequently, Braunstein was sentenced, as a second felony offender, to not less than four nor more than eight years in State Prison.

arrest in the instant case. His early life was characterized by a severe struggle for status and prestige in the face of economic privation, culminating in his graduation as a doctor of medicine. When the long expected and eagerly awaited high economic income failed to materialize promptly, the young doctor quickly became a full time abortionist. With this decision, many golden doors were opened. The case offers an excellent example of ring organization, structure and operation.

I. Resume of Legal Background

DATE	PREVIOUS COURT APPEARANCES		DISPOSITION
	OFFENSE	COURT	
Feb. 8, 1937	Abortion	Magistrates' Court	Discharged
July 20, 1939	Abortion and Conspiracy	County Court	Acquitted
May 21, 1940	Homicide (Abortion)	Grand Jury	Dismissed

Synopsis of Indictment and Complaint

On or about May 11, 1941 and, continuously thereafter, up to and including February 20, 1942, at 71 Ford Avenue in Eagle County, the defendants conspired together and with each other to commit crimes of Abortion and Maintaining A Public Nuisance, in furtherance of which, on twenty-nine occasions between August 2, 1941 and February 20, 1942, they committed abortions upon twenty-nine different women, although these abortions were not necessary to preserve their lives or the lives of the children with which they were pregnant in violation of the peace of the people of the State of New York and their dignity.

Account of Instant Offense

The following information was obtained from Assistant District Attorney James Urban and from records of the trial.

For some time prior to February 20, 1942, Detectives Riley, O'Connor and Michaels of the 20th Squad and other police officers were conducting an investigation into the activities of Dr. Frank Murphy, who was maintaining an office at 71 Ford Avenue in this county, where he was in one way or another associated with the codefendants. It appears that the investigation was initiated as a result of anonymous information submitted to the detectives of the 20th Squad that the address in question was being used for the performance of abortions by the defendants and others.

During the morning of Febraury 20, 1942, Detectives Riley and O'Connor, accompanied by Dr. Adele Francisco of the District Attorney's Office and by various other officers, including police-women, conducted a raid at 71 Ford Avenue. At that time Dr. George Watson, who was found in the office, was placed under arrest, as was also Evelyn McDermott, a nurse at the address and Jean Kelly, the receptionist.

While the raid was being conducted, one Ruth Murchison and another woman were found lying on cots in a rest room in the premises. It was later ascertained that abortions had been performed on both women that day by Dr. Watson. At the same time, four other women were found in the waiting room of the premises and they subsequently admitted that they had been aborted earlier that morning at the premises. Later in the day, a seventh woman, Georgene Miller, arrived at the office and it was then ascertained that she had called for a check-up, previously having had an abortion performed upon her at the premises by an unseen doctor. Several days after the raid, a number of other women were questioned at the District Attorney's Office, concerning abortions which they stated had been performed upon them at the premises, in their homes, and in several apartments used temporarily to house "floating" abortion mills operated by members of the ring.

As a result of the investigation, Dr. Vincent Serra was arrested on February 22, 1942, after he was apprehended in front of the offices at 71 Ford Avenue. The following day, Dr. Frank Murphy was placed under arrest, after he had voluntarily surrendered at the District Attorney's Office. Jerome Cohen, who had been acting as a "steerer" for the ring, was placed under arrest on April 13, 1942, after he had been apprehended at the home of his sister at 131 Linden Boulevard.

During the trial of the defendants, twenty-nine women, including Ruth Murchison and Georgene Miller, testified that abortions had been performed upon them at the premises at various times between August 8, 1941 and February 20, 1942.

Ruth Murchison's testimony indicated that she had been aborted at the premises by Dr. Watson on the day of the raid. She testified that she believed that she was pregnant; that she had gone to the office where she disrobed and was examined by Dr. Watson;

that she was subsequently placed upon the operating table; her feet placed in stirrups and given anesthesia; that, when she regained consciousness, she experienced severe bleeding from her private parts. Testimony during the trial established that Ruth Murchison's urine specimen had been sent to a laboratory and that the pregnancy test was positive.

Georgene Miller's testimony indicated that she had been referred to Dr. Murphy at 71 Ford Avenue, by one Irving Moskowitz, a druggist, whom she had asked to recommend an abortionist, since she was pregnant. She testified that when she arrived at the office, she was greeted by Jean Kelly, the receptionist, who, after asking her several questions, told her that the fee would be \$100. She testified that she was then taken into an examination room, where an unseen doctor examined her; that, after this examination, she gave the receptionist \$100 and then was taken into the operating room, where an abortion was performed upon her by an unseen doctor who operated behind a screen. She also testified that shortly after she received a subpoena from the District Attorney's Office, Dr. Murphy and Irving Moskowitz came to see her at her home and Murphy, who was introduced by Moskowitz, attempted to persuade her not to testify against him.

Testimony adduced during the trial indicated that Dr. Watson had performed seven of the twenty-nine abortions in the premises, and that the women upon whom the operations were performed had paid Jean Kelly, the receptionist, sums ranging from \$75 to \$500.

Another witness, one Sally Johnson, testified that upon becoming pregnant, she had discussed the matter with one O'Shea who referred her to Dr. Serra. She testified that she was examined by Dr. Serra in his office at 85 Lefferts Place; and that he told her she was three months' pregnant. She testified that at that time Dr. Serra made telephone arrangements for her with some other doctor and that later in the day, Serra drove her to Dr. Murphy's office at 71 Ford Avenue; that while en route, Serra told her the fee for the abortion would be \$175, of which \$75 was for Serra and \$100 for Murphy. She testified that Serra told her his \$75 was to take care of subsequent treatment. It was further brought out that such treatment was never given. She testified further that upon her

arrival at Dr. Murphy's office, she was greeted by the receptionist, Jean Kelly, who asked her for the money and instructed her to disrobe. She was then placed on an examining table and examined by Dr. Murphy, who told her that she was pregnant and that he would "take care of her." Murphy then took her into the operating room, where she was given local anesthesia, which was not fully effective. She testified that during the performance of the abortion by Dr. Murphy, Serra was present and that after the abortion she made two visits and received penicillin pills and treatment from Murphy.

Another witness, one Jack Franklin, Sally Johnson's "boy friend," also testified and corroborated her testimony on material details.

One Diane Kildare, also testified that she had been admitted to the office by the receptionist; had been examined by Dr. Murphy, who also told her that she was pregnant, and that an abortion would cost \$75. She testified that she returned on a subsequent date, had another examination and that the abortion was then performed. She also testified that she had returned on two subsequent occasions for treatment, to stop profuse bleeding and that Dr. Murphy had given her penicillin pills and injections. It was also brought out that Dr. Murphy had tried to make a "date" with her.

Testimony during the trial established that Cohen had acted as a "steerer" and "advertising agent" for the abortion ring and had recommended Dr. Murphy as a "good abortionist" to one Fritz Riddel, a druggist. It was established that Cohen had used the name of "Bill Jones" and had advised Riddel that any patients he might refer to Dr. Murphy should use the words "Bill Jones." Riddel testified that the aforementioned Irving Moskowitz, a pharmacist, had consulted him about Georgene Miller and that Riddel had advised Moskowitz to send her to Dr. Murphy. Riddel testified that subsequently Cohen came to him and gave him \$35, which he turned over to Moskowitz. Riddel also testified that after receiving a Grand Jury subpoena, he was visited by Murphy, Moskowitz and Cohen and that Murphy and Cohen attempted to induce him to falsely testify. Riddel testified, furthermore, that Cohen had indicated to him that he would get about fifty per cent of any fee on prospective patients sent to 71 Ford Avenue. He testi-

fied that he sent "at least fifty" patients and he received \$35 for each from Cohen as his fee.

Evelyn McDermott and Jean Kelly are still awaiting trial and, in their cases, severances were granted.

Murphy, Serra and Cohen were convicted of Conspiracy and twenty-nine counts of Abortion, while Watson was convicted of Conspiracy and seven counts of Abortion.

Circumstantial Factors:

As a result of their attempt to interfere with witnesses, Murphy and Cohen on May 18, 1942 were indicted for Conspiracy, Violation of Section 2440 of the Penal Law, Attempted Subornation of Perjury 1st Degree and Inducing Another to Commit Perjury. This indictment superseded another similar indictment filed April 17, 1942 and was predicated upon their attempts to induce Fritz Riddel and Georgene Miller to testify falsely.

In connection with that indictment, Murphy was tried separately and the jury disagreed on May 25, 1942.

According to information obtained from Dr. Adele Francisco, the premises at 71 Ford Avenue were thoroughly examined for a period of approximately eight hours on March 31, 1942. The offices contained two examining rooms, an operating room, a waiting room and four rest rooms. A number of bloodstained towels were found in a hamper in the rest room. Two towels were subsequently sent to the laboratory and the laboratory test disclosed evidence of the products of conception. There was also found in the premises a quantity of instruments commonly used in the performance of abortions, such as curettes, dilators and vaginal forceps, speculums, and, according to Dr. Adele Francisco, the number of such instruments found in the premises was far in excess of those found in a general practitioner's office. One set of instruments was being sterilized at the time the raid was conducted and, another set of instruments, near an operating table, had evidence of just having been used. A quantity of portable operating tables were seized in Dr. Murphy's car.

The defendants deny that they in any way were engaged in the performance of abortions. Watson and Murphy, who testified on their own behalf, maintain that the various women in the premises

and those who subsequently appeared as witnesses, had been there for purposes other than abortions. They contend that none of these women were pregnant and had been treated for gynecological disorders other than pregnancy or abortion. Murphy admitted treating two women, while Watson admitted treating the remaining seven.

According to Assistant District Attorney Urban, Serra, in connection with the instant offense, did not perform any abortions at the address. Testimony during the trial established, however, that Murphy and Serra had negotiated for a lease on the premises in March of 1940. At that time Serra was on trial in this Court for a similar offense, in which instance, on May 21, 1940, he was, however, acquitted.

Although Murphy was the nominal proprietor of the premises, it is believed that Serra was the guiding principal in the operation of the ring and that Watson and Murphy were "front men" who performed abortions at various addresses as members of the ring.

Cohen states that he had known Dr. Watson for many years and that he had known Dr. Serra in recent years. Watson testified that he knew Serra through Murphy and that he had become acquainted with Murphy while treating patients.

The conviction of Murphy, Serra and Watson will result in the automatic revocation of their licenses to practice medicine in this State.

According to the records of the Medical Grievance Committee, Dr. Watson was not previously known to that office with respect to complaints. Serra, however, has been known to that office as far back as 1935 and it is considered that he has been an abortionist for many years.

Murphy, who is a native of Ireland, came to this country in June of 1937 and was admitted to the practice of medicine in this State in May of 1939. However, there is some reason to believe that Murphy was operating as an abortionist before he was admitted to the practice of medicine in this State, as a complaint had been made against him to the Medical Grievance Committee, in June of 1939, in connection with a similar complaint, against one Dr. Isadore J. Feldman, according to the records of the Medical Grievance Committee.

It is pointed out that at the time the defendants were operating the abortion ring at 71 Ford Avenue and various shifting locations, Serra was under charges before the Medical Grievance Committee and the charges were still pending against him at the time of his arrest for the instant offense.

II. Aspects of Environmental Background

Vital Statistics:

The defendant, who is married, states he was born in Naples, Italy on March 11, 1901. He is therefore, now, forty-one years, three months of age. He came to this country in 1906 and has since resided in this city. He avers that he derived citizenship through the naturalization of his mother, in 1920. According to information obtained from the State Board of Medical Examiners, the defendant is presumed to have submitted proof of citizenship when he was admitted to the practice of medicine in this State in 1928.

He registered under the Selective Service Act on February 25, 1941 and has not yet been classified. The defendant subsequently was appointed a captain in the Medical Corps of the United States Army but on April 1, 1942 his orders to report for duty by April 5, 1942 were revoked by the Adjutant General's Office.

Childhood and Education:

According to information obtained from the defendant and one of the older members of his family, he came to this country with his mother, when he was about three years of age. His father, Carmine Serra, had been killed during a railroad accident in Italy, a few months before the family came to this country. After the family arrived here, his mother obtained work as a cook. About the same time the defendant was placed in the Italian Orphan's Home, where he remained until he was about eight years of age. He was then discharged to the home of his mother.

Generally, the family lived under difficult conditions during the defendant's formative years, due to economic insecurity and the mother's occupation out of the home. It is recalled that from the age of twelve the defendant worked after school hours until he was graduated from Carver Grammar School, when he was fourteen

years of age. That school is no longer in existence and thus we have been unable to obtain his public school record.

After he was graduated from public school, the defendant obtained employment as an office boy and, subsequently, for three years, he attended an evening preparatory school, receiving the equivalent of a high school education. He states that between 1921 and 1923 he attended evening sessions at Wilson University and also attended Amherst College, in 1923. According to the defendant, he was preparing for admission to a medical school. We have not yet been able to obtain the record of his attendance at Wilson University, but we have been advised by Amherst College that the defendant was enrolled for two courses during the semester from February to June of 1923, and that he was in good standing and passed both courses.

We are also awaiting a report from the University of Nevada, Medical School, at Reno Nevada, concerning the defendant's attendance there. The records of the State Board of Medical Examiners indicate that he was graduated from the University of Nevada Medical School in June of 1928, with the degree of Doctor of Medicine, and was admitted to the practice of medicine in the State of New York on June 11, 1929.

In general, circumstances of the defendant's early life indicate that although he was reared in an underprivileged environment, he acquired a professional education and had "worked his way" through school under many pressures and difficulties.

Parental, Familial and Environmental Factors:

The defendant is the oldest of six children, the youngest of whom, a brother, died in Europe during infancy. His mother, Rosa nee Gallo, now aged seventy-two, has never remarried. In recent years she has been supported by the defendant and his younger sister, Rita Montserat, aged thirty-four. The latter, who is married, is a practicing dentist and maintains an office in Utica, New York. At the present time the defendant's mother is residing in the Wildwood section of Westchester County, but for some ten years prior to May of 1941 she had resided with the defendant at 505 Rosedale Avenue in this county, where they occupied a three-room apartment, rented at \$55 a month. The defendant had also maintained

an office at the same address, consisting of four rooms, renting at \$60 a month.

His sister, Dr. Montserat, has advised us that their mother is in extremely poor health. She is still suffering from the effects of an automobile accident which took place in December of 1939. At that time, her injuries included a fracture of the pelvis.

The defendant had a younger brother, Max, who died of pneumonia in 1916, at the age of twenty. Another brother, John Serra, aged forty-four, lives in Cohoes, New Jersey. He is married and is a marine engineer.

The defendant's sister, Rita, points out that she has had no contact with him since 1930, except during May of 1941, when their mother was confined to the Jenkins Memorial Hospital, as a result of the injuries referred to above. Dr. Montserat did not indicate any desire to discuss the reasons for the fact that she has had no contact with the defendant since 1930. She points out, also, that he has had little contact with his brother, John, for many years, and one gets the impression, generally, that there has been a definite cleavage between the defendant and the other members of his family; except, however, with respect to his relationship with his mother. Dr. Montserat points out that so far as the latter is concerned, the defendant has always been idolized and his mother, in general, has been completely over-indulgent and over-protective toward him. It is pointed out that he has adequately cared for his mother for many years.

According to the defendant and his wife, Ida nee Bracken, now aged twenty-two, they were married in this city in June of 1939. They have no children. We are awaiting verification of their marriage from the Department of Health. His wife's attitude toward him is completely protective. She states that she had known him for about a year before their marriage and had become acquainted with him through the fact that he had operated on several members of her family, who had considered him an extremely able surgeon. His wife, who is of different faith, has been employed as a salesgirl.

After they were married, they lived in his office at 505 Rosedale Avenue, until May of 1940. His mother, in the meantime, had continued to live in the three-room apartment at the same address.

After his mother moved from that address, the defendant and his wife established a residence at 13 Parkside Avenue, where he was residing when he was arrested for the instant offense. His wife is still living there, in a two-room apartment, for which a monthly rental of \$65 is paid. In the meantime, he had continued to maintain his offices at the Rosedale Avenue address.

With respect to his family life, the defendant, although estranged from his brother and sister, assumed responsibilities for the care of his mother.

Generally, he had maintained a permanent address at one place, for many years. His circle of friends and social acquaintances were devoid of any connection with his immediate family life.

Economic Activity:

The defendant, who was arrested on February 22, 1942, was released under \$8000 bail, after being confined to the City Prison for four days. He was committed to the City Prison following his conviction in the instant offense.

Admitted to the practice of medicine in this State in June, 1928, the defendant's conviction will result in the automatic revocation of his license.

The defendant claims that he conducted a general practice at 505 Rosedale Avenue and that he also engaged in surgery. For more than a year prior to May of 1939, he was the principal behind an organization known as the Maternal Welfare Institute at 101 Harding Drive in this county, and it is believed that that organization was used as a "cover" for abortion activities in which other doctors engaged.

The State Medical Grievance Committee is of the opinion that Serra has been connected, directly or indirectly, with the practice of abortion, for many years. The files of that organization reveal that abortion complaints, pertaining to Serra, were made against him as far back as June of 1935. Subsequently, action with respect thereto was held in abeyance up to November of 1936.

Information obtained from the Police Department indicates that on February 8, 1937 he was arrested in Newark, New Jersey in connection with a charge of abortion. The Newark Police Department has no record of this matter and available information

indicates that on the same day in the Magistrate's Court, he was discharged.

On June 15, 1939, Serra and four other persons, including two doctors, were arrested in this city on charges of Homicide and Abortion (2 counts). One of these abortion counts was predicated upon the commission of an abortion in May of 1939, at 18 Essex Drive in Newark, New Jersey, which had fatal results. At that time, investigation disclosed that one Max Blumstein had been hired by Serra to solicit owners of drug stores in behalf of the "Maternal Welfare Institute."

Max Blumstein eventually pleaded guilty to Conspiracy and on July 20, 1940 was placed on probation in Essex County Court. A second doctor, Alexander Mondane, died on May 11, 1940 while awaiting trial. The fourth codefendant, Felix Maser, who acted as "steerer" pleaded guilty to Abortion and on July 24, 1940 was also placed on probation. Serra, in the meantime, went to trial and on May 21, 1940 he was acquitted. In connection with that case, the District Attorney's Office was of the opinion that Serra had been instrumental in establishing the initial contacts with patients and had obtained the services of other physicians to perform abortions. Serra categorically denies that he ever, directly or indirectly, participated in illegal abortions at any time during his professional career.

During the course of our investigation, we received information from reliable sources, which point to the conclusion that Serra bore the reputation of being a skillful surgeon and, on the basis of other information obtained about him and his known record of complaints, he apparently diverted much of his time and talent into the field of abortion practices.

Although it is not possible to estimate the extent of his income, it is believed by official sources that it was in excess of \$50,000 per year. Serra contends that he earned between \$5000 and \$9000 per annum in legitimate practice.

During his professional career he had courtesy privileges as a surgeon at the Culver General Hospital, between 1930 and 1933. The courtesy privileges were not renewed after the latter year, and he has not been connected with that institution in any capacity whatsoever, since that time. He also had courtesy privileges as a

surgeon with the Harding Hospital, several years ago, but has not been connected with that hospital for the past five years.

In May of 1933, he was a lecturer at the Culver General Hospital and, again, in March of 1934. Both lectures were given under the auspices of the regular monthly Staff Clinic Conferences. He also has in his possession evidence to indicate that between 1933 and 1935 he was an assistant surgeon to a brain specialist at the Jenkins Memorial Hospital.

In addition, he possesses evidence to indicate that at various times since 1936 he has offered his services as physician to such organizations as the Medical Bureau of the American Friends of Spanish Democracy, the Abraham Lincoln Brigade, the American Bureau for Medical Aid to China, the Christian Medical Council for Overseas Work in China and the American Red Cross—Doctors for Britain. None of these offers materialized, either because the quotas were filled or he was not eligible at the moment.

In general, Serra's professional history is that of an individual who, though having ability as a physician, marred his career by a history of complicity in abortion activities.

III. Predisposing and Precipitating Elements

Results of Mental and Physical Examinations

The report of the defendant's examination in the Psychiatric Clinic shows that he is not psychotic and is of high average, if not superior, intelligence. Physical examination is essentially negative.

Dr. J. Millard Targee, Attending Psychiatrist, who examined Serra, reports that the defendant has little insight into the predicament in which he finds himself. He also has little regard for the rights or welfare of others and projects his own difficulties upon others. A strong paranoid trend in the defendant was observed. A strong affect coupled with sadistic and masochistic overtones was also presented.

Dr. Targee describes the defendant as an unethical type of person motivated by deep feelings of personal inadequacy and insecurity who masks these feelings by blustering, aggressive and projective behavior. Although he blatantly poses as an ethical gynecologist, he boasted to Dr. Targee that "I used to make more cash in a year than you (Dr. Targee) will make in a lifetime."

So thoroughly is the defendant's ego invested in his criminal career, that his somewhat paranoid reaction of blanket denial of any wrongdoing, however slight, is quite understandable from a psychiatric viewpoint. He readily brought out ideas of persecution and declared that he was "being crucified by bigots and Jews." He described the investigating probation officer, Mr. Setab, as "a snot-nosed kid, one of these sociology wise-guys."

The Attending Psychiatrist feels that due to his age, strong lack of insight, deeply rooted paranoid trend, and the fact that his criminal career is deeply satisfying to him on an unconscious basis, that the defendant is not amenable to any psychotherapeutic process or regimen now known.

Evaluation of Personality and Behavior:

An analysis of Serra's history leads to the conclusion that he has perverted his native ability and talent because of personality defects. His manner at the present time, his behavior during the recent proceedings before the Medical Grievance Committee and his conduct following his acquittal in May of 1940 all indicate that he is an arrogant, aggressive, reckless and conniving person. He has a distorted conception of his own position in relation to others and such a poor contact with reality, that he rationalizes his behavior by expressing ideas of persecution. He has accused various officials of badgering and hounding him, to the extent that he has written letters in the past to high-ranking public officials, complaining of the treatment which has been accorded him.

In relation to the present situation, he feels that he has been victimized because he succeeded in obtaining an acquittal in the previous case, in which instance all of the codefendants had pleaded guilty. His testimony and line of questioning before the Medical Grievance Committee indicated that he was of the opinion that the charges were unjustified because of the fact that he had been acquitted. During the proceedings before the Medical Grievance Committee, he dismissed his attorney and acted as his own counsel in the direct examination of the Grievance Committee's witnesses. His behavior in that situation revealed him as a person who had a sneering contempt for the position and official role of some of the witnesses. He stated at one point that he was preparing to "fight tooth and nail" and not use the "legalistic" tactics of his attorney.

He accused members of the Committee of racial discrimination, extortion and attempts to interfere with his immediate family life.

His reckless disregard for the legal restrictions placed upon his professional conduct is to be noted in the fact that he became a part of the conspiracy in the instant offense, at a time when he was on trial in this Court for Abortion and Conspiracy. He is over-bearing and has a flow of language which figuratively devours those whom he considers opposed to him.

While he has displayed an anti-social twist in his makeup, there are indications that his conduct has been motivated by cross purposes; thus his history of having volunteered his professional services for democratic and social causes, and the extent to which he provided for the welfare of his mother, although he was at the same time estranged from other members of his family.

While it is difficult to ascertain the extent of his income, it has been said of him that he spent money freely and at times was over-generous in his relations with patients. He is, in general, a decidedly egocentric person. He might also be described as a heavy social drinker.

Recommendations for Treatment:

As Dr. Targee has shown, the defendant is not amenable to psychotherapy. Also, in view of the fact that committing abortions is deeply satisfying to him on an unconscious level and our impression that he has no intention whatsoever of desisting from the practice, it would seem that society can only be protected in this case by the incarceration of the defendant.*

*Subsequently, Serra was sentenced to a term of not less than four, nor more than eight years in State Prison on two counts of Abortion, the terms to run consecutively.

APPENDIX B

CRIMINAL ABORTIONS IN NEW YORK COUNTY

1925-1950 ACCORDING TO TAUSSIG'S FORMULA

(ONE CRIMINAL ABORTION TO EVERY 2.5 LIVE BIRTHS X .70 IN URBAN AREAS)

<i>Year</i>	<i>Live Births</i>	<i>Abortions</i>		<i>Criminal Abortions</i>
1925	47,208	18,883	X .70	13,218
1926	44,199	17,679	X .70	12,375
1927	43,946	17,578	X .70	12,305
1928	42,382	16,952	X .70	11,866
1929	40,741	16,296	X .70	11,407
1930	39,231	15,692	X .70	10,984
1931	36,238	14,495	X .70	10,147
1932	34,494	13,797	X .70	9,658
1933	32,102	12,840	X .70	8,988
1934	31,456	12,582	X .70	8,807
1935	31,878	12,751	X .70	8,926
1936	31,749	12,699	X .70	8,889
1937	32,364	12,945	X .70	9,062
1938	33,147	13,258	X .70	9,281
1939	33,212	13,284	X .70	9,299
1940	34,582	13,832	X .70	9,682
1941	36,457	14,582	X .70	10,207
1942	40,560	16,224	X .70	11,357
1943	41,915	16,766	X .70	11,736
1944	38,725	15,490	X .70	10,843
1945	39,678	15,871	X .70	11,110
1946	46,554	18,621	X .70	13,035
1947	53,282	21,312	X .70	14,918
1948	50,510	20,204	X .70	14,143
1949	51,801	20,720	X .70	14,504
1950	51,624	20,649	X .70	14,454
TOTALS	1,040,035	416,014		291,201

APPENDIX C

STATISTICAL ANALYSIS OF ONE HUNDRED ELEVEN CONSECUTIVE ABORTION CONVICTIONS, NEW YORK COUNTY, N. Y., 1925-1950

1. No. of cases	111;				
2. No. of males	48; % males	43.2			
3. No. of females	63; % females	56.8			
4. Average age	49.1; average age males	50.0			
	average age females	48.4			
5. Religion of Abortionists;	Catholic	49; % of total	44.1		
	Protestant	36; % of total	32.4		
	Jewish	26; % of total	23.4		
6. Abortionists by race;	White	88; % of total	79.3		
	Negro	23; % of total	20.7		
7. Abortionists by principal occupation	(before or while committing abortions)				
Midwives	25; % of total	22.5	Lawyers	1; % of total	.9
Barbers	1; " " "	0.9	Nurses, Reg.	2; " " "	1.8
Petty Criminal	3; " " "	2.7	Prostitutes	1; " " "	.9
Unskilled Labor	5; " " "	4.5	M.D.'s	31; " " "	27.9
Skilled Labor	5; " " "	4.5	Public Assistance	3; " " "	2.7
"Quacks"	6; " " "	5.4	Chemists	1; " " "	.9
Clerks	3; " " "	2.7	Chiropractors	3; " " "	2.7
Amateurs	4; " " "	3.6	Upholsterers	1; " " "	.9
Housewives	8; " " "	7.2	Salesmen	2; " " "	1.8
Nurses, Practical	5; " " "	4.5	Physiotherapist	1; " " "	.9
8. Educational Level:					
Illiterate	1; % of total	.9			
Did not complete Grade 6B	8; " " "	7.2			
Completed Grade 6B	9; " " "	8.1			
Completed 6B but not 8B	5; " " "	4.5			
Grammar school graduates	28; " " "	25.2			
One year high school	2; " " "	1.8			
Two years high school	5; " " "	4.5			
Three years high school	3; " " "	2.7			
Graduated high school	9; " " "	8.1			
One year college	0; " " "	0.0			
Two years college	1; " " "	0.9			
Three years college	1; " " "	0.9			
College graduates	4; " " "	3.6			
Prof. school	4; " " "	3.6			
Doctors of Medicine	31; " " "	27.9			
9. Indicted by self	69; % of total cases	62.2			
Indicted with co-defendants	42; % of total cases	37.8			
10. Previous Criminal Record;	yes 73; % of total cases	65.8			
*Previous record of abortion	no 38; % of total cases	34.2			
	yes 56; % of total cases	50.5			
11. Intelligence:	Mental Defective	1; % of total cases	0.9		
	Borderline	1; " " "	0.9		
	Low Average	20; " " "	18.0		
	Average	63; " " "	56.8		
	High Average	21; " " "	18.9		
	Superior	5; " " "	4.5		

12. Psychiatric diagnosis:	Essentially normal	40;	%	of total cases	36.0				
	Other	71;	%	of total cases	64.0				
13. Conviction:	Plea	82;	%	of total cases	73.9				
	Trial	29;	%	of total cases	26.1				
14. Defendant's Marital Status:									
Married	97;	%	of total	87.4	Married males	44;	%	of total	39.6
Single	14;	%	of total	12.6	Single males	4;	"	"	3.6
					Married females	53;	"	"	47.7
					Single females	10;	"	"	9.0
15. Average number of children of married defendants					1.72				
16. Physical examination:	normal	59;	%	of total cases	53.2				
	abnormal	52;	%	of total cases	46.8				
17. Source of complaint:									
Sick woman (in hospital)	62;	%	of total cases	55.9					
Homicide	11;	"	"	"	9.9				
Confidential information	25;	"	"	"	22.5				
Anonymous letters	7;	"	"	"	6.3				
Doctor of a patient	2;	"	"	"	1.8				
Landlady	2;	"	"	"	1.8				
Relative	1;	"	"	"	0.9				
Coincidence	1;	"	"	"	0.9				
18. Order in sibship: (Defendant)									
Only child	9;	%	of total cases	8.1					
First child	39;	"	"	"	35.1				
Second child	24;	"	"	"	21.6				
Third child	10;	"	"	"	9.0				
Fourth child	13;	"	"	"	11.7				
Fifth child	3;	"	"	"	2.7				
Sixth child	1;	"	"	"	0.9				
Seventh child	4;	"	"	"	3.6				
Eighth child	3;	"	"	"	2.7				
Ninth child	1;	"	"	"	0.9				
Illegitimate	2;	"	"	"	1.8				
Eleventh	1;	"	"	"	0.9				
Fifteenth	1;	"	"	"	0.9				
19. Method:									
Dilatation and curettage	58;	%	of total cases	52.3					
Catheter	28;	"	"	"	25.2				
Catheter & Pack	2;	"	"	"	1.8				
Pack	10;	"	"	"	9.0				
Dilatation with paste	4;	"	"	"	3.6				
Dilatation only	2;	"	"	"	1.8				
Puncture of cervical plug	3;	"	"	"	2.7				
Air pressure (forced)	1;	"	"	"	0.9				
Forced fluid	3;	"	"	"	2.7				
20. Occupation of Aborted Woman:									
Housewife	77;	%	of total cases	69.4					
Skilled	2;	"	"	"	1.8				
Unskilled Labor	17;	"	"	"	15.3				
Not given	1;	"	"	"	0.9				
Prostitute	7;	"	"	"	6.3				
Juvenile	4;	"	"	"	3.6				
Student	3;	"	"	"	2.7				
21. Residence of Aborted Woman:									
Manhattan	49;	%	of total cases	44.1					
Other borough	26;	"	"	"	23.4				
Out of town (N. Y)	4;	"	"	"	3.6				
Out of state	7;	"	"	"	6.3				
Not given	25;	"	"	"	22.5				
22. Marital status of aborted woman:									
Married	75;	%	of total cases	67.6					
Single	36;	%	of total cases	32.4					

23. Disposition:

Suspended sentence (no probation)	1;	%	of total cases	0.9
Probation (limited)	23;	"	" " "	25.2
Probation indefinite	19;	"	" " "	17.1
Penitentiary (limited)	23;	"	" " "	20.7
Penitentiary indefinite	8;	"	" " "	7.2
State prison	31;	"	" " "	27.9
Deported	1;	"	" " "	0.9

APPENDIX D THE BOURNE CASE

R.V. BOURNE (1939) 1 K. B. 472 (1938) 3 all E. R. 615; 108 L. J. K. B. 471, C. C. A.

In England in the spring of 1938 a fourteen year old girl was raped under heinous circumstances and found herself pregnant as a result. The parents and the child consulted Mr. Bourne, a surgeon in the Obstetrical Department of St. Mary's Hospital, who, after consultation with other doctors and with the consent of the parents, operated for the successful termination of the pregnancy.

Mr. Bourne informed government authorities of his action in order that he might be arrested and tried for the alleged offense. He did this principally that the law in this area might be clarified and other medical men handling similar cases receive the benefit of such clarification. In his view, Mr. Bourne stated that even if the girl had not died in the approaching birth, it would probably have made her a mental and physical wreck.

(He was indicted under the Offenses against the Person Act, to which there are no written exceptions.)

McNaughton, J. . . . (first discussing the function of the charge to the jury and also a previous trial of a professional abortionist.)

The case here is very different. A man of the highest skill, openly, in one of our great hospitals, performs the operation. Whether it was legal or illegal you will have to determine, but he performs the operation as an act of charity, without fee or reward, and unquestionably believing that he was doing the right thing, and that he ought, in the performance of his duty as a member of the profession devoted to the alleviation of human suffering, to do it. . . .

. . . it is a case of first impression. . . . The question you have to determine is whether the Crown has proved to your satisfaction beyond reasonable doubt that the act which Mr. Bourne admittedly did was not done in good faith for the purpose only of preserving the life of the girl. . . .

... I agree ... that the Infant Life Preservation Act, 1929, is dealing with the case—...—where the child is killed while it is being delivered from the body of the mother. It provides that no one is to be found guilty of the offence created by the Act unless ... (quotes exception). Those words express what, in my view, has always been the law with regard to the procuring of an abortion, and, although not expressed in s. 58 of the Act of 1861, they are implied by the word, "unlawful" in that section. ... It is said that this is a case of great importance to the public, and more especially to the medical profession, but you will observe that it has nothing to do with the ordinary cases of procuring abortion to which I have already referred. ... It is obvious that that defence could not be available to the professional abortionist. ... (There follows a discussion of the previous day's arguments as to the distinction between a danger to health and a danger to life.) Mr. Bourne answered (to a question of whether there was a clear line between the two), "I can say there is a large group whose health may be damaged but whose life almost certainly will not be sacrificed. There is another group at the other end whose life will definitely be in very great danger." Then he added: "There is a large body of material between those two extremes in which it is not really possible to say how far life will be in danger, but we find, of course, that the health is depressed to such an extent that their life is shortened, such as in cardiac cases, so that you might say their life is in danger, because death might result within measurable distance of the time of their labor." He is speaking of a case such as this. If that is a view which commends itself to you, so that you cannot say that there is this division into two separate classes with a dividing line between them, then it may be that you will accept the view that Mr. Oliver put forward when he invited you to give the words "for the purpose of preserving the life of the mother" a wide and liberal view of their meaning. I would prefer the word reasonable to the words "wide and liberal." I do not think that it is contended that those words mean merely for the preservation of the life of the mother from instant death ... The law is not that the doctor has got to wait until this unfortunate woman is in peril of immediate death and then at the last moment snatch her from the jaws of death. He is not only entitled, but it is his duty, to perform the operation with the view to saving her life.

... (then discusses the opinions of many people toward oper-

ations of this kind) . . . As I have said, I think that those words ought to be construed in a reasonable sense, and, if the doctor is of the opinion, on reasonable grounds and with adequate knowledge, that the probable consequence 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 that honest belief, operates, is operating for the purpose of preserving the life of the woman.

These general considerations have got to be applied to the particular facts of this case. The verdict of the jury must depend on the facts of the case proved before them. No doubt—and I think the evidence now makes it clear—it is very undesirable that a young girl should be delivered of a child. Parliament has recently raised the age of marriage of a girl from twelve to sixteen, presumably on the view that it is very undesirable for a girl under sixteen to marry and have a child. The medical evidence here establishes that view.

Apparently the pelvic bones are not set until a girl is eighteen, and it is an observation that appeals to one's common sense that it might be undesirable that a girl should go through the state of pregnancy and finally of labour, when she is of tender years. Then, too, you must consider the evidence about the effect of rape, especially on a girl under the age of fifteen. Here you have the evidence of Dr. Rees, a gentleman of eminence in the profession, that, from his experience and his knowledge, the mental effect produced by pregnancy brought about by this terrible rape which Dr. Gorsky described to you must be most prejudicial. You are the judges of the facts, and it is for you to say what weight you give to the testimony of the witnesses, but no doubt you will think that it is only common sense that a girl who for nine months has to carry in her body the reminder of the dreadful scene and then go through the pangs of childbirth must suffer great mental anguish, unless, indeed, she is a girl of very exceptional character, such as a feeble-minded girl. . . . In the case of an ordinary decent girl, brought up in an ordinary decent way, you may well think that Dr. Rees was not over-stating the effect on her mind of giving birth to her child. So far as danger to life is concerned, you cannot, of course, be certain of the result unless you wait until a person is dead. Nobody suggests that the operation only becomes legal when a patient is dead. . . . The difficulty that arises in the case of abortion is that by the opera-

tion the potential life of the unborn child is destroyed. The law of this land has always held human life to be sacred, and the protection that the law gives to human life it extends also to the unborn child in the womb. The unborn child in the womb must not be destroyed unless the destruction of that child is for the purpose of preserving the yet more precious life of the mother.

... In view of the age of the girl and the fact that she had been raped with great violence, he thought that the operation ought to be performed . . . (goes on with burden of proof which is on Crown) This is a grave case, and no doubt raises matters of grave concern both to the medical profession and to the public. As I said at the beginning of my summing up, it does not touch the case of the professional abortionist. As far as members of the medical profession themselves are concerned—and they alone could properly perform such an operation—we may hope and expect that none of them would ever lend themselves to the malpractices of professional abortionists. As Mr. Bourne said, in cases of this sort no doctor would venture to act except after consulting with some other member of the profession of high standing, so as to confirm his view that the circumstances were such that an operation ought to be performed and that the act was legal.”

(Subsequently Mr. Bourne was acquitted.)

APPENDIX E

THE FEDERAL STATUTES CONCERNING ABORTION

Statute 1461, mailing of obscene or crime-inciting matter.

“Every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and

“Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and

“Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and

“Every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and

“Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can be used, or applied for preventing conception or producing abortion or for any indecent or immoral purpose; and

“Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

“Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post-office or by any letter carriers.”

Statute 1305, immoral articles which are prohibited from being imported, declares that all persons are prohibited from importing into the United States from any foreign country . . . “any drug or

medicine or any article whatever for the prevention of conception or for causing unlawful abortion. . . .”

Statute 1462, “importation or transportation of obscene matters,” states that it is unlawful to bring into the United States or any place subject to the jurisdiction thereof, or “knowingly deposit with any express company or other common carrier, for carriage in interstate or foreign commerce” . . .

. . . any drug, medicine, article, or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or

“Whoever knowingly takes from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful.”

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NAME INDEX

- Angrist, Alfred: 99
Aristotle: 16, 19, 26
- Ballantyne, John W.: 27, 34
Bates, Jerome E.: 51, 120, 212
Beck, Alfred C.: 83
Blank, George: 67, 68
Blank, Henry L.: 67, 68
Bolter, Sidney: 116
Brekke, Bard: 133
Bromberg, Walter: 125
Brunner, Endre K.: 48, 50
Burgess, Ernest W.: 8, 13, 49
Buschan, Georg: 23
- Calderone, Mary S.: 115
Chesser, Eustace: 136
Cicero: 18
Constantine, Emperor: 18
- Devereaux, George: 23
Dickinson, Robert L.: 136
Ditchik, Abraham: 70
Dodd, Charles J.: 67
Donnelly, Joseph P.: 117
Douglas, Gordon W.: 99
Dreiser, Theodore: 31, 34
- Ellis, Albert: 31, 34
- Fehlinger, Hans: 23
Fisher, Russell S.: 12
Freeman, Lucy: 84
Freud, Sigmund: 131
- Gampell, Ralph J.: 137
Garrett, M. S.: 136
Gebhard, Paul H.: 9, 12, 13
- Gellius: 18
Geoghan, William F. X.: 67
Gibbons, William J.: 142
Goldin, Hyman E.: 34
Gordon, Charles A.: 83
Guttmacher, Alan F.: 87, 109, 116, 139, 141
- Halpern, Irving: 222
Hamilton, Gilbert V.: 46, 50
Himes, Norman E.: 15, 17, 142
Hippocrates: 16
Hirsh, Bernard: 116
Hooker, Ransom S.: 6, 13
Horder, Lord: 136
Hulse, Wilfred C.: 87
Humpstone, Paul O.: 83
Huxley, Julian: 136
- Innocent XI, Pope: 20
- Jenks, Alfred E.: 23
Juvenal: 17
- Keve, Paul: 125
Kingsley, Sidney: 30, 34
Kleegman, Sophia J.: 140
Knox, John T.: 137
Kopp, Marie E.: 7, 13, 43, 50
Kummer, Jerome M.: 13, 88, 116
- Leavy, Zad: 13
Lecky, William E.: 19, 23
Lichenstein, Perry: 77
- Mc Cullough, Joseph J.: 76
Mc Fadden, Charles J.: 33
McGuinness, William F.: 67, 76

Madden, Francis A.: 76
 Malinowski, Bronislaw: 21, 23, 131
 Malleson, Joan: 136
 Moissides, Marcel: 22

 Newton, L.: 48, 50

 Ovid: 18

 Packer, Herbert J.: 137
 Pearl, Raymond: 8, 13
 Peller, Sigismund: 28, 34
 Pichugina, Maria: 34
 Pius XI, Pope: 33
 Plass, Edward D.: 13
 Plato: 16
 Plautus: 17

 Rainwater, Lee: 142
 Reuter, Edward B.: 73, 77
 Riddel, Lord: 26, 27
 Robinson, William J.: 29, 34
 Rongy, Abraham J.: 17, 28, 29, 34
 Rosen, Harold: 115
 Rosenberg, Bernard: 34
 Roubakine, Anton: 34

Stafford, Henry B.: 76
 St. Paul: 19
 Seneca: 18
 Shen-Nung, Emperor: 15
 Sigerist, Henry E.: 34
 Simons, J. H.: 44, 50
 Simpson, Keith: 99
 Smith Sidney: 136
 Stix, Regine: 12, 43, 50
 Stone, Abraham: 142
 Sumner, William G.: 20, 23
 Sutherland, Edwin H.: 38, 49

 Taylor, Howard C. Jr.: 115, 140
 Taussig, Frederick J.: 7, 8, 12, 15, 20, 43
 60, 62, 79, 88, 115, 116, 118, 126, 136
 Terrence: 17
 Tietze, Christopher: 8, 13, 44, 45, 46
 Timanus, G. Lotrell: 113
 Tolnai, B. B.: 76

 Veblen, Thorstein: 74, 77
 Von den Steinen, Karl: 23

 Williams, Glanville: 136

SUBJECT INDEX

- Abandonment: post-abortal, by physician, 108
- Abortifacients: 15, 21, 22; through mail order houses, 80, 81, 88, 91; use by non-pregnant women, 97; penal laws regarding, 103; antimetabolites as, 115.
- Abortion Board: as trend, 139
See also Mount Sinai Hospital
- Abortion Law Reform Association: 136
- Abortion machine: 87
- Abortionist: training of, 39
- Abortion stick: Hawaiian culture, 21
- Abortions: reasons and rationalizations for, 46, 47; distance traveled for, 48; sociological factors in, 49; complications following, 92
- Abortionists: types of, 35; alcoholism in, 37; apprenticeship training of, 38, 39; fees charged by, 43, relationships with drug stores, 54; legitimate physicians, 55; as tax evaders, 62; earnings of, 63, interaction with law enforcement officials, 67; relationships with service clubs and fraternal groups, 74; with clergymen, 75; police officers as, 83; as perverts, 95, 121; previous occupations of, 124
- Accomplice: aborted female as, 105
- Adoption: abortionists and, 81, 82
- Age: abortees distributed by, 45
- Aiding or abetting: penalties for, 109
- Air embolism: death from, 98
See also autopsies
- Alcoholics anonymous: 123
- Alcoholism: 37, 95, 123
- American Law Institute: 133, 137, 144
- American Medical Association: 116
- Antimetabolites: *See* abortifacients
- Apiole: as abortifacient, 89
- Aloes: as abortifacient, 89
- Asepsis: 61, 85, 86, 121
- Autopsies: following abortion, 93; absence of evidence at, 93; findings in 96, 97, 125
- Bacteremia: 93
- Bacterial endocarditis: 93
- Behavioral sciences: 144
- Birth control: abortion as, 22, 46, 132
- Bontoc Igorot: practice among, 21
- Burden of proof: function of state, 101
- California: proposed legislation in; 137
138
- Cardiac arrest: 98
- Castor oil: as abortifacient, 89
- Castration complex: 131
- Catheter: use of, 40, 85, 86, 87, 93, 97, 98, 125
- Catholic hospitals: practice in, 24
- Cervical atresia: post-abortal, 179
- Civil damages: in abortion cases, recovery of, 107
- Co-conspirator: aborted woman as, 105
- Class crime: abortion as, 134;
See also social class
- Communiucation: privileged, 105, 106
- Complaining witnesses: information obtained from, 120, 121, 122
- Contact men: aides to mill and ring operation, 11
- Contraceptive behavior: relation to, 49
- Conviction rate: 5, *see also* prosecution rate
- Copper: as abortifacient, 89
- Court records: material from quoted, 2, 10, 11, 56, 57, 58
- Criminals: attitudes of, 32
- Curette: 4
- Death certificates: falsification of, 6
7, 78, 79

- Death rate: illegal abortion, 3, 4, 78, 90, 91
- Denmark: 137
- Dept. of Food and Drugs, U.S.D.A.: actions regarding abortifacients, 80, 81
- Diachylon: as abortifacient, 89
- Diet of Worms (1521): punishment for set at, 20
- Displacement of aggression: in abortion cases, 131
- Drama: abortion in, 30, 31
- Drug Stores: as sources of referral, 53, 54, 55
- Drugs: purgative type, as abortifacients, 89
- Dying declaration: when admissible, 107
- Dysmenorrhea: postbortal, 131
- Economic factors: as indications for, 117
- Egypt: ancient, practice in, 15
- Electrocution: in course of abortion procedure, 88
- Electrode: use by chiropractor, 104
- England: 137
- Ergot: as abortifacient, 88
- Ethics: contemporary writers on quoted, 27, 28
- Exotic groups: practice in, 20, 21, 22
- Extortion: 70
- Fetal deaths: registration of, 5, 78, 79
- Fetus-animatus*: theory of, 25
- Fetus vegetans*: doctrine of, 25
- Finland: 137
- France: 137
- Gas gangrene: following abortion, 96
- General practitioner: relationship to requests for, 112
- Gin-with-iron-filings: as abortifacient, 90
- Goose quill. use of, 87
- Grand jury: report of special, October 15, 1941, 6, 7, 39, 126, 127, 135
- Greece: ancient, practice in, 15, 16, 17
- Guilty intent: proof of, 104
- Gunpowder: as abortifacient, 88
- Hebrews: ancient, practice among, 15, 16
- Hellebore: as abortifacient, 89
- Hemolysis: following abortion, 96
- Homicide: post-abortal, penalties for, as second degree manslaughter, 106; as first degree murder, 106; case illustration, 124-125
- Iceland: 137
- Incest: in cases of, 29, 139
- Induction cases: 71
- Institution: definition of, 51: *See also* mill
- Japan: 136
- Jesuits: denounced for, 20: *see also* papal proclamations
- Jewish law: abortion in, 25, 26
- Knox bill: 137, 138
- Laminaria tents: use of, 50, 86
- Law enforcement: difficulties of, 5, 66, corruption in, 67, 68, 69, 70, 76, 82; in collaboration with medical examiner, 99
- Lead: as abortifacient, 89
- Legitimate practitioners: as sources of referral for, 54, 55
- Literature: treatment in, 31, 32
- Luenbach's paste: as abortifacient, 96
- Magazines: articles in, 33
- Marital status: abortees, 4, 44, 45
- Medical examiner: cooperation with other agencies, 99; report of in an abortion case involving cerebral embolism, 125

- See also* law enforcement
- Medical ignorance: example of 124, 125
- Medical philosophy: change in, 114
- Medical profession: abortees as members of, 113; pressure for abortions on, 113, increase of abortionists in, 114; full time abortionists in, 115; statements by leaders of, 115, 116, 117, 118; *see also* medical schools
- Medical schools: graduates adopting illegal practice, 126, 127, 128; *see also* Grand Jury
- Medico-Legal Problems: quotation from, 27
- Medieval era: practice in, 20
- Menstrual molimina: post-abortion, 179
- Mertz paste: as abortifacient, 11
- Midwives: 11, 35, 40, 61, 113, 126
- Mill: defined, 51; medical assistants in, 52; business aides in, 53; relationships with drug stores, 53, 54; sources of referral, 54, 56; relationships with taxi drivers, 55; fixing of fees in, 57; hours of operation, 58; speed of operation, 59; after-care in, 59; interstate type, 72; sociologically analysed, 73
- Miscarriage: confusion with, 14
- Model abortion law: 133; *see also* American Law Institute
- Modus Operandi*: 5, 40, 41, 64, 65, 66, 73, 82; by chiropractic instruments, 104; as learned from complaining witness, 120, 121; as found in Grand Jury testimony, 121, 122
- Mohammedan groups: practice in, 21
- Moral turpitude: in license revocation procedures, 109
- Mount Sinai Hospital: procedure at, 138, 139
- Mrs. Seagrave's pills: as ecboic agent, 89
- Multiparae: ratio among, 8
- National Committee on Mental Health: 115, 144
- Newspapers: quotations from, 63, 64, 68, 69, 71, 72, 90, 91
- New York Academy of Medicine: 115
- Norway: 137
- Nursing homes: operation by abortionists, 82
- Occupation: abortees distributed by, 46
- Oligomenorrhea: post-abortion, 179
- Optic atrophy: following attempt, 89
- Para viscerum matris*: doctrine of, 26
- Papal proclamation: 20, 24; *see also* Jesuits
- Parity: incidence correlated with, 46
- Pelvic actinomycosis: post-abortion, 179
- Penis envy: 131
- Pennyroyal: as abortifacient, 90
- Phosphorus: as abortifacient, 89
- Pituitary extract: as abortifacient, 81
- Planned Parenthood Federation of America, Inc.: 144
- Post-abortion reactions: 130, 131, 132
- Potassium permanganate: as abortifacient, 97
- Pregnancies: incidence in, 3, 143
- Presentence investigations: testimony of complaining witnesses, 120, 121, 122
- Primiparae: ratio among, 8
- Principle of double effect: 139
- Probation: differential rate in abortionists, 10; surveillance necessity, 123; statistical analysis of, 123-124, abortionists on, 128
- Products of abortion: disposal of, 94; storage of, 94
- Professional criminal: abortionist as, 38
- Projection of blame: in abortion cases, 131
- Prosecution rate: 5; *see also* conviction rate
- Protestant churches: attitudes of, 25
- Psychiatrists: as "Court of Last Appeal", 116
- Quack doctors: 40, 41, 42

- Quinine: as alleged ecboic agent, 88, 89
- Race: correlation with, 9, 85, 132
- Recovery cots: significance of, 122
- Recto-vaginal fistulae: following instrumentation, 87
- Revocation of license: 108, 109
- Religious preference: effect on incidence rate, 3, 4, 48, 49, 85, 133
- Revision of law: need for, 118, 144
- Ring: defined, 51; distinguished from mill, 71
- Roman Catholic Church: present position on, 24; *see also* Papal pronouncements
- Roman consuls: practice during era of, 17
- Rome: ancient, practice in 15, 16; imperial era, 17; during reign of Constantine, 18
- Runners: use of, 122, *see also* law enforcement
- Rural areas: rate in, 7
- Sandwich Islands: practice in, 22
- Sassafrass tea: as abortifacient, 89
- Self-abortion: 42; incidence of, 43; methods of, 85-91; instruments used in, 85-87; newspaper account of, 90-91
- Sex education: 143
- Sexual folklore: abortion in, 31
- Sexuality: early Christian theories on, 18, 19
- Soap solution: use of, 87
- Social class: correlation with, 8, 9, 35, 133
- Social sciences: 144
- Social structure: as part of, 1
- Source of complaint: in court cases, 62
- Spacing of pregnancies: new techniques for, 141, 142
- Spain: 137
- Spanish fly: as abortifacient, 89
- Spontaneous abortion: estimated frequency of, 7
- Status striving: correlation with, 8
- Statutes: legal exceptions to law prohibiting abortion, 9; by basic type 101; *see also* law enforcement
- Suicidal threats: as indications for therapeutic abortion, 117
- Sweden: 136, 137
- Syphilis: relation of spontaneous type to, 9, 101
- Taboo: abortion as, 3, 20
- Talmud: prohibitions in, 25
- Tansey tea: as abortifacient, 89
- Taxicabs: functions with mill of, 60
- Therapeutic abortion: indications for 114; following psychiatric examination, 115, 140; *see also* economic factors
- Trobriand islanders: practice among, 21
- Unlicensed practice of medicine: as a misdemeanor, 124; as a factor in statistics, 124
- Unprofessional conduct: 108, 109
- Urban areas: rate in, 8
- U. S. S. R.: legal status in, 29, 30
- Use of the mails: 109
- Uterine packer: use in, 40
- Vaginal lesions: 99; *see also* potassium permanganate
- Vaginal perforation: during attempt, 95
- Vaginal tampons: 86, 122
- Vesico-vaginal fistulae: following instrumentation, 87
- Victim: aborted woman as, 105
- Victorian era: abortion and marital status in, 4
- Vinegar: as abortifacient, 98
- Voorhees bag: use of, 50
- Volstead Act of 1919: comparison with, 5
- West Germany: 137

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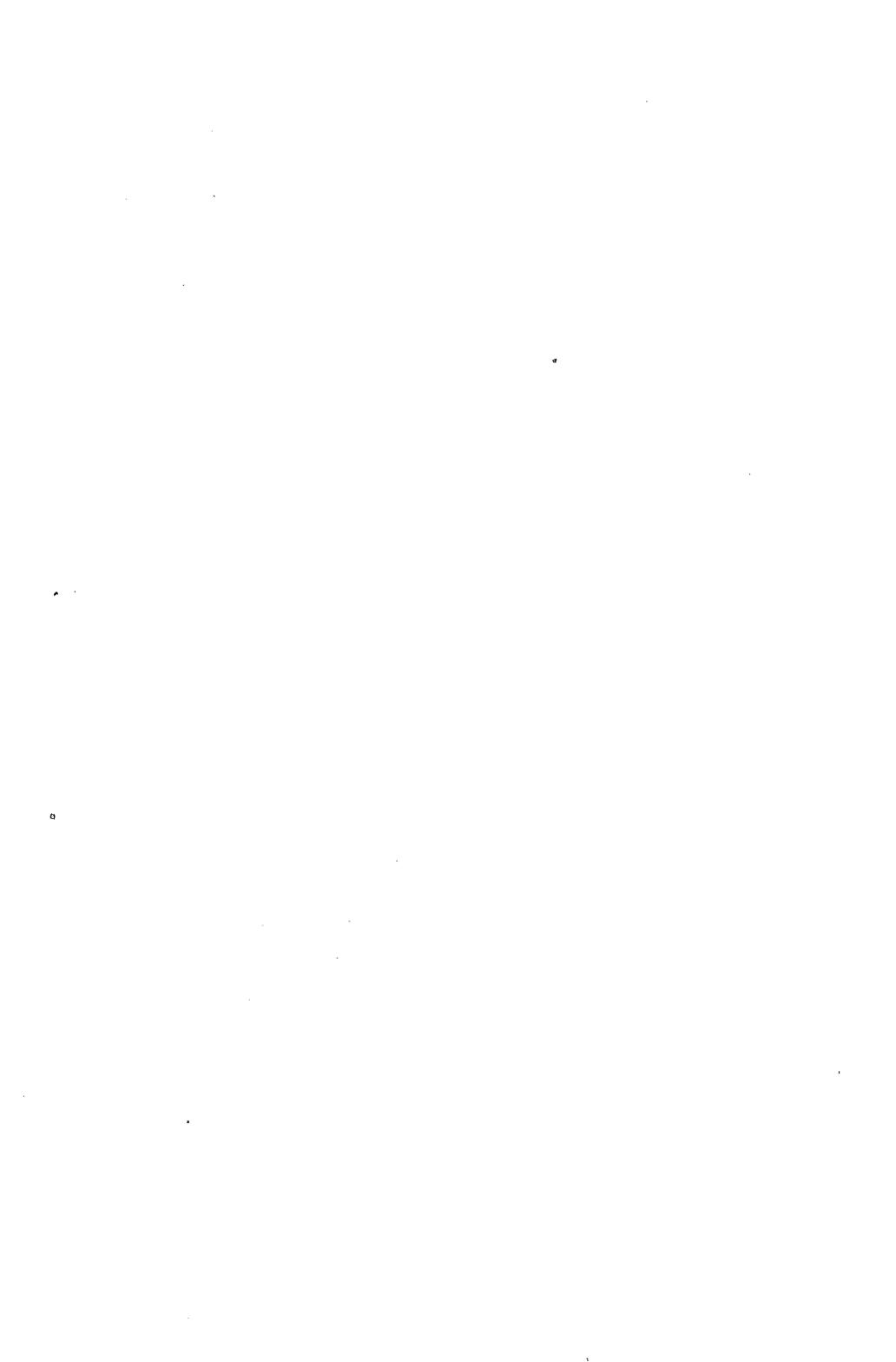
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