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The courage to break the rules : the history of abortionists 1936-1973

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THE COURAGE TO BREAK THE RULES: THE HISTORY OF ABORTIONISTS
1936-1973

A Thesis

Presented to

The Faculty of the Department of History

San Jose State University

In Partial Fulfillment
of the Requirements for the Degree

Master of Arts

by

Claudia Nicole Clark

August 2005

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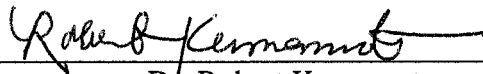
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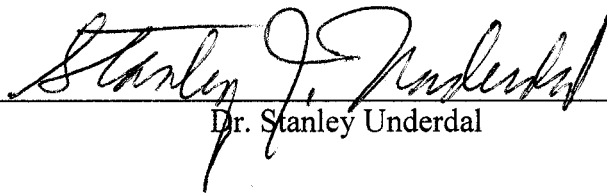
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ABSTRACT

THE COURAGE TO BREAK THE RULES: THE HISTORY OF ABORTIONISTS 1936-1973

By Claudia Nicole Clark

This thesis addresses the topic of abortion in the United States between 1936 and 1973. It examines the backgrounds of medical practitioners who performed abortions during this time period. In addition, it discusses the motives, consequences, and public reaction to these practitioners' actions.

Research on this subject reveals that many medical practitioners such as medical doctors, osteopaths, naturopaths, chiropractors, and self-trained abortion groups performed abortions during this time period. These medical practitioners performed were often competent, caring individuals. Moreover, abortions were often performed under clean, sterile, and safe medical conditions. The motives for these practitioners to become abortion providers include money, personal commitment to the right to control one's own body, and personal experience with abortion. Many of the practitioners suffered great consequences for their actions, including loss of license, imprisonment, and fines. Yet, many of these practitioners continued to practice abortion despite these risks because of their deep rooted commitment to the cause.

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Introduction

Because of the restrictions on birth control and abortion due to the Comstock Laws between the 1870s and 1930s and the illegality of most abortions prior to 1973, women faced a dilemma. A woman could have a child she did not want or she could risk having an illegal abortion. For women who sought the abortion there were three options available: they could attempt to abort themselves, they could go to a “back-alley doctor,” or, if they were fortunate, they could find a legitimate doctor or a well-trained layperson willing to perform the procedure. It is often the “back-alley doctors” or “butchers” who flunked out of medical school that popular culture associates with the Pre-Roe era. For these “doctors,” money was the primary motive. While these “quacks” were numerous, they were not the only ones who performed the operations during the Pre-Roe era.

Between 1867 and 1973 legitimate, trained, licensed medical doctors, chiropractors, naturopaths, osteopaths, and trained laypeople performed abortions. While most received some sort of payment, their motives also included empathy, ideological commitment, and a desire to avoid botched abortions. The purpose of this thesis is to demonstrate that not all Pre-Roe abortionists were incompetent “back-alley butchers.” Many had medical training and quite a few had either medical licenses or other professional licenses issued by alternative medical boards. Others were trained laypeople. If and when these abortionists were caught, which was often the case, they were subjected to blackmail, harassment, fines, loss of licenses, and imprisonment. Yet many of them continued to perform abortions despite all of these risks.

This study will cover the period between 1936, when the United States Court of Appeals ruled in *United States v. One Package* that doctors could distribute contraceptives across state lines, thereby rendering the Comstock Laws unenforceable, and 1973 when the Supreme Court's decision in *Roe v. Wade* legalized abortion. During this period the battle over abortion became particularly heated.

Abortion is one of the most controversial subjects of our time, and there has been a profusion of books and articles written on the topic. Despite this wealth of information, and contrary to what most people think, there has not always been such a debate over the issue. Prior to the middle of the nineteenth century, the United States had no laws which regulated abortion and most states deferred to the standard held in English common law which stated abortion before "quickening" was perfectly legal. Quickening was defined as the point at which the woman first felt movement of the fetus, which usually occurred toward the middle of the fourth month or early fifth month of pregnancy. Abortions performed before a woman was "quick," were not considered to be abortions in the sense that we consider them today, but rather miscarriages. Abortions performed after a woman was "quick," on the other hand, were considered criminal, and at that point people could be prosecuted for performing them.

A review of the historical literature supports this interpretation. Beginning with Linda Gordon's book *Woman's Body Woman's Right*, published in 1976, scholars began to discuss the various folk home remedies women used to induce abortions. Gordon argues that abortion was no new phenomenon but rather a time honored tradition

employing recipes that had been handed down from generation to generation. Ingredients of such abortifacients included “a paste of mashed ants, foam from camel’s mouths, tail hairs of the black tail deer dissolved in bear fat.”¹ Gordon points out that the basic principle of such brews was that they were indirectly effective. None of them specifically attacked the fetus, but they poisoned or irritated the body and the digestive system and caused a rejection of the fetus as a side effect. Gordon notes that “It was not for lack of understanding, but for lack of other alternatives, that women resorted to these dangerous expedients.”² These remedies worked in approximately seven to fourteen percent of the cases.³ As one might expect, by the twentieth century most doctors were skeptical of the success of such remedies. Rather, doctors attributed the success of these herbs to the “coincidence” of women having miscarriages from other causes.

Gordon also argues that inserting instruments into the uterus was another tactic that women used. She points out that these operations were done frequently and with great success in preindustrial societies. Among the myriad of instruments women used she lists: nail files, knitting needles, crochet hooks, nutcrackers, knives, hatpins, umbrella ribs, and pieces of wire. She also notes that in many societies it was common for women to destroy the fetus by external means by shaking, climbing trees, taking hot baths, excessive exercise, lifting heavy objects, and jumping from high altitudes.⁴ Despite the pain involved in such practices, women voluntarily underwent such ordeals—usually with the help of an experienced older woman. Gordon remarks that in both primitive and modern societies there were wise women who were exclusively

abortionists, while others performed many of the tasks of gynecologists. She also argues that in societies where medicine was in the hands of men, the practice of abortion was often forbidden and women were forced to turn, covertly, to other women for their reproductive help.⁵

The next scholar who addresses the issue of abortion is James Mohr in his 1978 book *Abortion in America: The Origins and Evolution of National Policy, 1800-1900*. Mohr argues that abortions in the beginning decades of the nineteenth century were neither condemned nor difficult to come by. Women were able to find the means to abort unwanted pregnancies from home medical guides, health books, other women, midwives, irregular practitioners, and from trained physicians.⁶ He also asserts that:

American women who sought abortions tried the standard techniques of the day, and no doubt succeeded some proportion of the time in terminating unwanted pregnancies. Moreover, this practice was neither morally nor legally wrong in the eyes of the vast majority of Americans, provided it was accomplished before quickening.⁷

Mohr concludes that the vast majority of abortions that occurred in the first part of the nineteenth century happened because American women feared the stigma of an illegitimate child. Abortions were not performed as a method of controlling family size. That trend did not begin to occur until the middle of the nineteenth century.⁸

Mohr argues that abortion was a relatively safe operation compared to the dangers of carrying a pregnancy to term:

“A physically produced abortion handled by a competent physician was not a fearsome process as described by Burns, the acknowledged international expert on abortion in the early nineteenth century, ‘In abortions, dreadful and alarming as they are sometimes it is great comfort to know that they are almost universally void of danger either from hemorrhage or on any other account.’”⁹

In Cornelia Hughes Dayton's article "Taking the Trade: Abortion and Gender Relations in an Eighteenth Century New England Village" the theme of quickening comes up again. A young unmarried woman named Grosvenor becomes pregnant and, under pressure from her lover, seeks an abortion. Initially she tries taking abortifacient pills. However, those fail to produce the desired result. Therefore, her lover, in the mistaken belief that he is providing the best possible medical treatment available, hires a male doctor to perform an abortion, which results in Grosvenor's death. What is unique about the case is not that an abortion was performed but rather that it was performed incompetently. It is the author's contention that had an experienced female abortionist been hired, Grosvenor would most likely have survived unharmed. This article supports the assertion that abortions were far from rare in colonial America. Perhaps the most intriguing question centers on why women and men in early America acted covertly to effect abortions when abortion before quickening was legal. The Grosvenor case highlights the answer that applies to most known incidents from that period: abortion was understood as blameworthy because it was an extreme action designed to hide a prior sin, sex outside of marriage.¹⁰

In common with the other scholars discussed thus far, Carroll Smith-Rosenberg supports the claim that abortion prior to quickening was not a crime. However, what makes her work different from the other works is that she argues that a combination of the newly formed American Medical Association, the Roman Catholic Church, and

several prominent Protestant clergymen lobbying together in the years between 1860 and 1880 succeeded in making abortion illegal in the United States for the first time.¹¹

Tracing the AMA link Smith-Rosenberg notes that, by the 1850s, physicians had begun the long struggle to upgrade standards within the medical profession and, simultaneously, to defend their profession against rural and “irregular” physicians. To do this they founded national medical societies that placed great emphasis on education and certification and they lobbied legislatures to pass laws making medical school attendance and clinical training prerequisites for licensing.¹²

Many physicians felt insecure in their newly won status and no group of physicians was more insecure than specialists in gynecology/obstetrics. Until the early nineteenth century, few men had challenged the exclusively female domain of midwifery. It is Smith-Rosenberg’s belief that obstetricians’ and gynecologists’ deep concern over their low professional status and public reputation helped color their responses to the abortion issue. They desperately needed some reassurance that their claims to be men of science were legitimate. Others turned to politics, bolstering their self-esteem through frequent contacts with state and national political figures. It came to be of critical importance to these physicians to establish the right of gynecologists to set public opinion, sway votes in state legislatures, determine legislative policies, and ultimately be vested by law to control their patients’ life and death decisions.¹³ One of the most prominent of these anti-abortion activists was Boston gynecologist H.R. Storer. He persuaded the AMA to establish a special committee in 1857 to ascertain the number of

abortions performed in the United States. Shortly thereafter the Protestant clergy joined the chorus of calls for abortion bans and helped to create a broad popular movement. One by one states began to pass laws making abortion without medical grounds and the certification of a physician a felony and, in keeping with the spirit of the times, judges and juries began handing out stiff penalties.¹⁴

In Kristin Luker's 1984 book, *Abortion and The Politics of Motherhood*, the author tackles the question of how people come to differ in their feelings about the rightness or the wrongness of abortion. She presents a number of the arguments both for and against abortion. The first and most important thing to note, she claims, is that the moral status of the embryo has always been ambiguous. Although both sides have turned to history and philosophy to bolster their arguments, neither of these disciplines can prove the status of the embryo "beyond reasonable doubt."¹⁵ She also notes that while many churches have denounced abortion, they have seldom advocated sanctions against it as severe as the penalties for the murder of an adult. Moreover, she claims that, while abortion has often been frowned on by Western Christianity, it has just as often been legally ignored.¹⁶

From a philosophical viewpoint, for most of the last two thousand years, the embryo, in common with children and women, was not considered a legal entity. Furthermore, in most of the theories of embryology in vogue until the nineteenth century philosophers did not call it a "natural" person with certain rights. For example, Pythagoreans assumed the embryo was a natural person, but the Stoics did not. Under

Anglo-American common law it was true that embryos had certain legal rights—like the right to inherit property. However, in order for the embryo to exercise these rights, it must be born; therefore, such rights were not invested in the embryo per se, but were held in trust until such time as the embryo became a child.¹⁷

Luker notes that although both the pro- and anti-abortion forces can agree that embryos develop heart beats by about the twenty-fourth day of pregnancy and that they do not breathe independently until after birth, they cannot agree what, if any, significance to assign to these phenomena. Nor can they agree on a definition of personhood. If the fetus is defined as a person, it has all the rights of other people, including life, liberty and the pursuit of property; but if it is only a potential person, those rights become moot. Finally, Luker argues that abortion is emotionally charged because new political constituencies have a vested social interest in whether the embryo is defined as a baby or a fetus.¹⁸

Most of the scholars discussed thus far reiterate the theme that abortion prior to quickening was socially accepted until the middle of the nineteenth century in America. Luker, on the other hand, describes the controversy surrounding the act of abortion itself during this time period. Leslie Reagan in her 1997 book, *When Abortion Was A Crime: Women, Medicine, and Law in the United States 1867-1973*, shifts the focus. She discusses the lives, circumstances, and motives of women who decided to have an illegal abortion. As she states, “It is in the minutiae of women’s lives that we can discover why women had abortions and how they won sympathy from physicians who belonged to a

profession dedicated to fighting abortion.”¹⁹ Much of Reagan’s research was based on court documents from criminal cases against either the women themselves or their abortionists. This material was supplemented by reference to government documents, newspapers, popular periodicals, hospital records, and manuscript collections.

Explaining her methods of research Reagan asserts:

Using these materials, I have delineated how medical thinking and state regulation have changed over time. Yet this is more than a study of prescriptive literature or policy. I have uncovered the circumstances of hundreds of actual induced abortions and reconstructed changing abortion practices. This study periodizes the history of abortion for the first time.²⁰

Rickie Solinger, in her article “Extreme Danger: Women Abortionists and Their Clients before *Roe v. Wade*,” describes the encounters between women who sought abortions and lay women abortionists. She argues that male doctors performed criminal abortions, but she was concerned only with the females and why some were more vulnerable to arrest than others. She argues that not all abortionists worked under equally constrained and dangerous conditions. She notes that district attorneys often determined that abortion prosecutions against female lay practitioners were more likely to be successful because women abortionists were presumed to be unskilled, untrained, and unprotected. On the other hand, doctors were expected to have resources, skills, and respectable colleagues who would stand up in court and claim that any given abortion was medically necessary.²¹

Finally, Carole Joffe argues in her article “Portraits of Three ‘Physicians of Conscience’: Abortion before Legalization in the United States” that there were three types of practitioners of abortion. In the first category, which was the most common, were

those like Dr. Daniel Fieldstone who only provided abortions to certain private patients with whom he had a special relationship. The second group was made up of those like Dr. David Bennett who performed abortions for all who requested them. Finally, Dr. Jane Hodgson, who will be discussed in greater detail later, only performed one abortion and did so in order to provoke a legal confrontation that she hoped would lead to the overturning of the restrictive abortion laws in Minnesota and beyond.²²

There has been a tremendous amount of work done on the subject of abortion. However, most of the work focuses on abortion as a controversial subject. There has also been a wealth of information written about the women who have had abortions. Very little has been written on the actual abortion providers. This thesis will go into virtually uncharted territory. It will explore the lives and minds of abortion providers to examine why they were willing to break the rules when it was illegal and risky socially to do so.

Chapter 1: Not Back-Alley Butchers

One of the most persistent myths surrounding the abortion debate in this country is that, throughout much of American history, abortions were rare, illegal, and generally performed by untrained “back-alley butchers.” This view is unsupported by the evidence. Prior to the late 1940’s and early 1950’s abortion services, provided by well trained practitioners in hygienic facilities, were openly available in almost all large cities and many towns. The change came during the period of conservative ascendancy in the late 1940’s and 1950’s. The repeal of the Comstock Acts in 1936 helped galvanize a conservative backlash and hasten the era of police crackdowns, which drove many abortion providers either out of business or underground.

An examination of professionals who, despite the threat of prosecution, continued to provide safe abortions reveals that, although most abortionists prior to the crackdown were not medical doctors, many were well trained, ethical, and practiced in clean, pleasant surroundings. There were many pathways to becoming an abortion provider and most involved some formal training and licensing. The ranks of abortion providers included practitioners trained in naturopathic medicine, chiropractics, and osteopathy, as well as medical doctors and skilled laypersons such as midwives.

One popular avenue into the business of abortions was naturopathy, the medical practice of using herbs and various other non-invasive methods to return the body to a

healthy state by stimulating its innate defenses rather than supplanting them with drugs. Although the requirements for a degree were not particularly high, successful practitioners often supplemented their training by apprenticing with more experienced specialists.

One of the most famous of these was Dr. Ruth Barnett, a naturopath who began her career in 1918. Although she eventually earned a degree in naturopathy from Pacific States Chiropractic College in Portland, Oregon, most of her practical training came from assisting professionally trained physicians. She apprenticed under two abortionists, Dr. Alys Griff, an obstetrician-gynecologist, and Dr. George Watts, a trained surgeon. Although fully qualified and in the estimation of her mentors highly skilled, Ruth Barnett obtained her degree on the advice of Dr. Watts so she could qualify to open her own clinic. Oregon law authorized any naturopath to perform any type of surgery where entry was made through a natural body opening. Barnett practiced openly for over three decades before her first run-in with the law, and by 1945 her clinic had become the most famous on the West Coast. Indeed, a substantial number of her clients were referred to her by prominent licensed physicians from Oregon, Idaho, Nevada, California, and Washington. She even received a number of referrals from a gynecologist working in a Catholic hospital. By the time of her first arrest in the early 1950s, Dr. Barnett was a wealthy and respected member of the community.¹

Another common background for abortionists was chiropractic training. In addition to training in massage and spinal adjustments, many schools in the late

nineteenth and early twentieth centuries provided classes in both obstetrics and gynecology. As a result, many chiropractors were quite capable of performing abortions. They may have been better qualified than most physicians since most medical schools refused to provide abortion training and only taught their students how to deal with the aftermaths of problematic procedures. Although abortion was openly practiced throughout this country, it was technically against the law in most cases prior to 1973. Since medical boards tended to be more conservative than other licensing boards, they generally took a dim view of the practice. Many doctors preferred to err on the side of caution by referring their clients to outside specialists.

During testimony at her former supervisor's criminal trial in 1936, Laura Miner admitted to performing abortions since 1933.² In 1940 she and her associates Nedra Cordon and Josephine Page opened their own abortion clinic. In that clinic they used equipment such as speculums and examining tables that any other chiropractor who specialized in gynecology would use. Patients were given heating pads to ease pain and they were encouraged to rest for a while after the procedure. The office provided pillows and blankets. One is left with the impression that patients were as comfortable as they could be in an awkward and embarrassing situation.³

Less information is available about osteopaths who performed abortions. The examples that will be discussed here describe one death and a serious illness. Had it not been for these circumstances, this limited evidence would not exist. Osteopaths, whose training emphasizes a system of therapy that relies on normal body mechanics and the

manipulation of joints to correct faulty body structures. However, they do not appear to have performed abortions in large numbers. Perhaps their emphasis on non invasive therapies limited their participation. More research in this area will be necessary before we can be certain.

Because the California State Archives prohibits disclosure of the names in this *Abortion Investigative Report*, the first osteopath will be referred to as Dr. Benjamin Williams to conceal his identity. Although the limited information available about him does not indicate whether he made a regular practice of providing abortions, we do know that he was a licensed osteopath who worked in a hospital in Los Angeles, California. From the records available it would appear that he performed at least two illegal abortions during his career, which brought him to the attention of the authorities. We know that at least one of them was performed in a sterile hospital setting.⁴

We know a little more about the second osteopath, who is referred to here as Dr. James Miller, again using an alias for reasons of confidentiality. Dr. Miller was a licensed osteopath who ran his own clinic out of a medical office building in downtown Los Angeles where he received referrals from medical doctors. Like that of Dr. Williams, Dr. Miller's practice was no back-alley operation. Not only did his suite of offices include a well equipped operating room with a proper table and sterile instruments, it also included a recovery room where his patients could rest after their procedures were completed. He was also licensed by the state and received referrals

from reputable doctors. Furthermore, he offered to return money to his patients if the operation proved unsuccessful.⁵

In addition to naturopaths, chiropractors, and osteopaths, a large number of trained lay people, despite their lack of any formal medical degrees or certificates, became skilled abortionists and ran highly professional and safe practices for years. On reflection this should not surprise us since midwives, village wise women, shamans and other people lacking formal medical training had been performing safe abortions for centuries before the advent of modern medicine. Like many of their more officially trained colleagues, most lay people apprenticed under skilled abortionists before opening their own practices. In most circumstances this was sufficient since the technique, if performed in the first trimester, is neither difficult to learn nor especially dangerous. Generally, only in the cases of late stage or abnormal pregnancies do complications arise.

The most famous band of lay abortionists was a feminist group that operated out of Chicago from 1969 until 1972. Formally known as *The Abortion Counseling Service of Women's Liberation*, the group was commonly referred to as "Jane." Jane's membership fluctuated from twenty to thirty volunteers at any given time, and its initial goal was simply to help women find legitimate doctors to perform abortions. In time many Jane members became competent abortionists themselves. They discovered they could perform the procedure at approximately one fifth the cost of a doctor. More importantly, once they became skilled abortionists, they could control the entire process—making it safer. During their four years of operation approximately one

hundred women volunteered for Jane, and they helped eleven thousand women obtain safe abortions.⁶

A Dr. Kaufman initially performed abortions for the group. He agreed to call Jane immediately before and after an abortion, and gave the group his phone number so it could always reach him. In exchange his identity was protected. In addition to providing a doctor to perform the abortion, Jane looked for doctors to call in case of emergencies and for follow-up care. Over time the group developed a small list of such people. Laura Kaplan, a former member of Jane, claimed that this informal network was always changing because doctors began to get nervous or because of negative feedback from patients.⁷

After Kaufman had worked for Jane for a year and a half, two members discovered he was not a real medical doctor. Kaufman had learned the trade from a doctor with whom he had apprenticed. The people who made the discovery decided the entire group should know. This revelation caused a great deal of controversy in the organization since it prided itself on avoiding back-alley abortionists. The group did not want to be associated with someone who was not a real medical doctor. Still, the group was satisfied with his work since he was both caring and competent. Jane realized that someone who performed between ten and twenty abortions a day was more skilled than a doctor who performed only a few abortions a year. More importantly, the feedback the group had received from the doctors to whom the women went for post abortion checkups was always positive. The organization scheduled another meeting to let the

members absorb the news. Group leaders estimated that half the group left because of the discovery. The remaining members decided to keep Kaufman, and they decided they would tell women he was not a licensed doctor only if they were asked.⁸

At this point, group leaders realized that if Kaufman could perform abortions effectively, they could too. In addition, they could charge less money for the procedures. Kaufman was willing to teach what he knew to the group leaders, so Jenny, one of the group leaders, became his apprentice. Once Jenny became a skilled abortionist, she trained two other members of the group. By the summer of 1971, Kaufman was performing less than one half of the group's operations. Eventually he stopped working for Jane altogether.⁹

Philosophically opposed to the overuse of drugs, Jenny and other Jane members discovered that most pain and discomfort could be managed effectively through counseling and support. They ensured that every woman was awake during the procedure and only resorted to drugs such as Xylocaine as a local anesthetic and to ease cramping associated with dilation and Ergotrate to prevent bleeding.¹⁰

According to Kaplan, obtaining an abortion during this time period required a combination of money, luck, and contacts with the right people.¹¹ Unfortunately for women, this took a considerable amount of time—often so much time that it became less safe to perform a dilation and curettage abortion. A D&C abortion occurred when someone would dilate the cervix with metal dilators or gauze tampons and then use a curette, a spoon-shaped instrument, to scrape the fetal placental tissue out of the uterus.¹²

In 1969, when a doctor “Nathan” from Detroit contacted Jane and said that he had a method that would induce labor within forty-eight hours, Jane members were interested. He had access to Leunbach paste that he could insert into the uterus of a woman up to six months pregnant and cause her to miscarry without being detected. He agreed to visit Chicago to demonstrate this method if Jane had a few women who needed abortions and were willing to act as test subjects.¹³

A counselor explained to the volunteers that this procedure was experimental, and that it had never been used by the group before. Despite this, four women volunteered to try the paste. After injecting the paste through the cervical opening, Nathan advised each woman to wait until her contractions were five minutes apart and then go to the hospital and act as if she was in premature labor. He recommended that they act innocent and pretend they did not know what was happening. He reassured them that nobody would be able to detect that anything had been done. He warned them that labor in a miscarriage was often more difficult than during a full-term delivery because the fetus was smaller and that they should expect hours of painful labor. Jane kept in touch with all four women, who miscarried without problems.¹⁴

Generally the number of women who needed miscarriages was only a small portion of those who sought Jane’s assistance. Of that group Jane encouraged anyone with financial resources like insurance or Medicaid to go to the hospital to miscarry. However, some women chose to miscarry with the help of a friend or family member.

The group's assistance was available for women with no one to help them and no other resources.¹⁵

Nathan only made a few trips to Chicago to administer the paste. Although he was friendly enough to the patients, he had a condescending attitude that Jane members did not like. One recalled him saying, "These dumb girls get themselves knocked up and I have to save them."¹⁶ For the next few months he continued to supply the paste to the group, but Kaufman inserted it. By the winter of 1970, they stopped using it altogether. Kaufman invented an alternative method to induce miscarriages. With small forceps he tore the amniotic sac and, by pressing externally on the woman's abdomen, expelled the amniotic fluid. Labor started anywhere from a day to two weeks later, which made it more difficult to monitor these women. Rupturing the amniotic sac also increased the possibility of infection. Women had to be cautioned not to have sex, put anything into their vaginas, or take hot baths.¹⁷

Kaufman did not approve of miscarriages because of the possibility of complications, which he feared made him more vulnerable to prosecution. However, as long as Jane insisted on supporting miscarriage as an option, he continued to induce them. Jane counselors maintained daily contact with patients to ensure that they took their temperatures and to remind them of what to avoid in order to reduce infections. Women who miscarried anywhere other than in a hospital had a cleanup D&C with Kaufman as soon as possible to prevent problems from retained tissue.¹⁸

Despite being untrained in medicine, the members of Jane were clearly not back-alley abortionists but rather competent, trained lay people with a highly developed moral code. Initially they sought the services of a medical doctor. However, the person they secured was not what he had represented himself to be. He was nonetheless competent and caring. No woman died from an abortion performed by Kaufman on Jane's behalf. Another factor that separated Jane's services from those of back-alley operations was the fact they used proper instruments, drugs for their procedures and relied on genuine medical doctors for emergencies and the follow up care.

Although between 1867 and 1973 almost all medical schools refused to provide abortion training and most physicians preferred not to risk their licenses by performing an illegal operation, some legitimate doctors defied the law and provided this service—some even going so far as to specialize in abortions. Since they could not receive training through official means, they would often receive it unofficially from an experienced abortionist. Like their non-physician colleagues, medical doctors who provided abortions often developed their own techniques and instruments and used antiseptic procedures but, unlike their non-physician colleagues, doctors were licensed to use anesthesia. Despite their unwillingness to perform abortions themselves, most physicians had no problem referring patients to those who would. According to Reagan, most cities of any size had several physicians who performed abortions, and even small towns generally had at least one doctor who specialized in the procedure. For example, the medical examiner of New York in 1930 listed seventy-five physicians who specialized in the practice exclusively.¹⁹

Like other abortionists, physician practitioners often operated with little or no fear from the authorities until the wave of clinic raids that began most places in the late 1940's or early 1950's.

Dr. Martin Avery was one such physician who specialized in abortion in the early 1930's. Although his background is obscure, it appears that he graduated from an accredited school and was already in medical practice when the managing editor of a newspaper first approached him to treat a woman suffering from gonorrhea. This case resulted in the doctor having to perform an abortion on the woman. The editor, apparently satisfied with the work, sent him another abortion case a few weeks later. As Dr. Avery notes in his memoirs:

Since then I've performed hundreds of abortions and when I did the work I've had no fatalities. Of course I've been called in on bungled jobs when it was too late; there was infection or hemorrhage and death was a matter of hours.²⁰

Another physician typical of this group was Dr. Josephine Gabler of the State Street Clinic in Chicago, who was a major source of abortions for Midwestern women in the 1930s. She graduated from Illinois Medical School and received her medical license in 1905. By 1920 she had established herself as an abortion specialist in the heart of the medical community in downtown Chicago. Between 1932 and 1941, she performed more than 18,000 abortions for women from Michigan, Wisconsin, Illinois, and Indiana. In January 1940, after ten years in business, she sold her practice to her receptionist, Ada Martin. Once Martin took over ownership, she hired prominent physicians like Dr. Henry James Millstone to take over the operations.²¹

Reagan examined patient records and files. From that perspective, it looks as if women who had their abortions at the State Street Clinic were simply going to a regular doctor's appointment. Reagan found that patients were given the same treatment they would have received if they had had a therapeutic abortion in a hospital. They received anesthesia and a dilation and curettage of the uterus. They were allowed to rest for forty-five minutes before leaving. They were given after-care instructions which told them not to take hot baths or engage in intercourse for a certain time period. They were given follow up appointments ten days or as late as six weeks later. As Reagan states:

In many ways, the experience of getting an abortion at the State Street Clinic was like going into any other doctor's office for medical care. Referrals from physicians, note taking by a receptionist, women dressed in white uniforms, instruments and delivery tables, and instructions for after-care were all typical in a doctor's office—and familiar to women who had previously delivered babies in hospitals.... Nevertheless, the criminality of abortion made its practice clandestine. Two safeguards designed to shield the people performing abortions made the procedures in Martin's office different from legal, hospital procedures: covering the eyes of patients in order to make identifying the physician-abortionist impossible and warning women not to go to anyone else if they experienced complications. The clinic did not abandon its clients if problems developed following the abortion, but they did not want them going to physicians or local hospitals who might alert authorities.²²

Dr. Edgar Keemer was born in Washington, D.C., on May 18, 1913, to a black middle-class family. He graduated from high school at the age of sixteen and did his undergraduate work at Indiana University. He attended medical school at Meharry Medical College in Nashville where he specialized in obstetrics/gynecology.²³ In 1938, soon after finishing his internship and opening his own practice in Richmond, Indiana, he confronted a moral dilemma. A woman, pregnant with her eighth child and economically unable to support another child, came to him to have her pregnancy terminated.

Although he sympathized with her plight and was willing to help her, he realized he had no idea of how to perform an abortion. His medical books were of no use since they avoided the subject, so he decided to travel to Washington, D.C., for a week of intensive training with another doctor who was a noted specialist in the procedure. In his memoirs Dr. Keemer referred to this person as Dr. G to protect his identity.²⁴

For a week Dr. Keemer assisted Dr. G in performing abortions and was taught the use of Leunbach paste, a powerful abortifacient named after the Danish gynecologist who created it. It consisted of materials such as olive oil, cocoa butter, potassium hydroxide, sodium hydroxide, iodine, potassium iodine, tincture of benzoin, tincture of myrrh, thymol and distilled water.²⁵ After his crash course in abortions, Dr. Keemer returned to his practice and nervously applied the technique he learned to the woman who anxiously awaited the abortion. Keemer described the experience:

She sat up and looked surprised. 'Is that all there is to it?' I told her what to expect and supplied her with a mild analgesic in case there was any pain. I also assured her that either Dr. Bea or I would stop by her house the following day to make sure everything was going well. If, in the meantime, any problem should arise, she should send for us immediately. It was the longest twenty-four hours I had ever spent. Every time the phone rang or a strange patient came to the door, Bea and I would glance at each other with the apprehensive eye. On the one hand we were worried Claire might become ill; on the other hand, there was the ever greater concern that someone would find out about what we had done and send the police after us. That night, we both slept quite fitfully. I awoke several times with knots in my stomach. We decided to drive together to Claire's home the next day. We arrived at just the right time. Her mild cramps were just beginning as she lay across the bed.... In a matter of minutes, she aborted cleanly; a sac the size of a hen's egg, with its decidual skin containing the fishlike fist on the lower abdomen, the tiny placenta slid easily out of her vagina. As the slight cramps subsided without even an aspirin, she took my hand and pressed it against her lips. "Thank you!" she said.²⁶

During his training with Dr. G, Keemer developed a great deal of respect for the other doctor's medical ability. However, Dr. G was addicted to racetrack gambling and

most of the money he earned performing abortions went toward supporting this vice. While acknowledging that Dr. G's technical skills were impressive and what he chose to do with his money was his business, the young and idealistic Keemer, fresh out of medical school, was disturbed by the older doctor's apparent indifference to his patients' welfare. Not only did Dr. G provide no follow-up care for the women he had treated, but he even announced that he would not be responsible for any ill effects. Keemer concluded, "It was obvious that Dr. G viewed abortion as a way to make money, not as a vital medical service as I did."²⁷

In his own practice, Dr. Keemer saw to it that all his patients were treated with respect and received excellent follow-up care, often personally visiting them in their homes the next day to ensure that no complications had arisen. His concern for his patients' welfare also led him to refuse to perform an abortion after two and a half months because he believed that by then the uterine walls thinned and the woman's life could be endangered. It is important to note that, although trained as a physician, Dr. Keemer learned to perform abortions the same way that non medical practitioners learned their craft: through an apprenticeship with an experienced abortionist. Believing that he was performing a valuable public service, Keemer offered to teach other doctors how to perform abortions although he could not find any who wanted to learn.²⁸

The Abortionist By Dr. X As Told to Lucy Freeman provides another example of a licensed physician who provided abortions. Despite the illegal nature of the services he provided, his was no back-alley operation. As he noted in his book:

I took great pride in my office, which I tried to make decorative so the women would not feel they were journeying to the lower depths, although that is where they were dwelling in their souls at the moment.²⁹

He tells us that his sitting room was painted an eggshell color with wall-to-wall carpeting and flowered curtains. Comfortably furnished, the room also boasted a television set and radio for the convenience of the patients and their friends or relatives. The attention to décor extended to the consultation and operating rooms which were sumptuously furnished, all with an eye to instilling confidence in the patients and making their experience as positive as possible under the circumstances. He even went as far as to provide sandwiches, coffee and tea in the waiting and recovery rooms. Most importantly, perhaps, he reassured clients with a prominent display of his medical and narcotics licenses.³⁰

Because few women had knowledge about their own reproductive systems, the conscientious Dr. X tried to educate them and explain the process of abortion. As he stated:

Sometimes my lecture works, sometimes the same woman sits across the desk from me months, or years later, proof of wasted words. My pounding away at prevention has done little good... I'm an abortionist but that does not mean I am unethical. I do not take money under false pretenses. I was only too glad not to operate.³¹

Dr. X met with each woman before the operation in the consultation room in order to reassure the nervous patient that she was in good hands. He took this opportunity to determine her health and social background. This way he could get an idea about previous pregnancies, miscarries, and abortions. Like many doctors, he disliked performing abortions after the tenth week since the womb becomes

tremendously enlarged and its musculature thins out, making perforation and hemorrhage more likely. Although he admitted performing abortions after the tenth week, Dr. X claimed that this was only because he had been misled by the woman or because his diagnosis was faulty.³²

Another way in which Dr. X differed from back-alley operators was in his use of a licensed anesthetist. He maintained that he was probably the only abortionist in the country who took on that added risk. He took this unusual step in order to spare women the pain of the abortion. To lessen the chances of mishap, Dr. X kept his practice well equipped, from the operating room to a full supply of the proper drugs necessary in case of an overdose. Every aspect of his practice, from the décor of his office to his use of trained assistants, sterile instruments and proper medications, tells us that Dr. X's clinic was run as a legitimate medical office.

Dr. Jane Hodgson was yet another doctor who performed an abortion before they were declared legal by *Roe*. Unlike many of the abortionists described here, she performed only one illegal abortion in her career. Like so many others, she does not fit the popular stereotype of an abortionist. Born in 1915 in rural Minnesota, her father was a country doctor who allowed her to accompany him on rounds. Graduating from high school at fifteen, Hodgson attended Carleton College in Minnesota and then went to medical school at the University of Minnesota in the late 1930s. She received her advanced training in obstetrics/gynecology at the Mayo Clinic in the early 1940's.³³

Hodgson started her own practice in obstetrics and gynecology in the St. Paul/Minneapolis area in 1947 where it quickly became a success. Besides having an exemplary practice, she took on the challenge of researching numerous techniques, including an early pregnancy test. She received numerous community service awards, including the "I Care" award from the local Republican Party. In 1964 she was elected president of the Minnesota Obstetrical/Gynecological Society.³⁴

Even abortion mills and rings mimicked sound medical practices. According to Jerome Bates and Edward Zawadski in their 1964 book *Criminal Abortion: A Study in Medical Sociology*:

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 price.³⁵

According to Bates and Zawadski, a successful underground abortionist needed both office personnel and medical assistants. Office personnel usually included a secretary who, in addition to handling the clerical work, was also astute at setting the rate for the abortion. She would determine this cost by carefully examining the woman's clothing, the label in her coat, her accessories, and her general demeanor before asking for the fee. The secretary's role in determining bona fide patients from government investigators was a crucial one, which was why it was paramount the secretary be loyal. Generally they were well paid and received a portion of the profits. In addition to the

secretary, abortion mills tended to have office managers who also served important roles. These people handled contracts with the landlord, payment of all salaries, bills, and bribe money. They also handled contacts between the abortionist and the various sources from whom patients were referred. In addition to the office help, the staff of abortion mills and rings usually included a practical nurse who, most likely, was not formally trained. In the place of medically trained nurses these abortionists often trained their domestic servants.³⁶

Unlike other abortion providers examined here, the operators of the mills and rings were from the beginning criminals and constrained by few moral, ethical or legal standards. Although many of their abortionists were volunteers, the kingpins of successful operations were not above using blackmail or threats to compel the services of their employees. Doctors who performed abortions were more vulnerable to blackmail and coercion than other practitioners. One example is Paul de Gaston.

Although he had received his medical degree from the Sorbonne in Paris, de Gaston was not licensed to practice in the United States.³⁷ After immigrating to America in the 1930's he decided to put his medical training to use and opened a small practice performing abortions. He soon came to the attention of Reg Rankin, leader of the most notorious abortion ring on the West Coast. Rankin approached de Gaston in July of 1934 with the suggestion that, since they were in the same business, de Gaston could feel free to take a vacation and refer his patients to one of Rankin's stable of doctors who would split the profit with him equally.³⁸ Alarmed that his secret was out, de Gaston asked

Rankin how he knew about the abortion business. Rankin said that he had his ways and told de Gaston that he knew that the Frenchman did not have an American medical license, asserted that he was “in” with the medical board and hinted that he had several other doctors in similar circumstances working for him.³⁹

Although de Gaston was reluctant to work for Rankin, the kingpin did not quit pressuring him. When one of de Gaston’s patients died, he was charged with murder and performing abortions and thrown in jail. Rankin came to visit him and offered him money for a list of the doctors and pharmacists who referred clients to him. He also offered to help the Frenchman with his legal problems, but de Gaston still refused to give in. Even though de Gaston was eventually acquitted of murder and abortion charges, the medical board charged him with practicing medicine without a license. Again the gangster offered to intercede on de Gaston’s behalf and told him that for a few hundred dollars he could get his contacts on the medical board to make these new charges go away. By this time the Frenchman was desperate, having mortgaged his furniture to loan sharks. Seeing no options, de Gaston reluctantly agreed to go to work for Rankin.⁴⁰

Rankin pressured other abortionists into joining his organization. Typical of this group was Laura Miner, who began her career as a freelance abortionist in 1933, operating out of her home and charging \$25.00 per operation. In 1935 she came to the attention of Reg Rankin and his gang. Initially she wanted nothing to do with his operation because she believed his tactics were questionable, and she thought that she could make more money on the side at home than she could working for him. However,

after repeated harassing visits, phone calls and threats to run her out of San Diego, Miner reluctantly agreed to work for Rankin's organization claiming, "You have more money than I have. I can't fight you. I don't like your methods. You have hounded me, but I am helpless."⁴¹ During her time working for Rankin and his gang, Miner performed some five hundred abortions. Most of the proceeds went to the organization. As it turned out, Miner was not quite as helpless as she appeared. In return for immunity from prosecution, she turned state's evidence and her testimony was responsible for sending her former boss and several of his henchmen to jail.⁴²

Due to the criminal nature of such operations, primary sources are hard to come by. A fictional account of such an operation, which rings true to what we know, is provided in Leonard Bishop's *Creep Into Thy Narrow Bed*, an account of a New York abortion ring during World War II in which we meet the sinister Crawford, leader of the ring. Like the real life Rankin, Crawford controls his stable of abortionists, including several unlicensed doctors he had imported from Europe, through blackmail and coercion. Adam, the protagonist, becomes enmeshed in a web of criminality when he takes his girlfriend, Florrie, to one of Crawford's abortionists. Although skeptical, Adam joins the organization when he is assured that he will not be involved in any criminal activities and will be free to leave whenever he wants. As Crawford puts it:

The less you know the better. I'll tell you this much. We have the best doctors. But they were kicked out of the profession for malpractice and I organized them so they can do this work in safety and make a fortune. More than they ever made when they had their licenses. There's no danger, especially not for you. And every score you make gets you fifty bucks. Once you get rolling you can knock out twenty contacts a week, easy, and more if you use your head.⁴³

The way Crawford's ring found potential clients was by having people like Adam hang around places where young men were likely to go asking for help, such as the YMCA, or drug stores where the pharmacists often knew who was in "trouble." Crawford provided forged papers so that his scouts could pass on military bases in clubs where soldiers congregated.⁴⁴ There were also women who worked for Crawford's organization, and they made contacts in places where women were likely to congregate, such as religious or ethnic organizations, beauty shops, colleges and universities.⁴⁵ All of this closely mirrors what we know of the practices of real abortion rings.

Although Bishop depicts Crawford as a powerful, unscrupulous, and deceitful man, somewhat akin to a Mafia leader, the author nonetheless acknowledged that Crawford, like his real life counterparts, provided a valuable service. Although the popular image is of back alleys and dirty instruments, there was no real advantage in providing shoddy care. Despicable as he was, Crawford saw that his doctors were competent. As he stated:

Abortions are illegal; I'll grant you that, but why? Because the Catholic Church condemns it. Still, a lunatic can have an abortion, a sick person can have an abortion, but not someone who cannot afford another kid, or someone like yourself, who if it wasn't for us, would be on the run, broke crying. We charge, sure but because there's a risk just because of that stinking' church.⁴⁶

Despite Crawford's detestable personality, he supported abortion and saw to it that women were able to obtain safe operations. He only recruited medically trained doctors to work in his organization. In many ways his organization was similar to the other abortion providers typical of the Pre-Roe years.

Although outlawed in most states in the 1860's, abortion continued to be widely practiced and, despite the laws, was generally available. Although only a small percentage of abortionists were physicians, most practitioners had received some sort of formal training from an accredited school and held state issued licenses. Whether as naturopaths, chiropractors, osteopaths, midwives, or physicians, most were well trained through an informal system of apprenticeship and conducted their business in professional office buildings, used proper instruments and hygienic procedures while providing appropriate follow-up care for their patients. During the almost half century between 1900 and the late 1940's to the early 1950's many abortionists practiced openly and even received a majority of their referrals from licensed physicians or hospitals. During the period of conservative ascendancy beginning in the late 1940's and culminating in the McCarthy era, police crackdowns drove many abortion providers either out of business or underground. Although some of those who stepped in to fill the demand during the era of crackdown were untrained or poorly trained and unscrupulous, many ethical professionals continued to provide first-rate abortion services covertly despite the dangers. For abortionists and their clients the chief danger was not from medical complications but legal ones.

Chapter 2: The Motives and the Consequences

Prior to *Roe v Wade* the laws concerning abortion were a patchwork of often-conflicting statutes that varied from state to state. While technically illegal in most states since around the end of the Civil War, abortion was widely available from well-trained practitioners. Most of these, however, were not physicians. While physician-performed abortions were completely outlawed in a few states between 1867 and 1973, thirty-one states did permit a physician to perform an abortion if the life of the mother was at risk. These practitioners worked within the law, but it is clear that many doctors would have liked to have seen the laws loosened or even abolished. While most physicians adhered to the letter if not the spirit of the law, our focus will be on those who, for various reasons, did not. While some were no doubt governed by the desire to make money, many were motivated by compassion or idealism and risked their livelihoods and careers to perform abortions for unfortunate women faced with unwanted pregnancies. Many were fortunate never to get caught, but for those who did, the punishment was severe, often entailing the loss of their licenses, imprisonment and fines. In addition to the legal consequences of getting caught, there were often social costs as well, including social ostracism, loss of status, and even marital problems. Yet many doctors chose to run the risks.

According to Dr. Harold Rosen:

Leaders of our profession, for instance, men of great integrity and absolute honesty, who would not break the law themselves by performing an illegal abortion for any fee, will refer patients to abortionists. From the moral standpoint there is no difference between

performing an abortion oneself, or referring a woman to an abortionist. Does not this indicate that perhaps there needs to be a re-evaluation for the indications for abortion? Are they so stringent, so unrealistic, that honest conscientious physicians feel impelled to aid those patients for whom they feel an abortion is indicated, but for whom this can be obtained only through an abortionist?¹

Although abortion was illegal in all the states, beginning in the middle of the 1950s “legitimate” doctors in hospitals were able to circumvent oppressive abortion laws, which began to be enforced more rigorously, by using hospital therapeutic abortion committees. These committees usually comprised an obstetrician/gynecologist, a cardiologist and a psychiatrist. According to Rickie Solinger in “A Complete Disaster: Abortion and the Politics of Hospital Abortion Committees, 1950-1970,” the purpose of these committees was to “police activities of a doctor whose procedures might otherwise bring himself and his colleagues into disrepute.”² Some doctors who performed therapeutic abortions were also subjected to Investigation Reports conducted by the Board of Medical Examiners. Usually these investigations were closed without further action, but these reports could recommend disciplinary actions or criminal prosecution against a doctor if it was thought he/she was performing too many abortions.³

Some of the medical conditions that might qualify a woman for a therapeutic abortion included: cardiovascular conditions such as congenital heart disease; rheumatic heart; hypertensive-cardiovascular and coronary disorders; neurological diseases (multiple sclerosis, myasthenia, epilepsy); kidney dysfunction (chronic nephritis, hydronephrosis, renal stones, single kidney); respiratory disease (bronchietasis, tuberculosis); uterine disease (fibroids, cervical cancer); orthopedic problems; and blood diseases such as diabetes, ulcerative colitis, lupus, and leukemia.⁴ However, the greatest

number of therapeutic abortions was granted not for medical reasons, but rather for psychiatric ones. Dr. Alex Barno argued in his essay, “Criminal Abortion Deaths, Illegitimate Pregnancy Deaths, and Suicides in Pregnancy, Minnesota 1950-1965,” that eighty percent of abortions were done for psychiatric reasons.⁵ He noted that, according to research conducted in New York between 1960-1962, sixty-one percent of abortions were performed for psychiatric reasons, and in California, fifty percent of all abortion cases were performed for psychiatric reasons.⁶ The primary criterion for psychiatric recommendations was the probability that the woman would commit suicide if she could not have the abortion.⁷ According to Dr. Sidney Bolter, in most instances state law was specific enough so that doctors were not allowed to consider whether the pregnancy would bring on mental disease or aggravate a preexisting mental disease. The law also dictated that if an abortion was recommended because the mother was suicidal, that recommendation had to be made in writing.⁸

Because the law was unclear, doctors walked a fine line. If the patient died from an abortion, and it was proven that the abortion was unnecessary, the doctor could be convicted of murder. Therefore, doctors were often wary of performing abortions—regardless of their own personal feelings on the subject.⁹ Doctors often engaged the services of psychiatrists to claim women were mentally unstable because they wanted women to have therapeutic abortions but could find no medical reason for one. As Solinger stated:

He therefore refers the patient to the psychiatrist in the hopes that the psychiatrist will pull the case out of the fire. It is probably true that a great many suicidal intents are

grossly exaggerated in order to make the indication not only a legal one, but a justifiable one to the conscience of all concerned.¹⁰

In their book *Back Rooms: Voices From the Illegal Abortion Era*, Ellen Messer and Kathryn May discuss a psychiatrist who was all too willing to state that women were on the verge of suicide so that the doctors could get permission from the hospital's therapeutic abortion board for an abortion. As "Ed" said:

I was happy to be of help. What I wasn't happy about was the idea of stretching the point of seriousness, because statistically, you know there was much less risk that a pregnant woman would kill herself. Unmarried women who were pregnant did not commit suicide as much as women who were not pregnant, so I knew I was always stretching the truth, but somehow the people I interviewed always managed to say that they were so desperate that they would kill themselves if they didn't get this procedure, so that is what I would say in the letter, and that's how it would happen.¹¹

While many doctors were willing to help women to obtain therapeutic abortions, no hospital wanted to be seen as an "abortion mill." As a result, hospitals compiled statistics to monitor and justify their abortion rates. While ideas about what constituted an acceptable rate differed, at least one hospital decreed that the abortion rate should not be any higher than one per thousand maternities. If a woman arrived after the monthly quota had been filled, she would more than likely be rejected regardless of how dire her circumstances were. As one Philadelphia doctor stated, "The fewer abortions, the better we look."¹²

In addition to setting quotas, another serious drawback to abortion committees was that often they would only grant an abortion on the condition that the woman agreed to be sterilized as well. A study of 209 aborted patients in Chicago revealed that doctors

at one hospital sterilized 69.4 percent of the women they aborted. The justification the doctors used for simultaneous sterilizations was that women ill enough to justify an abortion should never again be pregnant. One discontented physician indicated that this practice drove women to illegal abortionists to escape the likelihood that a legal abortion would result in the permanent loss of their fertility.¹³

Although abortions were permitted in hospitals by hospital abortion committees, many practitioners, including naturopaths, chiropractors, osteopaths, lay feminists, and medical doctors, opted to practice outside the law and perform abortions outside of the hospitals. No doubt a major motive for some was money; the trade could be quite lucrative. According to at least one report in 1941 an abortion specialist with a normal business could expect to earn about \$25,000 a year while doctors with a higher income clientele could look forward to earning from \$150,000 to \$200,000 per year.¹⁴ This was at a time when the average income for a factory worker was \$2,517¹⁵ On the other hand, general practitioners, including nurses and technicians, made \$1,401 annually.¹⁶ In his book *Crimes Without Victims*, Edwin Schur describes the fee structure of many abortionists and notes that the quality, and safety, of the services often depended on the socioeconomic status of the woman seeking the abortion and the quality of her contacts. Based on the Kinsey Report, a typical fee structure for the 1950's would look something like this: \$84 for single women, \$77 for married women, and \$98 for previously married.¹⁷ On the other hand, poor women were often left to the unscrupulous abortionist who charged whatever he/she could get. As Schur stated, women seeking abortions

generally were not in positions to argue about the cost. Criminal abortionists charged as much as \$2,000—whatever clients could afford or were willing to pay. The average fee for an illegal abortion in Chicago in 1965 was between \$400 and \$500 while the price was even higher in New York. In Los Angeles a midwife charged \$25; a male nurse \$100; a chiropractor between \$150 and \$200; while a medical doctor or osteopath got at least \$500. The highest price known there in the mid 1960's was \$2,000.¹⁸

Pregnant at the age of sixteen and with no prospects of marriage to the father of her child, Ruth Barnett was in a desperate situation until she found a sympathetic doctor who provided her with the abortion she so desperately needed. Barnett later became the doctor's assistant, learning how to perform abortions herself. In later years, after she had become one of the most famous and successful abortionists on the West Coast, she was asked if her own experience had anything to do with her choice of vocation. "It had everything to do with it," she replied.¹⁹

While this is no doubt true, it should also be noted that during the years she was in the business she made as much as \$182,000 per year, making her a very wealthy woman. In addition to allowing her to buy a second home in the mountains of Oregon and setting her grandchildren up in the motel business, Dr. Barnett's wealth also allowed her to set her fees on a sliding scale, and even to provide free services to the needy. Writing of her early days in business she explained:

In those depression days, some women paid nothing. And those who were more affluent were charged somewhat more than the usual fee. I make no apology for this practice. Medical clinics of all kinds are run on the same principles.... We had to balance income against overhead daily. Too much charity work would not pay overhead.²⁰

While a desire to make money no doubt supplied a strong motivation in Dr. Barnett's choice of profession, another important factor was her strong belief in a woman's right to control her own body. In her autobiography she maintained, "It is my personal belief that the only requirement for an abortion, under any circumstances, should be the desire of the woman—whatever her reason—to interrupt her pregnancy."²¹ Believing the laws primitive and unjust, she simply refused to abide by them. During the crackdown in 1951, Barnett paid dearly for her beliefs. She was arrested numerous times, had her naturopathic license revoked, was fined heavily, and had to pay huge legal fees. Her husband even divorced her during one of her periods in jail.²²

Barnett had not started out to become a martyr to the cause of a woman's right to an abortion. She had simply been a young woman from a rural background who had set up in business to make a living and to help other women who found themselves in the same predicament she had faced. At the time she made her decision to enter the profession, abortionists were plying their trade openly throughout the land. Between the 1920's and 1950 she ran her clinic with no interference from the law and with the active support of the medical community, which often referred patients to her. She was even listed, by profession, in the phone book.²³

However, with a growing conservatism after World War II, things began to change. The first police raid on Dr. Barnett's business occurred on July 6, 1951. By then the going rate for an abortion was five hundred dollars.²⁴ Ethel Connelly, a young woman who had been raped by her cousin, came to her clinic for an abortion. Because the

girl had little money, the doctor reduced her fee to four hundred dollars.²⁵ Although grateful, even this was too much for the family to afford. In an effort to get the father to contribute to the costs, the family went to the police. Ignoring the cousin, who was a rapist, the police turned on the doctor who had helped the girl and raided her clinic.²⁶

Dr. Barnett later described the raid as something out of a B grade movie. Although she was not even in the office at the time, no less than sixteen loud and abusive law officials barged into the office to arrest the three frightened employees on duty. Uncertain of what they were looking for and without search warrants, they ransacked the place, emptying out the contents of desk drawers and filing cabinets, confiscating mail, bills and medical instruments. They even stole money from the cash register.²⁷ Although the laws under which Dr. Barnett and her staff were tried had gone largely unenforced since the Civil War, times had changed and all were found guilty. Dr. Barnett received a sentence of six months in the county jail while each member of her staff received three-month sentences.²⁸

The abortionist now found herself the target of various moral crusaders. While the first case was still pending, Dr. Barnett was raided again, this time because an undercover police woman posing as a patient and a newspaper reporter posing as her brother decided to entrap her.²⁹ Another time she was prosecuted for manslaughter in a case where a woman went into an epileptic seizure and began to bleed profusely. The woman was rushed to the hospital where she recovered, but Dr. Barnett made the mistake of sending her a get well card and was promptly arrested.³⁰ Although given probation for

this charge, Barnett had to serve two six-month sentences for the two misdemeanor charges of running an abortion clinic. After 120 days in jail, Dr. Barnett was released on parole only to discover that her husband had filed for divorce and that the Oregon Board of Naturopathic Examiners had revoked her license.³¹

At this point Ruth Barnett decided to fight back. She gave the *Portland Oregonian* an interview which detailed her side of the controversy and announced her decision to retire from the business so as to have the time to write a book about abortion and the laws that sought to control it.³²

After her clinic closed, Barnett continued to receive numerous referrals from doctors in Oregon and other states. She also received tearful pleas from women in need of abortions, which were becoming harder to obtain because the same moral crusaders and sensation-seeking journalists who had driven her out of business had succeeded in shutting down other clinics or driving them underground. With no place to refer these women, Barnett decided to return to the business, covertly. At first she limited herself to taking only the most desperate cases with the most serious problems, but as time passed she decided to expand her case load while practicing as much discretion as possible. Despite her precautions another policewoman posing as a patient managed to get past her security and into her operating room. In November of 1956, she was raided for a third time and received a one-year sentence in the county jail.³³

After so much trouble with the police, one has to wonder what motivated her to continue to break the law. A wealthy woman, she obviously did not need the money, and

as a grandmother she certainly had every reason to retire and avoid further run-ins with the authorities. Instead she did something she had always been embarrassed to do, use the basement of her home to perform abortions. Asked about it later she said:

You might think that this time, for good and all, I would have given up my abortion practice. I had twice been to jail and been stripped of my license to practice. I faced serious penalties if ever arrested again. I had no clinic and little chance of renting office space in Portland for a new clinic because of the resentment felt toward me by part of the community. What did I do in 1959 when I was released a second time from the grim rock-walled prison at Rocky Butte? I did what I had been doing for more than 40 years. I went back to work, doing what I knew best—helping women in trouble.³⁴

In July of 1965, she decided to purchase a large motel in downtown Portland as an investment for her grandchildren. She found, however, that licensing was difficult because the Portland City Council believed that she intended to use it as a front for her abortion practice. Barnett made it clear from the beginning that the motel was to have no connection of any kind with her practice. After she finally won approval, she turned over the management of the business to a friend and former associate. Despite her best efforts to keep the motel separate from her abortion practice, the two soon became entangled. A young woman named Jean Marie Johnson and her boyfriend, posing as a married couple, registered at the motel.³⁵

For reasons never made clear at the trial, Dr. Barnett examined Johnson but later claimed that she did not perform an abortion on Johnson since it was clear to her that someone else had already attempted to do so. On January 14, 1966, several weeks after her examination of Ms. Johnson, a squad of Multnomah County detectives came to Barnett's house with a search warrant for her house and another warrant for her arrest, once again on manslaughter by abortion charges.³⁶

Called as a witness in the case, Jean Marie Johnson told the court that Barnett had given her a shot in the arm to contract her uterus and had examined her with the aid of a speculum. "I felt a lot of pain," Johnson testified, "I was very nervous and Barnett kept saying that I was a 'baby.'" Barnett assured Johnson that her cramps were a byproduct of the shot she had given her. Barnett then gave her a shot of penicillin in the hip and washed her out to ensure that she was "as sterile as possible."³⁷ In court Johnson claimed that she then paid \$500 for her abortion.³⁸

Called as a witness by the State, Dr. Tepper, chief resident in obstetrics and gynecology at the Cedars of Lebanon Hospital in Los Angeles, testified that Johnson had been admitted to the hospital complaining of severe abdominal pain. After two weeks of care, Johnson was released from the hospital only to be readmitted suffering from abdominal cramping and vaginal bleeding. She was examined by Dr. Fishman, the junior resident on call at the time of her admission. Dr. Fishman later testified that he had found foreign tissue coming out of the cervix, which he removed in addition to the remains of a fetus. Citing the removal of the fetus, Barnett's attorneys attempted to have the case dismissed since they claimed it was apparent that Johnson's doctors in Los Angeles, and not Barnett, had caused the miscarriage. They noted that, based on the hospital's own pregnancy tests when Johnson entered the hospital, she had still been pregnant. The lawyers also pointed out that Johnson had never claimed that Barnett used any instrument other than a speculum nor did she testify that Barnett had performed an abortion.³⁹

Despite this, the jury found Barnett guilty and she was sentenced to eighteen months in Oregon State Prison.⁴⁰

In October of 1966, Barnett was in court again. This time facing charges of manslaughter by abortion in the case of Eloise Moor, a thirty-nine-year-old mother of four. Moor became pregnant by a man on parole from federal prison. Moor was in the process of getting a divorce, and it would not have helped her case if it came out that she was pregnant by another man.⁴¹

On the witness stand, Moor admitted that she had contacted Barnett and had told her that she was between six and eight weeks pregnant. Arrangements were made for Moor to meet Barnett at a restaurant after the two of them stopped at a beauty parlor to purchase wigs as disguises in case they were followed by the police. Moor testified that Barnett then took her to the basement of her home where she was given a shot of ergot to contract her uterus. Barnett then performed the procedure on top of a washing machine using a speculum, after which she gave Moor a shot of penicillin to prevent infection, as well as two pills which were to be taken only in the event of hemorrhaging.⁴²

Getting down from the washer Moor felt that something was not quite right and told Barnett that she thought she should see her doctor. Barnett explained to Moor that hers was a difficult case because she had a tipped uterus in addition to a tumor, but that there was nothing to worry about. "Don't do that, it is probably only be a blood clot. Call me; I take care of my own girls."⁴³ Returning home Moor found the pain in her side so alarming that she ignored Barnett's warning and contacted her regular doctor. On the

third day after the abortion, as Barnett had predicted, Moor passed a blood clot about the size of a half dollar. Otherwise she suffered no serious side effects from Dr. Barnett's operation.⁴⁴

Barnett was found guilty in the Moor case, given a two-year jail sentence and fined \$5,000.⁴⁵ At seventy-four she was the oldest woman incarcerated by the State of Oregon and this, in addition to the revelation that she was suffering from cancer, fueled a storm of public protest. After five and a half months in jail, she was brought before the parole board where she was asked to promise never to perform another abortion. Still combative she replied, "Never is a long, long time. I'm never going to prison again for somebody else's delinquency."⁴⁶ When asked again, she finally relented and told the parole board, "I give you my sacred word of honor as a lady I'll never do another abortion."⁴⁷ With this promise and in light of the public outcry the board decided to release Ruth Barnett. As she was to later write, "The parole board apparently shared the view of these persons that my imprisonment wasn't of any great value of the people of Oregon."⁴⁸

Although true to her word, Dr. Barnett remained defiantly committed to the cause of a woman's right to choose an abortion and wrote:

After 50 years of living 'outside' an unjust law, I now live within the law, as I promised the parole board I would. But while I keep my promise, I cannot alter my thinking about a law that I think belongs in the dustbin of history. Some day, with your help, such laws will be no more than past reminders of man's bottomless stupidity and monumental inertia in the face of social progress....⁴⁹

Although Barnett's career made her a wealthy woman, it is hard to believe that money was the only factor motivating her actions. With more than enough money to live

in comfort for the rest of her life, she persisted in performing abortions in the face of severe penalties, including jail time and fines, huge legal fees, loss of social status in the community and even at the cost of her marriage. Furthermore, there is no reason to reject her assertion that the experience of her own abortion helped shape her philosophy and her strong opposition to the abortion laws.

The careers of other abortionists also reveal a variety of motives for performing abortions in the Pre-Roe years. Dr. Laura Miner, a chiropractor, began her career as an abortionist in 1933 by operating out of her home charging \$25.00 per operation. In 1935 she came to the acquaintance of Reg Rankin, leader of the most notorious abortion ring on the West Coast. Although she tried to avoid any contact with the mobster, in the end she reluctantly agreed to join his organization after he made repeated threatening phone calls and visits to her home.

After Rankin and other members of his syndicate were sent to prison in 1936, Miner decide to carry on in the business and, with two women partners, opened a clinic in San Diego. They provided abortions, unmolested by the police for nine years. In September of 1948 the women began to suspect that the police were watching their business. Their suspicions were confirmed in April of 1949 when they were arrested and charged with six counts of conspiracy to commit abortion and performing abortions. Several of their former clients were called to testify and admitted to approaching the defendants for abortions and paying one hundred dollars for the procedures.⁵⁰

In addition to risking their freedom and livelihoods to ensure women had access to safe abortions, Miner and her associates risked their civil liberties. For 106 days, FBI agents tapped their phones and staked out their offices to watch who was entering and leaving the premises. These activities by governmental officials were based upon suspicion—not cause. Finally the court found Miner and her associates guilty of conspiracy to perform abortions, and for performing abortions. Although the length of their sentences is unclear, the evidence indicated that the sentences were to run concurrently.⁵¹ Hence, Miner and her colleagues, like Barnett, risked their freedom to ensure women had safe access to abortions.

Dr. Benjamin Williams, D.O.* performed an abortion for Irene Macane on July 11, 1942. According to the statement of Macane's close friend, Manuel Lopez, on July 8 the two of them had had a conversation during which she told Lopez that she was pregnant and wanted to see a doctor about terminating her pregnancy. In his statement to the police, Lopez indicated that Macane said she wanted to terminate her pregnancy because she and her husband had separated because of marital problems. Macane also mentioned that she knew Dr. Williams and planned to talk to him about having an abortion. Lopez asserted that he had talked to Macane after her examination by Williams, who had confirmed her pregnancy. Williams then made arrangements for an abortion on July 11, 1942, because he felt sorry for her and her situation. Williams told her the cost of the abortion would be \$75.00, and Lopez admitted that he had given her

* All names used here in the sections regarding Dr. Williams and Dr. Miller have been changed to protect the privacy of the parties involved as required by the California State Archives.

the money. Three days later, Lopez went to the hospital and discovered that Macane was extremely sick. He called Dr. Williams and asked him to examine Macane. The two had a conversation, at which point Williams admitted:

That was a hard operation. She was such a large person that I could not reach into the uterus with my instruments. It was necessary to hold the instruments on the extreme end. I could not clean her out properly; and besides that she lied to me about the length of her pregnancy. She told me before I started the operation that she was two months pregnant, but I found out later that she was at least three months.⁵²

Lopez told the detectives that prior to the abortion Macane had been in good health. He saw her two or three times a week and she never had any health problems. The sole purpose of her visit with Williams had been for an abortion.⁵³

On July 27, 1942, the Coroner's jury returned a guilty verdict against Dr. Williams. Irene Macane had died from acute peritonitis as a result of the instruments utilized by Williams when he performed an incomplete abortion. The jury believed the death was accidental, but that it was "due to carelessness and negligence and inefficiency on the part of Dr. Williams."⁵⁴ It does not appear that Dr. Williams stopped performing abortions after Macane's death. Another investigation, conducted on May 6, 1943, looked into the possibility that he attempted to abort Eleanor Pitter. Police officials interviewed Pitter in her home and she denied any attempt at either a self-induced abortion or a forced abortion. She stated that she had had a normal period in December of 1942, but she had missed her period in January of 1943. At that point, she went to the drug store where she obtained two boxes of ergot pills. She took double doses. She admitted that the only doctor with whom she spoke was Dr. Williams. On February 9,

1943, she began to “flow profusely” and she visited Williams, who “put me to sleep” and conducted an examination. Pitter claimed that anesthesia had been given to her because of her severe pains in her lower abdominal region and after she woke, Williams informed her that she had needed an operation for which he charged her \$120.00. Pitter claimed that she had previously been seen by Dr. Lutz, who had been giving her injections to help her become pregnant. However, she took the ergot after she learned that her husband had been transferred to Texas and she decided that it was not a good time to have a child.⁵⁵

On the surface it would be easy to call Dr. Williams another back-alley abortionist. After all, a woman died from an incomplete abortion he performed. However, abortions, like childbirth, were dangerous in the most ideal circumstances. This was at a time when the maternal mortality rate was 400 per 100,000 births.⁵⁶ Macane had as ideal of a situation as one could get at the time. She had a licensed practitioner who performed an operation in a hospital. What one can conclude from the evidence in this case is that Williams was a significant step above a back-alley butcher or folk healer because of medical training, where the abortion took place, and the type of equipment that was used to perform the operation.

In regard to Pitter’s case, once again the evidence lacks detail. One can assume from the evidence that after an unsuccessful attempt to abort herself, she sought the assistance of Dr. Williams who completed the operation and charged \$120.00 for it.

The case of Dr. Williams is an important one because here we have a licensed practitioner who, in a hospital, performed a rather simple procedure. Because abortion

was so marginalized during this time period, he could not ask for help. Had it been any other procedure, he would have been able to seek the assistance of another doctor; but because he was doing something that was illegal, he had to hide his actions. As a result, his patient lost her life and he suffered serious consequences. He went before a panel of the coroner's jury. If the practice of abortion had not been marginalized, if it had been taught in medical schools, he would have been better trained to handle these difficult cases.

Dr. James Miller, D.O. was another osteopath who faced legal trouble when one of his abortion patients suffered from peritonitis. According to the Board of Medical Examiners of the State of California, on February 25, 1942, the Board of Examiners received a phone call from the Glendale Police Department stating that an illegal abortion had been performed on a girl who had been taken to Glendale Sanitarium and Hospital for treatment.

On February 24, 1942, Erica Walker, the sister of the patient Maggie Walker, called Dr. Lawrence Clark and told him of an emergency. Clark was told that Walker had undergone an illegal abortion two days prior to his visit. At that point, Clark had Walker taken to the Glendale Sanitarium and Hospital for treatment. After examining Walker, he cleaned out her uterus. This process included removing pieces of the placenta and much of the fetus. Clark indicated that the abortionist had severed the head of the fetus and butchered parts of the fetus's body. As a result, Clark had to remove the remaining fetus in pieces. Clark indicated that Walker was in serious condition from

peritonitis. He asserted that Walker did not know the name of the abortionist, but she vaguely remembered that the abortion took place in a building near Fourth and Broadway in Los Angeles.⁵⁷

Walker told the police that she had become pregnant by a man named John Jackson, who made the arrangements for her abortion. When they arrived at the doctor's office, he refused to perform the procedure and gave her a referral to Dr. Miller, an abortionist with whom he had worked before. Walker recalled that Jackson gave Miller money. She indicated that there was no nurse present and described Miller to be about sixty, with white hair, medium build, and no other distinguishing marks. After a brief period of time, Miller entered the operating room where Walker waited and he had her lie down on a table which she described as a regular doctor's operating table. At that point he inserted a speculum or spreader into her vagina. In the meantime he had placed some instruments in hot water and she noticed that they were steaming. He then began the operation with the use of the steaming instruments. She remembered seeing him insert the instruments into her vagina. On each occasion she would feel terrible discomfort, but no attempt was made to give her anything to alleviate her pain. Walker stated she was in so much pain she became hysterical and insisted that Jackson be present for the remainder of procedure. After Miller completed the operation, he had her lie on the couch and rest for a while. He then told her that if the operation was unsuccessful, he would return her money.⁵⁸

On March 14, 1942, a police detective went to Dr. Miller's office with John Jackson for the purposes of identifying Miller. Jackson admitted that he paid Miller \$100.00. Jackson testified that he saw Dr. Miller insert various surgical instruments into Walker's vagina. Dr. Miller was asked if he wished to make a statement, and he responded, "I don't know whether I should or not."⁵⁹ He was asked whether he had performed an examination and an abortion, and whether he accepted money from John Jackson. Dr. Miller admitted that he performed a vaginal examination of Walker, agreed that she was pregnant, and accepted \$100.00 in payment from Jackson. When asked if he had performed an abortion, he refused to answer. At that point, he was arrested and booked at the Central Police Station on a charge of suspicion of violation of Section 274 of the California Penal Code.⁶⁰

As was the case with Dr. Williams, Dr. Miller attempted to perform a safe abortion in a secure environment. Dr. Miller was a licensed physician who used sterile instruments. This is another example of the marginalization of the abortion procedure. If these physicians had been properly trained and benefited from collaboration, it is likely that Walker would not have suffered so greatly.

These cases, in which patients of Dr. Williams and Dr. Miller were hospitalized, may have been anomalies. As outsiders looking into their profession with limited sources we do not know how many safe abortions these doctors actually performed. The records include only the "unsafe" or the dangerous ones. It is possible that both of these doctors, like Dr. Barnett, performed as many safe abortions each without complications.

Therefore, it is risky to jump to conclusions based solely upon two or three cases. Both Dr. Williams and Dr. Miller risked their freedom, their medical licenses, and their livelihoods to ensure women had access to safe abortions.

While the majority of abortionists probably entered the business to earn a living others provided their services for ideological reasons. One such group was the Abortion Counseling Service of Women's Liberation, more commonly known as "Jane." This group consisted of volunteers who, in support of their feminist principles, were determined that women should have access to safe abortions.

Although members knew they were breaking the law, they believed they were safe since they knew abortionists were tolerated in every major city as long as there were no complaints. As one member "Lorraine" put it "An abortionist was closed down if his morbidity rate went up. We figured we would see to it that we would not have a morbidity rate." ⁶¹

As a self-described feminist group, Jane was firmly committed to a woman's right to choose an abortion if she wanted or needed it, but that does not mean that Jane endorsed abortion. Members counseled women to make the right decision for themselves and supported whatever decision a woman made. As important as their abortion services were, they were more concerned with educating women about their bodies, and gave women important information on the abortion procedure itself and advice on contraception so that they would never have to go through the ordeal again. The well-being of women, and not profit, was Jane's guiding principle.

On May 3, 1972, seven members of Jane were arrested by detectives from the Chicago homicide squad who demanded to know where the man in charge was, refusing to believe that such a complex organization could be run solely by women.⁶² Later, when they were seeking legal representation, the women faced the same prejudice from attorneys who refused to work for them until they told them who the man in charge was. They finally found “Barbara,” one of the best criminal lawyers in Chicago. She had defended other radicals in the past and her position was clear. “My job is to keep you out of jail, not to fight the issue of abortion.”⁶³

The group refused to give in because of the raid. Two hundred fifty women still needed abortions, and one group member stated, “We couldn’t call them up and say, “We’re sorry. You can’t be taken care of now because we don’t exist anymore.”⁶⁴ Meanwhile, Barbara’s strategy was to delay as long as possible knowing that the Supreme Court was about to hear a second round of oral arguments in *Roe v. Wade*. If the Court decided to legalize abortion, the seven women might never have to go to trial.

On March 9, 1973, the case against the seven Jane members arrested the previous May was dismissed and their court records ordered expunged.⁶⁵ Fortunately for these women, the Supreme Court’s famous ruling came in time and they did not have to go to jail. That does not mean they did not suffer consequences for their actions. They had the internal agony of not knowing whether they were going to go to prison. Because they were lay people without licenses, they did not have to worry about loss of licenses. As

with so many other abortion providers, they went right back to work after their arrests. They did not let the threat of jail deter them.

Medical doctors were another group of abortion practitioners who performed abortions in the Pre-Roe era. One of the primary motives for their actions was money. It was an easy way to make money—especially for students. As Martin Avery, M.D. put it, “They’re the easiest way for a young doctor to get started. And they’re no more dangerous than performing other operations. I’ll wait until I get a little money saved and then I’ll be respectable. It takes money to be high and mighty.”⁶⁶ Initially Avery, like many would-be abortionists, opposed abortion. He came to accept abortion as a viable career for a variety of reasons. Money was his initial reason for getting into the business. Still, he refused a patient for ethical reasons. His refusal to perform the abortion led this woman to take her own life, and Avery blamed himself for her suicide. This death played a significant role in why he decided to become an abortionist:

It shook me pretty badly. I tried to console myself by saying that she had not threatened suicide to me that I was within my rights in refusing to help her, and it was unfair of her to ask me to risk my future by performing an illegal operation.... In the back of my head there was a nagging thought that I, too was to blame. I might have found someone else to help her. I might have made arrangements. I was not so stupid that I did not know of a doctor whose legitimate practice was small but who drove in a big car with a chauffeur and had plenty of money. It was common talk that he did a lot of illegal operations. He was a pretty good surgeon, too.⁶⁷

Later when Avery recounted the events of the woman with his parents, he told his mother, “She did come to me waving her money in my face as if I were a quack she could buy with a few hundred dollars. But I refused to have anything to do with it. That’s a prison offense.” To which his mother responded, “And it’s no prison offense to drive a

girl to suicide?” To which Avery replied, “It was her own lookout, she couldn’t expect me to risk my future with a criminal operation in order to get her out of a jam.” At that point Avery’s father intervened and said, “If you keep on turning down hundred-dollar fees it doesn’t look as if you’re going to have much future.... Doesn’t pay to be too choosy about how you earn it. Old Doc Kennedy over at Clear Creek makes plenty of money that way. Specializes in it. You’d be surprised to know the names of some of his patients, too.”⁶⁸

Although Avery admitted that initially he started to perform abortions for the money, later he performed them because he felt he was doing the right thing. As he stated, “I am always irritated when I hear politicians talk about America being the only land of equal opportunity. It isn’t. Illegitimate children had far better chances in the medieval days when ‘natural’ sons and daughters were the ‘natural’ thing.”⁶⁹ Avery was a eugenicist. He only performed abortionists that he thought would better the human race. “I tried to use more discrimination for the sake of humanity.”⁷⁰ He refused to abort women who could afford to marry, who avoided the responsibilities of motherhood, who wanted an abortion simply to save their figures, and whom he felt should carry on the race. He turned away women who he felt needed children for a fuller life, but were “too lazy and afraid of the pain of childbirth.”⁷¹ In that regard he was not nearly as radical as many of the other abortionists at whom we have looked who believed the only reason required for an abortion was a woman’s desire to have one. On the other hand, Avery did not believe in forced marriages. “In this complex world the married couple

starts out with enough problems without being handicapped by an unwanted child and probably unwanted mates.”⁷²

He also admitted that, despite what moralists say, a lot of “nice” women had abortions. “When you consider that doctors estimate the abortion rate in any such city as being about five times the reported birth rate, you must realize that all these cases cannot come from the dregs of society such as gang molls and prostitutes.”⁷³

Dr. Avery was fortunate because he was never arrested. He did not face the serious consequences endured by the other practioners that have been discussed here. However, he knew the obstacles he faced and was willing to violate the law because he sincerely believed he was providing a service for the betterment of humanity.

As mentioned in the first section, Dr. Josephine Gabler was a major source of abortions for Midwestern women in the 1930s, and once she retired, she sold her practice to her receptionist Ada Martin. When Martin took over the practice, she hired prominent doctors like Dr. Henry James Millstone to perform the operations. Reagan examined the evidence by looking at patient records and from that perspective it looks as if women who had their abortions at the State Street Clinic were given the same treatment as if they had had a therapeutic abortion in a hospital.⁷⁴ However, when one looks at the newspaper articles that discuss the events that transpired as the office was raided, it looks like nothing more than yellow journalism and it makes the clinic look like an abortion ring. The newspaper articles are completely contradictory to what Reagan’s research

found. However, these articles are important because they provide evidence of doctors who fought to ensure women had access to abortion.

For example, according to the *Chicago Daily Tribune* in 1941:

Dr. Henry James Millstone, 44 years old, facing trial in Felony court on abortion charges killed himself in a hotel room yesterday after authorities raided his office and home. Federal Agents began an investigation of his income tax returns. The physician took an overdose of a powerful drug and then, while waiting for it to take effect, wrote letters to his bride, the coroner and the police. The dying man apparently continued writing until drowsiness forced the pen from his fingers. His body was found propped against pillows in bed in the room which he rented under an assumed name on Wednesday. One of these letters, addressed to Sam Papneck, assistant state's attorney in charge of sex cases, and Captain Thomas Duffy of the Central police station detailed the workings of what Millstone called 'the million dollar syndicate' of the loop abortionist, a ring already under investigation by authorities. He added that the ring had framed him 'to take the heat off of them.'⁷⁵

The newspaper also acknowledged that Millstone graduated from the University of Chicago and Rush Medical Center. He had earned a reputation as a highly regarded surgeon despite having lost his medical license for a time because of a substance abuse problem.⁷⁶

The *Chicago Tribune* linked two other deaths to the State Street Clinic when Dr. Millstone's wife and Mrs. Martin's daughter died:

Mrs. Emily Ranus Millstone, 30 within six weeks a bride and a widow committed suicide. She swallowed poison in the Millstone combination office and apartment only 13 days after her husband Dr. Henry J. Millstone 44 with whom she was implicated in the abortion mill, committed suicide by overdosing in a local hotel room. Dr. and Mrs. Millstone were among nine men and women either under indictment or facing arraignment in the Felony court on charges of conspiracy to commit abortion or of performing abortion. The doctor's suicide came just before his scheduled appearance in court on a conspiracy charge. His wife was supposed to appear on a similar charge May 6. Mrs. Millstone's suicide followed within 24 hours the fatal shooting by Daniel Moriarity, a state's attorney's policemen, of Miss Jennie Martin, 24; the daughter of Mrs. Ada Martin. Mrs. Martin is under indictment as the alleged head of the abortion syndicate. Moriarity had been assigned to the abortion inquiry.⁷⁷

Police officer Morarity received three thousand dollars in bribe money from Martin in order to bungle any police investigations into her activities. However, because of the latest investigation which was conducted on her activities he was unsure if she would be willing to protect the two of them any longer. Therefore, he went to Mrs. Martin's house to shoot her, but mistakenly shot her daughter. He then attempted suicide, and was restrained by the police.⁷⁸

As one can see, the variations between newspaper accounts and Reagan's research reveal the stigmatization of those who provided abortions. Still, trained doctors risked their lives to ensure women had safe access to abortion. Mrs. Martin and Dr. Millstone had to go as far as bribing the police to ensure protection from raids in order to keep their operation up and running.

Like Dr. Ruth Barnett, Dr. Edward Keemer's wife Bea had once needed the services of an abortionist. The two of them were interning at Freedman's Hospital in Washington, D.C., and they knew they would be unable to finish their internships if it became public knowledge to the hospital board that Bea was pregnant. Therefore, Bea had an abortion so the two of them could finish their internships. Unlike Barnett's experience, which made her more inclined to perform abortions, Keemer's experience with a competent abortionist had no bearing on his decision to become an abortionist himself. In fact, like so many other doctors, Keemer internalized the anti-abortionist propaganda that was taught to him in medical school.

A young mulatto college freshman, daughter of a West Indian preacher, walked into the office and asked for an abortion. He turned her away. When she threatened suicide, he did not take her seriously. However, this young woman carried through with her threat and committed suicide. Dr. Bea looked at him accusingly and said:

“You killed her!” Then apologetically corrected herself and said “No, we killed her. We’re a couple of murderers!” All that day I tried to put it out of my mind. I tried to make excuses for myself, to convince myself that I had done the right thing. But slowly the realization emerged that by not performing that abortion, I had committed more of a criminal act by far than terminating her early pregnancy would have been. I had taken an oath to save human lives when I became a doctor, not to destroy them. I was a prisoner of my own insecurities and hypocrisies. Because of my cowardice, because I had been afraid to remove from her body what many would liken to a lump, a nodule, a polyp, or a parasite incapable of sustaining itself—because of that, a warm, vibrant human being, “Margie X,” was dead.⁷⁹

Keemer decided he would never make that mistake again:

That day, my life turned in the direction that led me to public disgrace and imprisonment. I would become a social misfit and a criminal in everyone’s eyes but my own and of those few who, like me, believed that what I was doing was right. I decided that day the next desperate woman who asked me to terminate an unwanted pregnancy would get what she asked.⁸⁰

Ideologically, Keemer believed that abortion was a legitimate therapeutic procedure. He believed that by performing abortions he saved 30,000 women from disruption and destruction of their lives. Money had not been an important issue for him. His prices ranged from \$125 to \$0 according to one’s ability to pay.⁸¹

Between 1938 and 1958 Keemer practiced in open defiance of the law without any legal difficulties until one day a friend asked to borrow some money. Keemer refused to loan him the money, but instead agreed to allow his friend to work in his clinic while he went away on vacation. Keemer carefully trained his friend, Dr. Edwards, not

only in the procedures, but on the importance of treating the patients with dignity and respect. “I tried to impress on him that women must be treated not only with the best medical care but with dignity and with understanding.”⁸² Keemer grilled him on when to perform abortions as well as when not to do abortions before he left for his vacation.

When he returned he found a panicky Dr. Edwards waiting for him:

Ed, I'm in a world of trouble. I treated a patient and the stuff didn't work. I returned her hundred and twenty five dollars just as you said, but as she confessed to her husband she took fifty dollars of the money and went to some woman who ran a rubber catheter up into her. She pocketed the rest of the money. Then, two days later, she got deathly sick. The guy called me in the middle of the night demanding that I make a home call. Well I'm going to be honest with you. I finally was in action with a certain fine chick I had been trying to make for a long time.... I'm sorry, but I just couldn't pull out of that trim. So I told the husband of the patient that my treatment of three weeks ago didn't work and I had given the woman her money back. He said, “I know it and I know where she went, but she is still my wife and I don't want to lose her. You come over here now, or else you will be sorry.” Well you know me Ed, nobody threatens my ass. I told him to take her to the hospital, that I could not make it. He took her to Highland Park Hospital, and sure enough, she died the next day. Then he was hot as a six shooter. He went to the police and told them it was all my fault.⁸³

As Keemer described the circumstances of the following the days, “the feces hit the fan.”⁸⁴ As it turned out, a young, white, Catholic girl came in and Keemer conducted a physical examination and made an appointment for an abortion for the following Monday. Meanwhile, she confided in her sister, who then told her mother about the abortion. Her mother called the police warning that she would raise “unholy hell” if the abortion took place.⁸⁵ After twenty years of performing abortions, Keemer's office was raided in 1958. The jury convicted him and he served a fourteen-month sentence. However, jail was only the beginning of his punishment. His license to practice medicine was taken from him, and he faced economic hardships. His wife was forced to sell their

house, their cars, and she ultimately divorced him. “In the roll of matrimonial dice, I was to be a four-time loser.”⁸⁶

Eventually, Keemer regained his license. In 1964 he received information that a good friend of his from Detroit had died and when he attended the funeral, his widow pleaded with him to take over his practice. He agreed to fly in for two days a week and do what he could until she could find a permanent replacement for him. He continued to commute, but after a few weeks of commuting he discovered that Detroit would be the best place for him to practice because auto workers received paychecks that enabled them to afford decent fees for their medical care—a very different situation from what he experienced in New Jersey.⁸⁷

While Keemer attempted to reestablish himself as a general practitioner, he discovered that many of the doctors who had referred patients to him for abortions before his conviction were contacting him to see if he would take “special” patients. He decided to see if there was any way to work within the law. He discussed the situation with attorneys and psychiatrists and he started to refer patients to psychiatrists for consultation. They would write letters stating that women were suffering from severe anxiety-depressive reaction and that if the pregnancy continued, it would be detrimental to their life and health.⁸⁸

Keemer once again started doing a few abortions with this legal protection. He served mostly poor patients, as had been the case throughout most of his career. However, Medicaid and other welfare assistance programs paid for the operation, which

had not been the case previously. He filled out the required forms and sent them to the welfare agencies in an attempt to get paid for the abortions. To his surprise, he was reimbursed for the “therapeutic” procedures.⁸⁹

Keemer’s practice grew and he found himself agreeing to perform more and more abortions. To his amazement, more of the community began to agree with him that abortion should be a woman’s choice. Despite the change in public opinion, his clinic was raided again and he was held on \$55,000 bond. However, before he went to trial, the Supreme Court handed down the *Roe v. Wade*, decision, so his arrest was moot.⁹⁰

Dr. Keemer, like many of his colleagues, began his medical career thinking that abortion was illegal and wrong. It took the tragedy of a young girl with a promising future committing suicide for him to change his mind. At that point he decided that he would perform an abortion whenever asked—as long as the patient legitimately wanted one. Money was never a top priority. Patients paid according to their ability to pay, and some patients paid nothing at all. He suffered great personal consequences and professional penalties for his deep-rooted belief in a woman’s right to control her body. Not only was he imprisoned, but he lost his medical license, his wife, his house, and his cars. Once his medical license was returned to him, he returned to practicing abortions:

But none of this ever convinced me that what I was doing was medically or morally wrong. In fact, after I was released from prison and got my license back, I began performing abortions. And how could I be convinced when my services were being sought out by doctors, teachers, preachers and judges—even a high official in the police department and finally, by an assistant warden during my incarceration in prison?... But ever since I made the decision to perform my first abortion, I’ve never had second thoughts on that subject. And in 1973, when history moved in my direction, I was privy to a sense of satisfaction that few men ever live to experience: the pride of knowing that I risked everything for principle and was vindicated in the end.⁹¹

Dr. X was another who became involved in the abortion business for ideological reasons in the 1950's. He also believed that he was providing a much-needed public service to the community. Like many of the others discussed here, he was eventually arrested for his actions. Against federal law, his phone had been tapped and the police were able to determine when he had appointments. He learned the raid had come about because he had outsmarted two gunmen. Caught in a robbery, they informed the police. When they confessed to other crimes, they admitted that they had once held him up for a thousand dollars; but he had neglected to call the police because he was an abortionist who did not want to get caught. That prompted the police to wire his phones. Then a district attorney set out to trap him because of his own political agenda:

Each arrest he made would be so dramatized that it created the utmost in publicity for him. An ambulance would clang up to the abortionist's door and the 'helpless patient' removed to the hospital, where she would be further exploited as a medical record of her condition was turned into evidence for the trial.⁹²

Dr. X admitted that, after his arrest and release on three thousand dollars bail, he quickly returned to performing abortions during the ten months before the trial in order to pay his legal expenses. In that respect, his actions were typical of others such as Dr. Barnett and Dr. Keemer. None of these people allowed their arrests to deter them from going back into a trade that they firmly believed in. The normal sentence given for abortionists at the time was one to two years, but Dr. X's judge was extremely harsh and sentenced him to four years. The judge also told him that medicine was well rid of him, that he was unworthy of belonging to such a respectable profession. Dr. X's medical license was automatically revoked because of the conviction, and he believed that to be

his true sentence. “Society punished itself when it removed me from the ranks of those best qualified to ease the suffering of women who could not or would endure unwanted pregnancies.”⁹³

After he was released from jail, Dr. X had difficulties finding a job. He applied for a job as a field doctor in Cambodia, but because he lost his medical license, was rejected. He found a job as a resident physician in a private hospital. He worked there for ten weeks when he was dismissed without reason.⁹⁴ He assumed it was because his employer discovered his criminal background. Then one day, he ran into a friend who asked him to perform an abortion on a friend’s lover; and before he knew it, he was back in the business of performing abortions.⁹⁵

But of course, what else did I think I could do to make a living? I was again in demand. I was delighted to find I could operate with my old aplomb. In four idle years my hand had not lost its skill. I had money to eat properly and to move to a place of my own. I owned a complete set of abortionist’s instruments. Once more I was in business. Unwillingly, but finally, I gave up all attempts to operate within the law. If being an abortionist was the sentence I had to serve the rest of my life, I would serve it.⁹⁶

Dr. X believed that he was providing a valuable service to the community by providing abortions. Despite his therapist’s advice to give up performing abortions, Dr. X refused because, as he put it, “But, if out of my fight to liberalize the abortion laws, one woman’s life is saved, my rebellion will not have been in vain.”⁹⁷

As we have seen with the majority of these practitioners it was not a single issue, but often times many issues that turned them into abortionists. Dr. White, in common with many of the practitioners we have discussed, had personal experience with abortion. As a young intern making only twelve dollars a month, he fell in love with a nurse.

When she became pregnant, they agreed that she should have an elective abortion. Even though they were both part of the medical community, the nurse was forced to seek an illegal abortionist, like most other women of that day. Reminiscing on the experience years later he wrote that “women shouldn’t have to carry children they don’t want to.... I think in retrospect we were fortunate.”⁹⁸

Despite his own experience, Dr. White’s attitude hovered somewhere between neutral and vaguely pro-choice until another experience tipped the scales and made him a committed champion of a woman’s right to an abortion. A woman was admitted to the hospital where he worked having attempted, unsuccessfully, to commit suicide.

Discussing the case later he noted:

At the time she was unmarried, in her mid-thirties and already had two children. She became so desperate that she jumped in front of a subway train at Forty-Second Street and Broadway in an effort to commit suicide. She survived the accident with a fractured skull, fractured bones, and fractured pelvis, and spent four months in the hospital. Her child was delivered about three months later—a perfectly normal child. I thought if a woman was willing to go that length to avoid a pregnancy she didn’t want, then something really ought to be done, and I became an active advocate of abortion from that time on.⁹⁹

If a woman Dr. White knew asked for an abortion, he took his chances and performed an abortion for her. He examined her and attempted to initiate bleeding by gently introducing the instrument which he would normally use for taking endometrial biopsies. Then after a little bleeding started, he sent her home and told the patient to call him in twenty-four hours if the bleeding continued. He would then admit her to the hospital as a threatened abortion and complete the procedure in a “legitimate” way. As he claims, “In reality, I was performing an illegal abortion. But it was under controlled

circumstances, in a hospital with proper backup, anesthesia, and so forth.”¹⁰⁰ White claimed that he did it so infrequently that nobody ever questioned him, thereby he was fortunate that he never got caught. Hence, both altruism and a belief in choice motivated these three doctors to become abortionists.

Another common motive for performing abortions was when the pregnant woman had German measles. That was the motive for Dr. Jane Hodgson when she performed her only illegal abortion. Unlike many of the abortionists discussed here who had performed hundreds, sometimes thousands of abortions throughout their careers, Dr. Hodgson performed only one abortion and that was enough to cause her legal trouble. While at the Mayo Clinic receiving her advanced training in obstetrics, she received little training in abortion technique, but a lot of antiabortion propaganda:

I had been taught in medical school that to invade the uterus was the most dangerous thing you could do. We were taught it was illegal and dangerous. We saw all the criminal cases with those horrible infections. You began to believe how dangerous it was. My whole experience, even at Mayo, we were never taught how to do a therapeutic abortion... all we did was learn to complete an abortion that had already been started.¹⁰¹

Because she was one of the few women in private practice in the late 1940's, women bombarded her with requests for abortions. Although the hospital where she worked had a therapeutic abortion committee, it approved abortions only in life-threatening conditions. At first when women came to her and asked for an abortion, she told them what she had been told in medical school—they were illegal and dangerous. However, because of several factors she began to reconsider her position on the issue. These factors included: having to fix botched abortions in the emergency room, the hypocrisy of her physician colleagues who would be publicly anti-abortion but always

ask her if she knew where their wives or daughters could get abortions, the lack of compassion displayed by the hospital's therapeutic abortion committee, and the constant demand by her patients for abortions.¹⁰² However, a trip she took to Puerto Rico with her husband was the turning point that led her to change her attitude once and for all about abortions:

Frank and I went and made rounds there, and this doctor took us around, he had his gold cross and was very Catholic... I saw that they were scheduling many D&C's and tubal ligations. I asked about that. Are these abortions that you do? I can remember it so well. He was rather defensive, but said, "When a woman has eight children and she comes to me wanting an abortion, because she can't feed another one, I have to do it." I was so impressed. I thought what a difference with our own state, because I would see the same kind of patient at home, and I couldn't do anything, and here he was in a Catholic society.¹⁰³

As she stated, "I had been taught that abortion was immoral. I gradually came to change, I came to feel that the law was immoral, and there were all these young women whose health was being ruined, whose lives were being ruined, and whose plans had to be changed. From my point of view, it was poor medicine; it was poor public health policy. After much soul-searching, I realized no one could make that decision."¹⁰⁴ It was her real-world experience that led her to challenge the constitutionality of Minnesota's abortion law.

Determined to overturn Minnesota's oppressive abortion laws, Hodgson even went as far as attending law school to learn the best ways to circumvent the state statutes. Although she never finished her degree, her two years of course work familiarized her with the legalities of both federal and state abortion law and gave her an idea of what

kind of legal strategy to pursue. She searched for an ideal test case, someone she thought the public would accept, and in 1970 she found it.

Nancy Widmeyer, a married mother of two children, had contracted rubella from her children during her third pregnancy, a disease which dramatically increases the chances of birth defects. Although she could probably have qualified for a hospital-approved abortion, Widmeyer agreed to act as a test case. Widmeyer was a perfect candidate for several reasons: social, personal, and medical. As a mother with children she was a sympathetic case, she had been diagnosed by an independent doctor, and she was ideologically committed to women's rights. When told that she could probably get a legal abortion in some other state that had an exception for rubella, her response had been, "Why should I have to go away to have this done? I want you to do it, here."¹⁰⁵

Hodgson's first step was to go to federal court in Minnesota and ask that the abortion law be overturned. When her request was denied, as she was sure it would be, Hodgson scheduled Widmeyer for a D&C procedure in her home hospital in St. Paul. As she expected, shortly after the operation, the police showed up at Hodgson's office and arrested her.¹⁰⁶ Less than a month after Widmeyer's abortion, a grand jury examined the public exchange between the doctor and the courts and then indicted Hodgson for violation of state law. "I would have been disappointed if they had passed it up, I wanted to get tried, but I didn't want to get convicted, I hoped the law would be declared unconstitutional right then and there."¹⁰⁷ It was not and Dr. Hodgson was found guilty

under Minnesota law. She was fifty-five when she was convicted, and had delivered approximately 5,000 babies prior to her conviction.¹⁰⁸

The state's case was based on two arguments. First, according to Federal law life began at conception, and second, Dr. Hodgson, in her eagerness to test the law had not waited for the test results and there was a chance that the fetus did not have rubella.

Citing the federal statute the state declared:

Biologically speaking, the life of a human being begins at the moment of conception in the mother's womb, and as a general rule of construction in the law; a legal personality is imputed to an unborn child for all purposes which would be beneficial to the infant after its birth. Thus, in the law of inheritance, a posthumous child is ordinarily deemed as born before the death of its parent.¹⁰⁹

As for the medical necessity of the abortion, the state argued that there was a high probability that Widmeyer had been infected with rubella in childhood and carried the antibody; therefore, if she were re-exposed during her pregnancy, there was a good chance that such exposure would not have a practical effect on the unborn child. Furthermore, the state argued, Hodgson based her diagnosis on Widener's claim that she had had a rash some weeks earlier, a rash the doctor never saw.¹¹⁰

For her part, Hodgson testified that in over fifty percent of the cases there was a possibility of congenital abnormalities because of rubella during a pregnancy. Mrs. Widener testified that Hodgson told her that there would be approximately a sixty percent chance that the baby would be abnormal if she carried the baby to term. Therefore, Hodgson recommended termination of the pregnancy.¹¹¹

The arrest resulted in a three-year period of legal activity, during which Hodgson's license to practice medicine in Minnesota was questioned. After an initial conviction, she appealed her case to the Minnesota Supreme Court; while that case was still pending, the U.S. Supreme Court handed down *Roe. V. Wade*, thus rendering her conviction moot. Hodgson never served any jail time; instead she was given a suspended sentence.¹¹² She was arrested, nonetheless, and placed on probation. She was more fortunate than some of the other doctors discussed, like Dr. Keemer and Dr. X, in that she never lost her license to practice medicine. While on probation, she went to work in Washington as the Director of the Preterm Clinic. However, like many of the doctors discussed, she faced social penalties as well as legal consequences. Many people with whom she had been close cut their ties with her. Her favorite nurse scheduled the abortion and then quit. On the other hand, the case brought her a whole new political and professional life. “If I hadn’t gotten involved in this, I would have gone through life, probably being perfectly satisfied to go to medical society parties. I would have been bored silly.”¹¹³ In that sense, Hodgson was more fortunate than the others in that, although something was lost, something better was gained from her political involvement.

Hodgson initially believed the anti-abortion propaganda that had been taught to her in medical school. However, through her own life experience her view gradually began to change and she realized that abortion was an individual decision that should not be regulated—that to do so was not only poor medicine but poor public policy.¹¹⁴ She

decided to test Minnesota's abortion law because of her commitment to a woman's right to choose.

The practitioners described here were competent, well-trained abortionists who suffered serious consequences for their actions. There were three common motives for these people who risked everything to ensure women had access to safe abortions when it was such a dangerous thing to do: money, compassion, and ideology. That these people risked their licenses, their freedom, their social lives, and their work after police raids and harsh treatment speaks volumes about their commitment to women's reproductive rights and health.

Conclusion: Lessons to be Learned

Abortion did not stop when it became illegal. In many cases, women sought the services of unskilled abortionists willing to perform abortions for women who needed them—for a price. Many women died or faced serious health problems at the hands of unscrupulous back-alley abortionists. In fact, according to the Alan Guttmacher Institute, the number of illegal abortions in the 1950s and 1960s ranged anywhere from 200,000 to 1.2 million annually. Furthermore, in 1930, abortion was listed as the official cause of death for almost 2,700 women—almost one-fifth of maternal deaths recorded in that year.¹

However, as demonstrated by the work presented here, not all Pre-Roe abortionists were back-alley butchers. There were competent, caring and trained abortion providers in the Pre-Roe era. The people examined here were neither medical school drop-outs nor were they used car sales people who performed abortions on the side to make money. These people were skilled practitioners. Some were licensed chiropractors, others osteopaths, one naturopath, a self-taught abortion group, and medical doctors. Because of the illegality of their actions, society deemed many of these otherwise good, law-abiding citizens as criminals despite their otherwise high social standing.

Their motives for getting into the abortion business were as varied as their backgrounds. Some got into the trade for the money, others had had their own experience with abortion, others were sympathetic toward their patients, and finally,

many believed that the right to control one's own body was a fundamental right. So deep rooted were these beliefs that these practitioners sacrificed everything for their careers, including their marriages, their freedom, and their professional licenses. Yet, as the evidence suggests, these people were often willing to break the law time and again despite the consequences.

It was an historic day on January 22, 1973, when the U.S. Supreme Court handed down its famous *Roe v. Wade* decision declaring abortion a constitutional right guaranteed by the Fourteenth Amendment. However, thirty-two years later the issue still greatly divides America. As soon as the ruling had been handed down, *Roe*'s opponents began legislating away the rights it guaranteed. On June 29, 1992, the *Planned Parenthood v. Casey* decision placed the right to regulate abortion back in the hands of individual states.

Today young girls and women who face unwanted pregnancies must go through rigorous channels in order to obtain abortions in a majority of states. For example, thirty-two states require minors to have parental consent before obtaining an abortion. Twenty states require a waiting period ranging anywhere from one hour to twenty-four hours before an abortion can be performed. Twenty-six states require state-sponsored counseling before the procedure. Finally, thirty-four states have banned tax-supported abortions except in cases where the life of the mother is in jeopardy, rape or incest.² As *Roe* continues to lose its power, it is important to analyze the work of the practitioners

studied in this piece. These providers serve as a lesson to society of what happens when abortion rights are taken away.

Some recent works in popular culture have depicted the abortionists like those studied here. For example, the 1985 book *The Cider House Rules* by John Irving presents the main character, Dr. Wilbur Larch, as a competent, caring abortion provider in the 1930's and 1940's in a small Maine community. Trained at Harvard, Dr. Larch decided to become an abortionist because he saw too many back-alley operations. Like other abortionists seen in this work, he had turned down one patient, who later had a back-alley abortion at a place known as Off Harrison where she ultimately died.³

Larch also believed that women should have the right to control their own bodies. In one scene he wrote a letter to President Roosevelt asking:

“Is it a democratic society that condemns people to the accident of conception?” roared Wilbur Larch. What are we—monkeys? If you expect people to be responsible for their children, you have to give them the right to choose whether or not to have children.⁴

In this novel Larch was fortunate that he was never arrested, he never lost his medical license, or his job. However, he still felt the disdain of much of the population. For example, Irving describes a scene where Dr. Larch is about to perform an abortion. “What Wilbur Larch could not forgive was the obvious loathing they felt for him... The old woman was particularly chisel-faced and sharp-eyed when she looked at Larch, as if she expected him to congratulate her—at which moment she would not acknowledge that he'd spoken to her—for her precision in readying the patient.”⁵ Such hatred toward the abortionist is one of many reasons there is a decline in a number of abortionists today.

Dr. Larch was clearly a different type of doctor than the one portrayed in the 1987 film *Dirty Dancing*, directed by Emilio Ardolino. In that famous film, the abortionist charged \$250 for the procedure and used a “dirty knife” and a folding table when he performed the abortion. The botched procedure required a medical doctor to come in to fix it.⁶ This unsavory stereotype, combined with the hatred many Americans have toward abortionists, is yet another reason for the decline in abortionists today.

Today there are over 50,000 members of the student chapter of the American Medical Association, compared to the 7,000 members of Medical Students for Choice, whose membership includes both the United States and Canada. This means that less than fifteen percent of all medical students have made a public moral commitment to provide abortions. Abortion has become more difficult to obtain because of a lack of providers. According to a 2000 survey conducted in the United States, eighty-seven percent of counties overall, and ninety-seven percent of non-metropolitan counties, had no abortion provider. Moreover, twenty-five percent of all women must travel fifty or more miles to find an abortion provider, and eight percent of women must travel one hundred or more miles.⁷ As Medical Students for Choice points out, the travel and lack of available abortion providers place a hardship on women who seek abortion services. The need to travel means that, in addition to the cost of the abortion, women must pay the cost of lodging, travel, lost work time, and childcare during extended periods away from home in states that require mandatory waiting periods.⁸ In fact, forty-eight percent of women

who had abortions beyond fifteen weeks say they were delayed because of problems finding, obtaining, and affording abortion services.⁹

Since 1982, the number of abortionists in the United States has fallen by 37 percent. In 1982 there were 2,908 abortionists compared to the 1,819 today.¹⁰ The reasons for this decline include: lack of training, “graying” of the profession, fear, and lack of commitment. An article published in 2000 in *Family Planning Perspectives* claims that since the 1970’s the number of obstetrics and gynecology residency programs in the United States that offer abortion training has declined steadily. A 1978 study revealed that twenty-six percent of programs required residents to perform first-trimester abortions. By 1995, that number had fallen to only twelve percent. Furthermore, residency programs face many obstacles in providing abortion training. For example, contrary to many other procedures that obstetrician-gynecologists perform, over ninety percent of abortions in the United States take place in abortion or other types of clinics; only seven percent are provided in hospitals, and that proportion is decreasing.¹¹

Some programs that do not offer abortion training themselves provide it to the residents by allowing residents to train at a local abortion care facility. However, as Almeling, Tews and Dudley point out in their 2000 article in *Family Planning Perspectives*, that is not always practical. Residents generally work eighty-hour weeks and are on call two nights a week. Even if they are morally in favor of abortions, they often refuse training so they can have some control over their work schedules.¹²

Besides the lack of training provided in residency programs, there are other reasons for the decline in skilled abortionists. Fifty-seven percent of all abortion providers are over the age of fifty or approaching retirement age. With so many providers retiring, there are not enough young practitioners to replace them.¹³

Lack of commitment on behalf of the younger doctors is another reason there is such a shortage of abortion providers today. Many current abortion providers witnessed botched abortions in the Pre-Roe era and vowed never to allow that to happen again.¹⁴ On the other hand, today's younger doctors most likely never witnessed the aftermath of a botched abortion, so they do not have the same commitment or compassion as their older counterparts.

Finally, practitioners are afraid because of the anti-abortion violence that many abortionists must endure. For example, eighty percent of abortion clinics experience picketing, twenty-eight percent experience picketing with physical contact with patients, eighteen percent experience vandalism, fourteen percent endure picketing homes of staff members, and fifteen percent have experienced bomb threats. Furthermore, more than 2,400 acts of violence have been reported against abortion providers since 1977, including arson, death threats, kidnapping, assaults, and bombings.¹⁵

As the Alan Gutmacher Institute points out, abortion is one of the most common surgical procedures in America. In 2000, 1.31 million pregnancies were terminated by abortion in the United States.¹⁶ Approximately 2.1 percent of all women between the ages of 15 and 44 had an abortion in 2000.¹⁷ However, the Alan Gutmacher Institute

also claims that the abortion rate has declined slightly but steadily over time, and more rapidly since 1990 than in the 1980s. Among the reasons are a lower pregnancy rate among teenagers, growing use of emergency contraception, and the use of long-acting hormonal contraceptives.¹⁸

In addition to being one of the most frequent surgical procedures done in this country, abortion is one of the safest. The risk of death associated with abortion is approximately 0.6 per 100,000 abortions, and the risk of major complications is less than one percent. On the other hand, the risk of death when a pregnancy is continued to term is approximately eleven times as great as the risk of death induced from an abortion. Annually about ten women die from an abortion, compared to about two hundred sixty who die from pregnancy and childbirth.¹⁹

As *Roe* continues to be legislated away, this thesis serves as a policy lesson to others. One of the justifications for upholding *Roe* is that abortions are going to happen regardless of their legal stance. History has shown that. Moreover, proponents of *Roe* argue that overturning it will result in an increase of back-alley abortionists again. While that no doubt is likely to happen, it is not the only thing bound to happen. Good, law-abiding citizens will be forced once again to break the law and work under the table. The motives will be the same. Doctors will tire of cleaning up botched abortions performed at the hands of unskilled back-alley abortionists. Physicians will either see first hand or hear of patients attempting suicide because of unwanted pregnancies. Abortions will no longer be taught in medical schools, and patients will die at the hands

of unskilled practioners in unsterile conditions. People will stop relying upon doctors, and they will form underground abortion networks. Unscrupulous entrepreneurs will see the profit to be made at a woman's expense and abortion mills will proliferate again. Doctors will lose their licenses, go to jail, and lose everything they fought so hard to obtain.

All of these things happened in this country's past, and if abortion rights are eliminated, these things will happen again.

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