Chapter 5

Medicine and Morality in the Nineteenth Century

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Abortion in Nineteenth-Century America

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Contrary to our assumptions about "Victorian morality," the available evidence suggests that abortions were frequent [in the first half of the nineteenth century]. . . . Discreet advertisements for "clinics for ladies" where menstrual irregularities "from whatever cause" could be treated (and where confidentiality and even private off-street entrances were carefully noted in the advertisement itself) were common.

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[V]arious attempts were made during this period to estimate the frequency of induced abortion as we now understand it. These estimates were primarily the work of physicians who wanted to convince the public that abortion was a problem of great magnitude, and so their estimates must be treated cautiously. Nonetheless, estimates from differing sources yield roughly comparable results. An Ohio medical investigation concluded that one-third of all "live births" (*sic*) ended in induced abortion. Dr. Horatio Storer, one of the most visible anti-abortionists of the era, estimated that there was one abortion for every four pregnancies; a survey of Michigan physicians found between 17 and 34 percent of all pregnancies ending in abortion; and an 1871 American Medical Association committee concluded that 20 percent of all pregnancies were deliberately aborted.[1] . . . Contemporary observers . . . were in unanimous agreement that the women who engaged in abortion did not believe they were doing anything wrong. [Women felt] . . . , they argued, . . . that abortion before quickening was morally blameless, only slightly different from preventing a conception in the first place.

Physicians and Abortion

In the second half of the nineteenth century abortion began to emerge as a social problem: newspapers began to run accounts of women who had died from "criminal abortions," although whether this fact reflects more abortions, more lethal abortions,

[1] Kristin Luker, *Abortion and the Politics of Motherhood* 11–39 (1984).

or simply more awareness is not clear. Most prominently, physicians became involved, arguing that abortion was both morally wrong and medically dangerous.

The membership of the American Medical Association (AMA), founded in 1847 to upgrade and protect the interests of the profession, was deeply divided on many issues. But by 1859 it was able to pass a resolution condemning induced abortion and urging state legislatures to pass laws forbidding it. . . . Meanwhile, a number of physicians . . . began to publish books designed to convince the public that abortion was a medical and a moral wrong. Most of these men were elite "regular" physicians and associated with university-based medical schools. . . . In all, scholarship on the nineteenth-century abortion debate has been hard-pressed to find any other group of anti-abortion activists as central and visible as physicians.

Why should nineteenth-century physicians have become so involved with the question of abortion? The physicians themselves gave two related explanations for their activities, and these explanations have been taken at face value ever since. First, they argued, they were compelled to address the abortion question because American women were committing a moral crime based on ignorance about the proper value of embryonic life. According to these physicians, women sought abortions because the doctrine of quickening led them to believe that the embryo was not alive, and therefore aborting it was perfectly proper. Second, they argued, they were obliged to act in order to save women from their own ignorance because only physicians were in possession of new scientific evidence which demonstrated beyond a shadow of a doubt that the embryo was a child from conception onward.

The physicians were probably right in their belief that American women did not consider abortion—particularly early abortion—to be morally wrong. . . . [T]hat attitude would have been consistent with a long moral and legal tradition. But the core of the physicians' claim—the assertions that women practiced abortion because they were ignorant of the biological facts of pregnancy and that physicians were opposed to it because they were in possession of new scientific evidence—had no solid basis in fact. . . . Women (and the general public) knew that pregnancy was a *biologically* continuous process from beginning to end, and physicians were not in possession of remarkable new scientific discoveries to use to prove the case.

Both popular and medical writings of the period suggest that for many years prior to the first "right-to-life" movement, the nineteenth-century public agreed with the anti-abortion physicians' belief that pregnancy was, biologically speaking, a continuous process that led to the birth of a child. Where they disagreed was upon the *moral* implications of these biological facts. The public did not consider the embryo "not alive" in the biological sense, as the anti-abortion physicians asserted. Rather, public (and much medical) opinion seems to have been that embryos were, morally speaking, simply not *as alive* as the mother, at least until quickening—and sometimes later than that, if the pregnancy threatened the life of the woman. . . .

This preference for maternal life over embryonic life reflects standard medical practice, at least according to textbooks in use at the time. William Dewees, the author of a classic obstetrical textbook published in 1826 and reprinted nine times over the next twenty-five years, denounced abortion when practiced by women, yet quoted ap-

provingly the traditional notion that the life of the child was "incomparably small" when pitted against that of its mother. Similarly, Gunning Bedford, another well-respected obstetrical expert whose work was reprinted eight times, argued in favor of abortion: "Without the operation, two lives would certainly be sacrificed, while, with it, it is more than probable that one would be saved." Charles Meigs, the author of another much-reprinted obstetrical textbook, agreed: "Whenever a clear indication for the sacrifice of the tender embryo exists, no evil is done in procuring the greater good of the mother; on the contrary, the act by which it is destroyed is as purely good as the saving of a man's life. The lesser, in morals, must yield to the greater; the lesser is always included in the greater."[2]

What the anti-abortion physicians achieved, therefore, was a subtle transformation of the grounds of the debate. By asserting that women had abortions because they were ignorant of scientific knowledge, doctors shifted the focus of the debate from moral *values* to empirical *facts.* But judging by the available evidence, the public, the medical profession in general, and the anti-abortion physicians in particular were *not* at odds with one another over the facts about what went on during pregnancy. With greater or lesser degrees of detail, all seem to have drawn on relatively widely available and popularly accepted beliefs about the development of the embryo. Popular (and legal) acceptance of abortion was not based on ignorance of "the facts," as physicians asserted, but on *a different moral evaluation of the facts.*

Motives for Mobilization

Thus, the question remains: why, in the middle of the nineteenth century, did some physicians become active anti-abortionists? James Mohr, in a pioneering work on this topic, argues that the proliferation of healers in the nineteenth century created a competition for status and clients.[3] The "regular" physicians, who tended to be both wealthier and better educated than members of other medical sects, therefore sought to distinguish themselves both scientifically and socially from competing practitioners. Support of anti-abortion activity was admirably suited to this need. By taking an anti-abortion stand, regular physicians could lay claim to superior scientific knowledge, based on the latest research developments and theories (usually from abroad) to buttress their claim that pregnancy was continuous and that any intervention in it was immoral. . . . The abortion issue thus gave them a way of demonstrating that they were both more scientifically knowledgeable and more morally rigorous than their competitors.

Mohr suggests that there were several more practical reasons why regular physicians should have opposed abortion. On the one hand, outlawing abortion would remove a lucrative source of income from competitors they called "quacks" and perhaps remove that temptation from the path of the "regulars" as well. In addition, the "regulars" were predominantly white, upper-income, and native-born; as such, they belonged to precisely the same group that was thought to harbor the primary users of abortion. As a result, they were likely to be concerned both about the depopulation of

their group in the face of mounting immigration (and the higher fertility of immigrants) and about "betrayal" by their own women (because abortion required less male control and approval than the other available forms of birth control).

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It is certainly true, as Mohr claims, that the mobilization of American physicians against abortion took place in the context of a profound dilemma within the medical profession, a dilemma produced by the lack of a traditional guild structure, the proliferation of competing medical sects and dissension within the ranks of the regulars themselves. Physicians wanted to upgrade their profession by obtaining licensing laws that would restrict medical practice to only the best and the best-trained among them. But lacking such licensing laws and given the ease with which one could become even a "trained" physician by attending one of the proliferating "proprietary" medical schools, regular physicians had no way of proving that they were any better than their competitors.

Nineteenth-century physicians needed to be "better" than their competition in order to persuade the public that licensing laws were not simply a self-serving "restraint of trade," designed only to raise the price of a doctor's bill by eliminating the competition. (The "restraint of trade" complaint arose routinely whenever regular physicians pressed for licensing laws.) But they could not be "better" until they had licensing laws that would purge their own numbers of the inadequate or the incompetent.

As we know, regular physicians succeeded in their campaign for licensing laws. More than almost any other profession, medicine now rigorously exercises the right to control who shall enter the profession, how they shall practice, and how competitors will be treated; its nineteenth-century stand against abortion contributed substantially to this ultimate success. It is in the context of this drive for professionalization that the political activity of American physicians against abortion must be understood. When examined closely in this context, their actual behavior raises serious doubts about whether they had, as Mohr and Degler claim, an unparalleled commitment to the "sanctity of life" of the embryo.

The traditional explanation of how one group of medical practitioners in America, the regulars, successfully strove for and obtained the attributes that we now associate with modern medicine (and that, incidentally, squeezed out the competition) . . . attribute[s] this success to the superior education and understanding of the regulars and to their adoption of a new way of looking at the problem of disease, namely, "the scientific method." . . . On the other hand, recent studies of medical professionalization have tended to focus on another dimension, on what Charles Rosenberg has called the "sordid realities of the marketplace." This approach emphasizes the fact that regular physicians (and in particular those who *organized* on behalf of the regulars) tended to be of a higher social status than their sectarian competitors and tended to cater primarily to an upper-class clientele. The expenses of a medical education—especially when it was combined, as it often was for elite physicians, with a tour of study at a European university—tended to restrict the ranks of the regulars to the well-to-do. Notwithstanding the generally higher level of education among regulars, however, the actual content of the medical training they received was problematic. For much of the century, medical education was extremely informal, and by the latter part of the

century, an increasing part of it, even for regulars, took place in proprietary schools that were very close to being "diploma mills."

Since most medical historians agree that regular physicians began to mobilize for licensing laws that would restrict competing practitioners *before* they could convincingly demonstrate that they were better healers in practice, writers in this second school have tended to see the success of the regulars as more frankly political. They argue that because the regulars were largely members of the elite, they were able to use their class standing and educational credentials to argue that they were "better" than the sectarians and the doctors trained by apprenticeship.

As is often the case, the full truth probably lies somewhere between the view of the first school, which stresses the improvement of technical understanding among physicians, and the view of the second, which stresses their use of political rather than technical skills. Anyone who reads nineteenth-century medical textbooks cannot fail to be impressed by the explosion of knowledge that occurred in the last third of the century. . . . In a real sense, medicine in the 1880s was closer to our own era than it was to the medicine of a mere forty years before.

Nonetheless, it is also true, as the second school of thought argues, that regular physicians had begun to mobilize politically *before* this explosion of new knowledge had effectively taken place. The AMA, for example, was founded in 1847, before many of these technical accomplishments were made and long before physicians were able to translate these accomplishments into better survival rates for their patients. At best it can be argued that the drive for professionalization was concurrent with scientific progress; it is virtually impossible to argue, as the first school did, that professionalization was the *product* of such progress. Finally, it may be argued that until the level of scientific progress is dramatically higher than it was during the nineteenth century, the ordinary consumer cannot differentiate between a "scientific" practitioner and a folk healer. Given the standard of living in the nineteenth century and the relatively primitive (though rapidly improving) state of medical knowledge, it remains to be demonstrated whether the average person would have been able to rank varieties of practitioners by effectiveness.

By the middle of the nineteenth century, therefore, American physicians had few if any of the formal attributes of a profession. The predominance of proprietary medical schools combined with the virtual absence of any form of licensing meant that the regulars could control neither entry into the profession nor the performance of those who claimed healing capacities. With the possible exceptions of the thermometer, the stethoscope, and the forceps, the technological tools of modern medicine were yet to come; and lacking the means of professional control, regular physicians were hard put to keep even those simple instruments out of the hands of the competition. Because they could offer no direct, easily observable, and dramatic proof of their superiority, regular physicians were forced to make an indirect, *symbolic* claim about their status. By becoming visible activists on an issue such as abortion, they could claim both *moral stature* (as a high-minded, self-regulating group of professionals) and *technical expertise* (derived from their superior training).

Therefore, the physicians' choice of abortion as the focus of their moral crusade was carefully calculated. Abortion, and only abortion, could enable them to make

symbolic claims about their status. Unlike the other medico-moral issues of the time —alcoholism, slavery, venereal disease, and prostitution—only abortion gave physicians the opportunity to claim to be saving human lives. Given the primitive nature of medical practice, persuading the public that embryos were human lives and then persuading state legislatures to protect these lives by outlawing abortion may have been one of the few life-saving projects actually available to physicians.

Physicians, therefore, had to exaggerate the differences between themselves and the lay public. Anti-abortion physicians had to claim that women placed *no* value on embryonic life whereas they themselves ranked the embryo as a full human life, namely, as a baby. But these two positions, when combined, created an unresolvable paradox for physicians, a paradox that would haunt the abortion debate until the present day.

If the embryo is a full human life, as these physicians claimed, then abortion can never be morally right, even when undertaken to save the life of the mother; the Western tradition does not permit even physicians to "set aside one life for another," as the Jewish Mishnah puts it. The only logical moral position was that of Bishop Kenrick of Philadelphia, who declared with respect to abortion in 1841 that two deaths were better than one murder.

But if abortion is never morally right, then nineteenth-century physicians had no grounds for claiming it as a medical issue that required their *professional* regulation. Once they had alerted Americans to the "fact" that abortion was murder, the logical move would have been to turn the issue over to their "competition"—clergymen who would deal with its moral consequences and lawyers who would deal with its legal consequences. Ironically, what the physicians did, in effect, was to simultaneously claim both an *absolute* right to life for the embryo (by claiming that abortion is always murder) and a *conditional* one (by claiming that doctors have a right to declare some abortions "necessary").

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If these regular doctors were as actively opposed to abortion as their public rhetoric suggested, we would expect the result of their efforts to be laws that either forbade abortions entirely or, at the very least, carefully defined the few kinds of abortions that could take place. On the other hand, if physicians were trying to both *create* and *control* a moral problem at the same time, we would expect laws that would forbid non-physicians to perform abortions but would give physicians a great deal of legal discretion to perform abortions when they wanted to—a discretion hard to reconcile with their public contention that abortion was always murder.

And, in fact, an inspection of most nineteenth-century state laws suggests that this latter course was the one taken. By 1900 only six states did not include a "therapeutic exception" in their abortion laws, a clause stating that any abortion undertaken by or on the advice of a physician to preserve the life of the mother was legal. These laws in effect gave physicians almost unlimited discretion in deciding when an abortion was necessary. . . . [N]one of these laws described exactly what constituted a threat to life. For example, must the threat be immediate or can it be long term? Similarly, they did not specify the confidence level needed. Must the pregnancy be an unquestionable threat to maternal life, or could the threat be only probable?

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[P]hysicians wanted to create a category of "justifiable" abortion and to make themselves the custodians of it. Some anti-abortion physicians actually opposed legislative attempts to tighten or spell out what exactly was entailed in the therapeutic exception. . . . In short, the opposition of the regulars to abortion could become quite tempered when it appeared that abortion could be suppressed only at the cost of increased social and legislative control of the medical profession.

Nineteenth-century anti-abortionist literature, gynecology textbooks, and articles in medical journals indicate still another important consequence of the physicians' paradox: the terms chosen to define physician boundaries—"saving the life" of the woman—were perhaps deliberately vague. The word *life* may mean physical life in the narrow sense of the word (life or death), or it may mean the social, emotional, and intellectual life of a woman in the broad sense (style of life). . . .

Physicians were willing to induce (and in their writings to advocate inducing) abortions under both of these definitions of the term *life.* Not only were cardiac disease, "consumption," and pernicious vomiting causes for abortion, so also were "neurasthenia" (an all-purpose diagnosis for complaints from "high-strung" women) and many other complaints that would compromise the woman's life in the broader sense of the word. The range of acceptable grounds for abortion is demonstrated by T. Gaillard Thomas, an outstanding obstetrician-gynecologist and a strong anti-abortionist. He believed that abortion was indicated when pregnancy would "destroy the life or intellect, or permanently ruin the health of the mother."[4] Even Horatio Storer, in many ways the most prominent anti-abortionist of his day, subscribed to a broad view of what "saving the life" of a woman entailed. While arguing that the decision to induce an abortion is a weighty one and must always be taken in consultation with colleagues, his list of indications for abortion includes other considerations besides strict preservation of maternal life, notably what would later be called health and "fetal" indications:

> There are other instances that might be cited, cases of dangerous organic disease, as cancer of the womb, in which, however improbable it might seem, pregnancy does occasionally occur; *cases of insanity, of epilepsy, or of other mental lesion, where there is fear of transmitting the malady* to a line of offspring; cases of general ill health, where there is perhaps a chance of the patient becoming an invalid for life [emphasis added].[5]

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All the available evidence suggests, therefore, that rhetoric notwithstanding, nineteenth-century anti-abortion physicians who were successful in securing the first statute laws prohibiting abortion never believed that embryos had an absolute right to life. Instead, like most of those around them (and indeed, like most Americans of the present day), they believed that although embryos had rights, these rights were subordinate to the life of the mother, in both the broad *and* the narrow sense.

The important difference between the nineteenth-century physicians' stand and the previous public and legal toleration for abortion does not lie in a radically new view of the nature of the embryo or of its rights. . . . In practice, . . . physicians agreed that the embryo's rights were in fact conditional. What was at the core of their movement, therefore, was a *reallocation* of social responsibility for assessing the conditional rights

of the embryo against the woman's right to life, both narrowly and broadly defined. From the late nineteenth century until the late 1960s, it was doctors, not women, who held the right to make that assessment.

Consequences of the Physicians' Crusade

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Because doctors successfully asserted professional control over the [abortion] issue, a major part of it disappeared from view. There continued to be concern about women who performed abortions on themselves, and the newly defined criminal abortionists were prosecuted; but, in general, physicians made their decisions on abortion without public scrutiny. . . .

Meanwhile, the ideological sleight of hand performed by the physicians left its imprint on the debate for the ensuing century. Because the profession had successfully achieved the right to handle this thorny public issue within the confines of its own domain—because in effect the American public accepted the profession's claim that it was capable of juggling the conflicting rights of the abortion decision—the physician's paradox disappeared from view. Thus, both "strict" and "liberal" constructionists—the inheritors, in other words, of both the neo-Pythagorean view that the embryo is a baby and the Stoic view that it is not—could rest assured that the issue had been turned over to a morally rigorous and self-evidently upstanding profession, which in turn would make wise decisions. The intrinsic conflict between the two interpretations was therefore hidden from view: partisans of each interpretation could feel confident that theirs was the dominant one—that all abortion was murder or that physicians could, should, and would do abortions when the circumstances warranted. As a result, abortion as a major social, political, and ethical issue could disappear beneath the cloak of an emerging profession's claims, there to rest quietly for almost a century.

NOTES

1. For the Ohio medical investigation, see, Arthur W. Calhoun, *The Social History of the American Family,* 3:243 (New York: Barnes and Noble, 1919). The one-to-four ratio is suggested in Horatio Storer and Franklin Fiske Heard, *Criminal Abortion: Its Nature, Its Law, Its Evidence* (Cambridge, Mass., 1868). Storer and Heard conflated criminal and spontaneous abortions, but the authors assert that the vast majority of these abortions are induced (pp. 28–34). For the Michigan survey (1882), see Edward Cox et al., *Report of the Special Committee on Criminal Abortion, in* NINTH ANNUAL REPORT OF THE SECRETARY OF THE STATE BOARD OF HEALTH OF THE STATE OF MICHIGAN 164–88 (Lansing, 1882). For the AMA committee report, see *Transactions of the AMA* 22, 250–51 (1871).

2. Dewees, William P. *A Compendious System of Midwifery* 477. Philadelphia: Blanchard & Lea, 1847. Bedford, Gunning. *Principles and Practice of Obstetrics* 679. 3rd ed. New York: William Wood & Co., 1866. Meigs, Charles D. *Woman: Her Diseases and Remedies* 552. Philadelphia: Blanchard & Lea, 1859.

3. Mohr, James C. *Abortion in America: The Origins and Evolution of National Policy* 147–70. New York: Oxford University Press, 1978.

4. Thomas, T. Gaillard. *Abortion and Its Treatment: From the Standpoint of Practical Experience* 99. New York: D. Appleton, 1894.

5. Storer, Horatio R. *Why Not? A Book for Every Woman* 25. Boston: Lea & Shepard, 1866.