

## “Criminal Operations”

### *The First Fifty Years of Abortion Trials in Portland, Oregon*

NEARLY TWENTY YEARS after Oregon adopted its ban on abortions, Portland authorities prosecuted the state’s first “criminal operation,” as the procedure was often called at the time. The *Oregonian* remarked on the “particular character” of the “unusual and, in some respects, remarkable trial” and noted that nothing of its kind had ever appeared “before any of the courts during the history of the state.” The “mysterious affair” of the abortion trial stirred the public and elicited “a painful degree of suspense” over its solution.<sup>1</sup> An end-of-the-year assessment by the newspaper described the trial as one of the principal events of 1873.<sup>2</sup> Although the prosecution was successful, newspaper coverage of the trial introduced Portlanders to the obstacles that made the law’s enforcement elusive during the decades that followed.

That first abortion case involved C.G. Glass, a practitioner of eclectic medicine charged with manslaughter for performing an abortion that led to the death of Mary E. Hardman, a nineteen-year-old single woman.<sup>3</sup> Glass was a purveyor of herbal remedies at his downtown operation, which he advertised as The Eclectic Dispensary. He specialized in “all chronic and private diseases,” including the ailments of young men who had “injured their constitutions by secret habits” and of women who were “dragging out a life of misery” from “diseases peculiar to the sex.” He also sold what he called Female Regulator Pills to help women with reproductive concerns.<sup>4</sup> His business typified the kind of unlicensed practice that the local medical society worked to banish.

At the trial, Glass testified that Hardman was several months pregnant when he examined her but that she “was carrying a dead child.” He reported that she had disclosed earlier attempts to end her pregnancy, first with the help of a midwife and then by ingesting oil of tansy, a plant believed to



*The Portland City and County Medical Society sought to ensure the professional and financial status of licensed physicians by ridding Portland of alternative healers and anyone who assisted with illegal abortions. The campaign reached a peak during the early 1900s, as headlined on February 16, 1908, in the *Oregonian*.*

induce abortions. He declared that he had agreed to provide medical care and lodging to her for \$250, a considerable sum.<sup>5</sup> Mary Anna Cooke Thompson, identified by historians as the first woman to practice medicine in Portland, testified along with another physician that Hardman had sought help from them (presumably for an abortion), but they had both refused.<sup>6</sup>

Glass reportedly told Hardman's brother that she had died of "bilious intermittent fever," but other doctors disputed that assessment. One believed

death resulted from inflammation of the womb and that she was unlikely to have died of hemorrhage after he saw her. Another conducted the post-mortem with two medical colleagues and concluded that the organs were healthy with no damage from the bilious fever Glass had proposed. Instead he found a "violence and rough usage" of the uterus, and believed Hardman had "died of hemorrhage consequent upon delivery of a fetus six months old." Two physicians who had examined the woman's body as part of an autopsy testified that she had died of inflammation and hemorrhaging associated with an abortion of a six-month-old fetus. After three days of proceedings in Multnomah County Circuit Court, jurors retreated to determine the intent of the practitioner, the viability of the pregnancy, whether an abortion had occurred, and the cause of the woman's death. Following two-and-a-half hours of deliberation, the jury found Glass guilty as charged, and the judge sentenced him to five years in the state penitentiary.<sup>7</sup> Portland's first abortion trial ended with a conviction,

but the outcome proved more an exception than the rule in prosecutions that followed.

A study of the first fifty years (1870–1920) of abortion trials in Portland, as reported in the *Oregonian*, reveals the two significant factors that hindered

prosecutions and thwarted convictions: a lack of sufficient evidence peculiar to abortion cases, and ambiguities of the abortion law itself. Physicians often contributed to evidentiary difficulties, and their reticence to collaborate with enforcement was likely due to several reasons examined here. Throughout the fifty-year period under study, a number of practitioners avoided legal problems and provided abortions to women who were determined to end their pregnancies. Among that group was Dr. Marie Equi, the only Portland physician of the time known to provide abortion services as part of a larger, holistic commitment to women's reproductive health.

No study has previously been published about this period of prosecutions in Portland, but segments of the city's early abortion history have appeared in a handful of important works, including Ruth Barnett's autobiography (as told to Doug Baker) of her life as an abortion provider beginning in 1919, Rickie Solinger's biography of Barnett and her contemporaries, Nancy Krieger's journal article about Dr. Marie Equi, Sandy Polishuk's manuscript about Equi based on her research with Krieger and Susan Dobrof, and Polishuk's biography of activist Julia Ruuttila.<sup>8</sup> Gloria E. Myers and, more recently, Sadie Anne Adams have also addressed aspects of Portland's abortion history in their biographical studies of Lola G. Baldwin and Dr. Jessie Laird Brodie.<sup>9</sup>

Oregon adopted its first anti-abortion law in 1854, during its territorial days and following the lead of twenty-one states and territories that had criminalized the practice as part of a national campaign initiated by the American Medical Association (AMA).<sup>10</sup> From the mid to late nineteenth century, the AMA lobbied state legislatures to outlaw abortion as part of its overall goal to drive competition from the medical field and to enhance the status, professional domain, and financial wellbeing of its members. The AMA spoke for regular physicians rather than irregular, or alternative, practitioners, and abortion bans were part of its strategy to force midwives from the childbirth and abortion care they had provided women for hundreds of years. At a time when medical



*As Multnomah County District Attorney from 1902 to 1908, John Manning was an aggressive prosecutor of abortion providers, yet his efforts to convict were hampered, he believed, by intrinsic problems with the state's anti-abortion law.*

City of Portland Archives, Oregon, A2004-002, 213

OHS digital no. bb003366



*Long involved in protective services for young women, Lola Greene Baldwin used her position as Superintendent of the Woman's Auxiliary with the Portland Police Bureau to monitor the activities of physicians she suspected of providing abortions. In 1907, she worked up charges against Dr. Charles H.T. Atwood.*

science had yet to provide many diagnostic and clinical tools, the AMA sought to establish regular doctors as the sole source of all medical care, including obstetrics.<sup>11</sup>

Civic boosters, business interests, and politicians readily joined the anti-abortion efforts, reasoning that well-ordered, proper communities attracted more settlers, commerce, and investments. Church leaders, in turn, supported restrictions purported to bolster moral behavior. The campaign drew

#### OREGON'S 1864 REVISED ABORTION LAW

“If any person shall administer to any woman pregnant with a child any medicine, drug or substance whatever, or shall use or employ any instrument or other means, with intent thereby to destroy such a child, unless the same shall be necessary to preserve the life of such mother, such person shall, in the case of the death of such child or mother be thereby produced, be deemed guilty of manslaughter.”

*Journal of Proceedings of the House of the Legislative Assembly, 1864 (Portland, 1864) and Journal of Proceedings of the Senate of the Legislative Assembly of Oregon, 1864 (Portland, 1864).*

on the anxiety of many Americans that declining birth rates among Anglo-Saxon women, aided in part by access to abortion, might plummet further and result in a nation with too many immigrant births. The leader of the anti-abortion campaign, Dr. Horatio R. Storer, exhorted white, native-born women “upon [whose] loins depends the future destiny of the nation.”<sup>12</sup> The rallying cry against abortion succeeded, and by 1900, “virtually every jurisdiction” had banned the procedure. Ironically, the laws codified by the states complicated enforcement of the bans.<sup>13</sup>

One of the most vexing elements of the abortion

bans was confusion about when life began. Traditional beliefs held that until a woman felt a quickening, or movement, of the fetus — usually between the fourth and sixth months of pregnancy — life was not present. Before fetal movement was detected, women sought help from midwives or folk treatments to “unblock” their menstrual cycles. Accordingly, common law defined abortion as an act that occurred after quickening. Only by the mid to late nineteenth century did states prohibit abortive acts at every stage of pregnancy, even before quickening. Many people held to the traditional belief, however, and their ideas about when life began often hindered abortion prosecutions.<sup>14</sup>

The matter of an abortion provider’s intent proved especially troublesome to prosecutors. Several states required evidence that an accused practitioner intended to end the life of a child. Proving intent was a difficult proposition because most abortion discussions and procedures occurred in private, typically in a patient’s home or a doctor’s office. Only the participants knew the pregnant woman’s circumstances, the nature of her request, and the practitioner’s response. If challenged after an abortion was reported — and especially if the woman had died in the course of the procedure — providers could claim the woman presented conditions unrelated to pregnancy. Or they could simply deny any intent to end a pregnancy.

Another complicating factor involved a clause eventually included in nearly all abortion statutes. What was known in legal realms as the *therapeutic exception* allowed a provider to proceed with an abortion if the woman’s life appeared to be endangered. James C. Mohr identifies New York as the first state to adopt the clause, which helped create what Leslie J. Reagan describes as a “legal loophole” and led to an understanding of “therapeutic abortion.”<sup>15</sup> What constituted valid medical indications that the woman’s life was at risk remained largely up to the clinical judgment of one or more physicians. Practitioners might cite all sorts of physical, psychological, or even financial difficulties that their clients presented to justify an abortion.

Oregon legislators revised the state abortion ban in 1864 (after statehood) to clarify and tighten its prohibitions and to bring it more in line with current scientific understanding.<sup>16</sup> James C. Mohr argues that the changes in Oregon forecast more restrictive abortion laws adopted in several states following the Civil War and contributed to “the most important burst of anti-abortion legislation in the nation’s history.” Oregon dropped the quickening doctrine and added both intent to do harm as a necessary condition of guilt and the therapeutic exception. The revised law referred specifically to a child — rather than a fetus — although it left open to interpretation the legal definition of when viability began and when the fetus became a child. The destruction of a child in utero became a manslaughter offense regardless of whether the woman died, and the punishment for destroying the child or causing the death of the mother was set at one to fifteen years in prison. Although anyone who procured or assisted with the abortion could be held liable and prosecuted, the pregnant woman was exempt.<sup>17</sup>

A clear sense of the incidence of abortion in Portland during this period is difficult to determine due to the few available records from hospitals, clinics, medical practices, and illegal operations. Studies undertaken for cities and states of the Midwest and East Coast suggest significant numbers of abortions. Edwin G. Burrows cites an 1868 New York City study that estimated abortions were procured by 20 percent of pregnant women, and Rickie

Solinger notes that an 1898 survey by the Michigan Board of Health found one-third of pregnant women obtained abortions.<sup>18</sup> At a June 1895 meeting of a Washington, D.C., medical society, a prominent physician lamented that abortion throughout the country was “fully as frequent” as ever before, not only in the cities but in the “remotest country districts” as well.<sup>19</sup> Statistics for West Coast cities or those comparable in population size to Portland have not been located, however, and federal surveys overall did not include abortion in annual mortality reports during this period.<sup>20</sup>

Unofficial observations by abortion practitioners suggest a total of more than 6,000 abortions were performed annually in Portland during the early 1900s. That number results from an extrapolation of observations by Ruth Barnett, a naturopath who assisted physicians with full-time abortion practices during this period. She noted that five to seven women a day could crowd the waiting rooms of Dr. Alys Bixby Griff’s downtown office, and she discussed the robust practices of five other regular doctors.<sup>21</sup> On a basis of four to five abortions performed each workday, one full-time practitioner might account for 1,000 to 1,250 annually, and the work of five providers might have totaled 5,000 to 6,250. In addition, Dr. Charles T. Atwood, a practitioner notorious for his abortion prosecutions, claimed in 1908 that he and his physician son refused in one month alone fifty requests to end pregnancies.<sup>22</sup> Atwood’s assertion may have fit his defense strategy and therefore may not be the most reliable estimate. Nevertheless, the services of Atwood, as well as those of general medicine practitioners, irregulars, and entrepreneurs, could add another 1,000 abortions each year, boosting the minimum combined total to 6,000 or more abortions. Although these totals result from imprecise accounts and a degree of speculation, it is evident that several thousand abortions were performed in Portland each year during the early 1900s and, in comparison, there were remarkably few prosecutions.

The *Oregonian* reported twenty-seven abortion trials in Portland during the fifty years between 1870 and 1920 (see Table 1). The relatively small total initially suggests that enforcement was a low priority in the city, but the ratio was not unlike those in other cities. In her comprehensive examination of Chicago’s history of abortion control, Reagan notes that the much larger city undertook “at most a handful” of abortion cases each year during the period between 1902 and 1934.<sup>23</sup> She also suggests that a full assessment of a jurisdiction’s resolve to enforce an abortion ban should include the number of abortion arrests as well as the “entire investigative process,” a scope that is unfortunately beyond the reach of this study. She adds that Chicago prosecutors limited the number of abortion cases to those with the greatest potential for conviction.<sup>24</sup> The data from this study suggest that Portland

authorities, facing difficulties with obtaining convictions, pursued a similar strategy over time.

Seven-year gaps occurred between the first abortion trial in 1873 and the next in 1880, and again from 1880 to 1887. The cause of these lapses is unknown, but they may reflect the priorities of district attorneys at the time. The total of twelve trials from 1873 to 1900 is similar in number to the fifteen of the latter period, 1900 to 1920, but a significant spike occurred in the early 1900s, with fourteen cases taken to court between 1906 and 1911 and five in 1908 alone. The surge in numbers likely reflects the influence of Progressivism that was at the peak of its fervor and power in Oregon during those years. Progressives tended to view abortion as a threat to the social order, because it alleviated unintended consequences of extra-marital sex and separated intercourse from reproduction.<sup>25</sup> The greater number of prosecutions also coincides with a second campaign by the AMA to encourage greater enforcement of the abortion bans.<sup>26</sup> As will be seen in the case examples that follow, one Multnomah County District Attorney, John Manning, spearheaded many of the prosecutions during the early 1900s in Portland.

The spike of Progressive Era trials ended by 1916, and no further reports of abortion prosecutions appeared in the *Oregonian* through the end of 1920. Several factors may have contributed to the drop-off, including prosecutors’ frustration with the law and their reticence to indict, the fading of the Progressive Era and its political agenda, and doctors’ shift to other concerns. Reagan notes that as early as 1908 a proposal by obstetricians within the AMA to investigate anti-abortion laws and further suppress the procedure failed to clear committee deliberations for lack of support.<sup>27</sup> She concludes that the Progressive Era anti-abortion campaign failed to enlist most physicians nationally and, by 1920, “few doctors talked anymore about the evil of criminal abortion and how to combat it.”<sup>28</sup> Instead, the medical establishment became more engaged with other national policy questions, including access to birth control and the government’s emerging role in providing public health to infants and mothers.<sup>29</sup> Mohr observes that, by the early twentieth century, regular physicians had achieved many of the goals of the initial anti-abortion campaign, and middle- and upper-class women increasingly relied on birth control methods other than abortion.<sup>30</sup> In addition, world events — World War I and, especially for physicians, the overlapping influenza epidemic of 1918 to 1919 — pressed on everyone to mobilize for a greater national purpose. The reported trial data reveal three other factors that influenced whether cases would be taken to court and what the outcomes might be: the professional status of providers, the pregnant woman’s marital status, and whether the woman survived the abortion.

TABLE 1: ABORTION TRIALS IN PORTLAND, OREGON,  
REPORTED IN THE OREGONIAN, 1873 THROUGH 1920 (SEE CONTINUATION ON P. 16)

Year	Defendant	Type of Practitioner	Woman's Name	Woman's Age, Marital Status	Health after Procedure	Charge	Legal Outcomes	Notes
1873	C.G. Glass	Irregular	Mary E. Hardman	Nineteen, Single	Died	Manslaughter	Convicted, sentenced to five years	Oregon Supreme Court upheld the conviction. The governor pardoned Glass in 1877.
1880	Joseph A. Riddle	Unknown	Rosa Lent	Unknown age, Single	Survived	Manslaughter	Unknown	The woman testified against accused. No further reports.
1887	Mrs. James Cornwall	Irregular	Emma Crozier	Unknown age, Single	Died	Manslaughter **	Unknown	Cornwall operated a small lying-in hospital. She was arrested for giving abortifacients and jailed pending trial. No further reports.
1888	Mrs. and Mr. F.M. Murray	Irregular (Mrs.), non-practitioner (Mr.)	Mary Schueller	Unknown age, Single	Died	Both defendants sued for woman's death; uncertain of manslaughter charge	Unknown	The Murrays were sued for \$5,000 damages. No further reports.
1889	William E. Morand	M.D.	Hattie Reed	Thirty, Single	Survived	Manslaughter	Convicted at first trial, charges dismissed during second trial	Reed later withdrew charge during second trial that was allowed by the judge. Insufficient evidence also complicated the second trial.
1892	W.J. Taylor	M.D.	Rosa Steiner	Unknown age, Single	Died	Manslaughter	Unknown	The trial received a continuance. Insufficient evidence and application of law was a difficulty during the trial. No further reports.
1893	Mrs. Tomaro Vann, Charles A. Bowker	Irregular (Vann), non-practitioner (Bowker)	Henrietta Wilson	Unknown age, Single	Died	Manslaughter for both defendants	Both convicted; Vann sentenced to three years and Bowker ten years	Vann became ill in jail and died. The Oregon Supreme Court reversed Bowker conviction and a new trial was expected. No further reports.
1893	Meyer Schwartz	Irregular	Mamie Middross	Nineteen, Single	Died	Manslaughter	Acquitted	Middross was diagnosed with blood poisoning and there were indications of abortion, but insufficient evidence overall. No further reports.
1894	Mrs. E. Brunke	Irregular	Mrs. Mary Arata	Twenty-five, Married	Died	Manslaughter **	Unknown	Brunke operated a maternal care facility. The case was continued. No further reports.
1895	William Spencer	Unknown	Lucy Augustine	Unknown age, Single	Died	Unknown	Dismissed by judge	Another doctor reported abortion as the cause of the woman's death, but there was uncertain and insufficient evidence to convict.
1896	William Eisen	M.D.	Mrs. Louise Markley	Unknown age, Married	Survived	Manslaughter	Acquitted	Eisen was acquitted during his second trial. The judge did not allow submission of woman's "dying declaration" naming the abortionist because she survived. Insufficient evidence to convict.
1897	Dr. and Mrs. Palmer, Jennie Melcher	Irregular (Dr.), non-practitioner (Mrs. and Melcher)	Mary Mac Mahon	Unknown age, Single	Survived	Manslaughter for the Palmers and Melcher	All three acquitted	The abortion was possibly self-induced by Mac Mahon. Conflicting circumstances and insufficient evidence prevailed.
1906	Paul Semler	M.D.	Winifred McGrath	Fifteen, Single	Survived	Manslaughter	Uncertain outcome	Defense counsel argued that charges of abortion did not constitute a crime. Confusion about the law as well as insufficient evidence complicated the case. No further reports.
1907	Charles H.T. Atwood	M.D.	Hattie Fee	Sixteen, Single	Survived	Manslaughter	Hung jury; charges dismissed by judge	A second trial was planned, but the district attorney stated that Oregon's abortion law was insufficient for prosecution. There was also a lack of compelling evidence to proceed.

\*\* A manslaughter charge was not reported specifically, but it was the designated charge for an abortion case.

TABLE 1 (CONTINUED): ABORTION TRIALS IN PORTLAND, OREGON,  
REPORTED IN THE OREGONIAN, 1873 THROUGH 1920

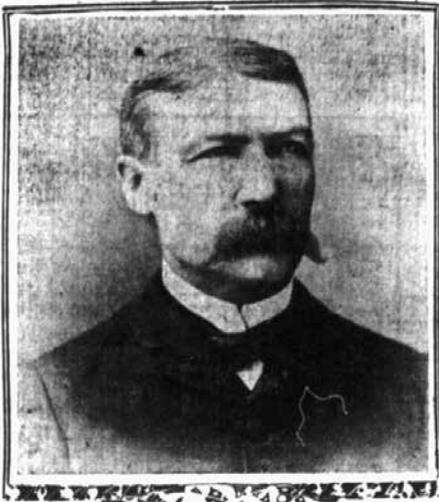
Year	Defendant	Type of Practitioner	Woman's Name	Woman's Age, Marital Status	Health after Procedure	Charge	Legal Outcomes	Notes
1907	Ernest Heymans, William Eisen, David Smith	Entrepreneur (Heymans), M.D. (Eisen), non-practitioner (Smith)	Jennie Seighers	Seventeen, Single	Survived	Contributing to delinquency of minor (Eisen and Smith)	Eisen convicted and fined \$500; Smith's charges dismissed by judge	Heymans granted immunity to testify against Eisen. The delinquency charge was in lieu of manslaughter for the abortion.
1907	J.W. Morrow	M.D.	Unknown	Unknown age, Single	Survived	Uncertain if trial proceeded	Unknown	The Oregon State Medical Board tried to revoke Morrow's medical license, but witnesses for the case disappeared. No further reports.
1908	G.B. Whitney	M.D. (dentist)	Mabel Wirtz	Twenty-one, Single	Died	Manslaughter	Convicted, sentenced to five years in prison, fined \$100, then released	Whitney was convicted for administering abortifacients to his fiancée. The Oregon Supreme Court overruled his conviction.
1908	J.S. Courtney	M.D.	Stella Bennett	Fifteen, Single	Died	Manslaughter	Judge delayed trial, uncertain if it resumed	The minor's family consented to the abortion; they respected the doctor and thought it would be a simple operation. A prime witness was missing for the case. No further reports.
1908	Ernest Heymans	Entrepreneur	Golda Rowland	Twenty-five, Single	Died	Manslaughter initially, then forgery	Acquitted of death certificate forgery	Heymans operated X-Radium Institute and was implicated in the abortion for Golda Rowland, but insufficient evidence and problems with the law complicated the trial.
1908	Charles H.T. Atwood and Charles H. Atwood	M.D. (father and son)	Mrs. Bessie Crippin	Unknown age, Married	Died	Maintaining a public nuisance	Acquitted	The abortion provider in this case was uncertain. The district attorney attempted to convict on a lesser charge related to abortion.
1908	Charles H.T. Atwood and Charles H. Atwood	M.D. (father and son)	Pearl Lamb	Unknown age, Single	Survived	Maintaining a public nuisance	Convicted; both sentenced to five months in county jail	The district attorney attempted to convict on a lesser charge related to abortion. The U.S. Supreme Court upheld the conviction.
1910	W.J. May and C.H. Francis	M.D. (May), M.D. (Francis)	Mrs. Frances Roberts	Unknown age, Married	Died	Manslaughter for both defendants	Case dismissed by judge	Roberts had been married for ten years and had an affair. The jury remained undecided after seven hours of deliberation.
1910	William Eisen	M.D.	Mrs. Anna Foleen	Unknown age, Married	Died	Manslaughter	Case dismissed by grand jury	Foleen made a dying declaration and signed it, but the grand jury still found that there was insufficient evidence to go to trial.
1910	J.J. Rosenberg	M.D.	Vera Hall	Twenty, Single	Died	Murder	Case dismissed by judge	The doctor provided anesthesia. Hall died before the abortion began, although preparations for the procedure were apparent. Uncertain of criminal intent and procedure.
1911	O.C. Liscum	Irregular	Mrs. A. Scheiderhahn	Unknown age, Married	Survived	Suspected of crime	Case presumably dismissed but not reported	Scheiderhahn refused to testify against her doctor and the case floundered with insufficient evidence. Liscum was licensed in other states as an M.D.
1911	Charles F. Candiani	M.D.	Lillian Krueger	Twenty-two, Single	Died	Manslaughter	Delayed due to illness	Candiani returned home to Italy and died before the trial could proceed.
1915	Andre A. Ausplund	M.D.	Anna Anderson	Unknown age, Single	Died	Indicted for manslaughter; one report indicated second degree murder	Convicted of manslaughter with leniency recommended by jury; sentenced to one to fifteen years	The Oregon Supreme Court upheld the conviction. The U.S. Supreme Court dismissed an appeal. Oregon's Governor pardoned Ausplund after one year in prison, and he resumed his practice.

NOTES:

1. Portland's first abortion prosecution occurred in 1873. Oregon enacted state law banning abortion in 1864.
2. Oregon law specified indeterminate one-to-fifteen year prison sentences for anyone who procured, provided, or assisted with an abortion. These acts were manslaughter offenses. A pregnant woman seeking an abortion was not charged.

3. Follow-up information about several prosecutions after initial charges could not be found in the *Oregonian*.
4. No reports of "abortion" or "criminal operations" were found in a digital search of the *Oregonian* for the periods 1864 to 1873, 1874 to 1880, 1898 to 1906, or 1916 to 1920.
5. Please see end notes for a description of research methods and limitations of this study.

## FRESH EXPOSE OF BUTCHERY



DR. WILLIAM EISEN.

### Doctor With a Record as an Offender Again Under Charges.

*Dr. William Eisen avoided conviction in two abortion trials and was implicated in the notorious X-Radium Institute scandal of 1908. His record was examined in a front-page article in the Portland Evening Telegram on November 1, 1910.*

From 1870 to 1900, irregular practitioners were more often the targets of prosecutions than regular medical doctors; seven of the twelve trials involved irregulars. The reasons for this predominance are uncertain, but prosecutors may have been influenced by medical societies that denigrated irregulars as hucksters who preyed on the public's gullibility with promises of quick and easy remedies. Prosecutors may also have believed that irregulars wielded less political power and commanded fewer financial resources to fight a prosecution. By the start of the twentieth century, however, reports of abortion trials in Portland indicate a shift from targeting alternative providers to licensed, regular physicians. From 1900 to 1920, regular doctors and one dentist were implicated in thirteen of fifteen abortion prosecutions reported in the *Oregonian*. Three doctors were involved in more than one trial. This change of emphasis appears to result from the Progressive Era's campaign conducted by the local medical society, civic leaders, and district attorneys to rid the medical profession of what they deemed rogue physicians.<sup>31</sup>

The study data indicate that single women figured in abortion trials significantly more often than married women. Twenty-one of the twenty-seven trials — 78 percent over the fifty-year period — involved single women. Reagan and other historians believe that most women who sought abortions during this period were married, but they have found that those entangled in prosecutions were more frequently single.<sup>32</sup> A partial explanation for this disparity is the likelihood that middle-class and well-to-do married women enjoyed ready and affordable access to abortions from their personal or family physicians or from others through collegial referrals for assistance. This explanation does not address the plight of poor and working-class married women who were less able to afford the professional, private care that skirted public attention. Unfor-

tunately, the trial reports do not reveal with certainty whether the married women implicated were of lower economic status; however, four of the six cases with married women targeted less-reputable providers who probably charged less than more respectable physicians.<sup>33</sup>

According to the data, prosecutors favored abortion cases that involved a woman's death. Of the twenty-seven trials, seventeen (63 percent) were conducted when the woman had died as a result of the abortion. The deaths also appeared to predict convictions. Four of the seven trials that ended with guilty verdicts in local courts (57 percent) involved a woman who had died. Prosecutors had good reason to pursue these incidents. An investigation often began with notice from a social service worker or another physician that a woman had suffered from a poorly executed abortion. In such instances, police and sometimes doctors sought from the woman a dying declaration, a signed statement in which she confirmed her pregnancy and the identity of the abortion provider. These declarations were admissible as evidence in court and, as such, greatly strengthened a prosecutor's case against a provider.<sup>34</sup> In the 1896 and 1910 abortion trials of Dr. William Eisen, however, the presence of dying declarations did not ensure conviction. In the first, the judge did not allow the statement, perhaps because the woman ultimately survived and the document carried less legal standing than if she had died. In the second, the grand jury dismissed the case for lack of sufficient evidence.<sup>35</sup>

Abortion convictions were especially difficult to obtain in Portland due to both insufficient evidence and the law's ambiguities and limits. The challenges often resulted in withdrawal of cases, dismissals by judges, or hung juries and contributed to a low conviction rate, based on reports in the *Oregonian*. Yet the outcomes of eight other trials were unreported or could not be located. Several involved continuances, witnesses who failed to appear, and possible out-of-court settlements. Guilty verdicts in any of these eight instances would increase the conviction rate.

Most criminal trials presented a complex mix of hearsay, conflicting testimony, and legal maneuvering, but abortion trials also introduced an array of factors specific to the alleged offense. An abortion prosecution was highly stigmatizing to the woman involved, suggesting unwed pregnancies or extramarital affairs. A trial thrust a fundamentally private and personal matter onto a public stage, and a woman's reputation, relationships, and, possibly, livelihood were often damaged beyond repair. Women had good reason to avoid the public shame that a trial could bring to themselves and their families. Reagan's examination of arrest records and coroner reports in Chicago during the early 1900s revealed the reluctance to endure the stigma of court appearances and testimony on the part of women, their relatives, and friends.<sup>36</sup> When the woman died, the jury typically heard only the abortion

provider's account of what had transpired. On other occasions, witnesses other than the pregnant woman feared association with the scandal of an abortion trial and never appeared in court to testify. One such incident occurred in 1908, when the Oregon State Board of Medical Examiners was forced to postpone indefinitely an attempt to revoke the license of an abortion provider when two witnesses failed to appear, even after receiving subpoenas.<sup>37</sup> Evidence sometimes was lacking simply because medical science and diagnostic technology had not yet provided the necessary understanding, skills, or instruments. Mohr observes that prosecutors often could not obtain definitive assessments from medical examiners about the viability of a fetus or, in some cases, the cause of death. He concludes that abortion cases were "essentially impossible to prove."<sup>38</sup>

#### CASE EXAMPLE: THE 1907 CHARLES H.T. ATWOOD TRIAL

In April 1907, a sensational incident of rape and abortion involving a minor revealed the difficulties of obtaining adequate evidence. The case also demonstrates how a private, social service organization could become involved with enforcement of the abortion ban.

Police arrested Dr. Charles Herbert T. Atwood for providing an abortion to Hattie Fee, a sixteen-year-old girl who did not die as a result.<sup>39</sup> Atwood was an unremarkable fifty-three-year-old, married man with three adult children who practiced from offices in the downtown Lewis Building and advertised his services in the *Oregonian*. "Dr. Atwood, female disease cases, private hospital" one of his notices read.<sup>40</sup> According to the *Oregonian*, the announcement attracted Willard B. Holdiman, a forty-year-old married man with two children, who had impregnated Fee, the daughter of his housekeeper. Holdiman allegedly arranged for Atwood to perform an abortion on Fee. When she suffered complications from the procedure, her case came to the attention of the Travelers' Aid Society, a Progressive Era organization concerned with the perceived moral dangers for young women drawn to the city. The society's director, Lola Greene Baldwin, then took charge of Fee's case.<sup>41</sup>

Gloria E. Myers recounts that Baldwin, a stalwart Progressive who would become the nation's first policewoman, hoped to develop "an elaborate institutional apparatus of social control" to counter behavior she and her allies found immoral and unsuitable.<sup>42</sup> In response to Fee's plight, Baldwin told the *Oregonian* that "the time has come when drastic measures should be used" against physicians in the abortion trade. She prepared the cases against Holdiman for statutory rape and against Atwood for abortion. Holdiman pleaded guilty to a statutory crime and was sentenced to one year in the county jail.<sup>43</sup> The *Oregonian* described the case as "the first of a crusade"

against physicians who performed criminal operations.<sup>44</sup>

At his trial, Atwood declared that Fee was not pregnant when she visited him.<sup>45</sup> Perhaps he was aware of an 1887 decision by the Oregon Supreme Court (*State v. Clements*) that declared the state, not the defendant, must prove all charges, including whether a woman had been pregnant and whether an abortion was necessary to save her life.<sup>46</sup> His denial of pregnancy may also have appealed to jurors who harbored lingering beliefs about quickening. Atwood also denied any criminal intent — an essential requirement for a conviction — and he claimed to have administered only legal medicines to Fee.<sup>47</sup> Multnomah County District Attorney John Manning built his prosecution on Fee's testimony alone. Not even the girl's mother testified, perhaps fearing that to do so against her employer would risk her livelihood. The judge cleared the courtroom before Fee "sobbed out her story" of sickness and distress after the operation while Atwood sat with one hand shadowing his eyes.<sup>48</sup> The jury stalemated after three votes, and Judge C.U. Gattenbein dismissed the jurors, acknowledging the "perplexing issues" in the case. The *Oregonian* noted the public remained interested in the case and that Manning declared he would consider a new trial, vowed to prosecute all physicians who performed abortions, and intended "to wipe out the practice." Less than a month later, however, the *Oregonian* noted that Manning and Gattenbein agreed a conviction was not possible in the Atwood case because Oregon laws were "not sufficiently specific to prove manslaughter in such a case."<sup>49</sup>

Facets of the abortion law often entangled prosecutors in legal dilemmas with no clear path to obtaining guilty verdicts. In just seven (26 percent) of



*One of several downtown buildings where physicians provided abortions, the Lewis Building at the corner of Southwest Oak Street and Fourth Avenue housed the office of Dr. Charles H. T. Atwood. He was the practitioner most frequently prosecuted during the period 1870–1920.*

the trials in the study, prosecutors and judges cited specific problems with the law, but most abortion trials were fundamentally affected by trouble with elements of the law. As prosecutors found, proving pregnancy, intent, an actual abortion, and the death of a child often posed insurmountable challenges.

The anti-abortion law of 1864 clearly stated that any person who uses any means with intent to destroy a pregnant woman's child shall be found guilty of manslaughter if the woman or child dies as a result. But the law did not define *child* or when life begins, and prosecutors often struggled to convince juries that a child's (or fetus's) death had occurred when the woman survived, when there was no proof of pregnancy, or when no aborted fetus was available as evidence.

Prosecutors were often hard-pressed to question the authority and clinical prerogatives of licensed physicians. In the 1907 Atwood trial, the doctor asserted that he administered only legal medications that the patient required, and prosecutors did not find a way to counter his professional judgment.<sup>50</sup> The following year, a dentist was found guilty of administering abortifacients to his pregnant fiancé, but the Oregon Supreme Court overruled the decision based on a faulty indictment that was insufficient to prove voluntary manslaughter and that failed to charge involuntary manslaughter.<sup>51</sup>

District attorneys in Portland sometimes sidestepped problems with the abortion law by charging suspected abortion providers with lesser crimes. C.H.T. Atwood and his physician son, known as C.H. Atwood, became targets of the strategy after reports of deaths suspected of being abortion-related at the maternity hospital they operated. In one case, a jury censured the doctors for not obtaining a dying declaration from a patient, and in another, prosecutors considered a charge of malpractice instead of manslaughter.<sup>52</sup> Others suspected of abortion work were convicted of contributing to the delinquency of a minor or of maintaining a facility deemed a public nuisance.<sup>53</sup> In 1908, members of the local medical society brought charges before the Oregon State Medical Board to revoke the licenses of two doctors for having provided criminal operations.<sup>54</sup>

#### CASE EXAMPLE: THE 1908 ERNEST HEYMANS TRIAL

Progressive leaders in Portland tackled another abortion case in 1908, but difficulties with ambiguities of the law proved as troublesome as they had in the Atwood case the year before. The case became one of the most egregious and controversial abortion incidents reported in the *Oregonian*, and the coverage documented the collaboration among Progressive politicians, prosecutors, medical leaders, and clergy in a local anti-abortion campaign.

Dr. Esther Pohl (later Pohl Lovejoy), a prominent suffragist, was appointed Portland's City Health Officer in July 1907 by the Portland Board of Health and the Democratic Mayor, Harry Lane. She shared Lane's commitment to public health reforms as integral elements of a Progressive agenda. Several months into her new position, Pohl confronted what became known as the

"Rowland scandal."<sup>55</sup> In early February 1908, Pohl reported to the Board of Health that Golda Rowland, a twenty-five-year-old school teacher living in Washington State, had died the previous September from an abortion performed at the X-Radium Institute. (Public interest in the discovery of radium and the use of x-ray technology apparently inspired the outfit's name.) Pohl also charged that the death certificate for Rowland had been altered to conceal the crime.<sup>56</sup> According to newspaper reports, Ernest Heymans, a proprietor of the institute, forged the signature of a Portland physician on the death certificate. But Heymans claimed that the doctor in question, Carey Talbott, authorized him to sign her name because she was ill. The Rowland scandal then swirled with counter charges and contradictions. Talbott adamantly denied any involvement, but Rowland's mother testified that the woman doctor had cautioned her against making a fuss that would be pointless and damaging to her daughter's reputation.<sup>57</sup> Dr. William Eisen, a physician at the X-Radium Institute, alarmed the public by claiming he knew of four murders committed on site and that "infants, prematurely born" had been "incinerated in a furnace."<sup>58</sup> Health officer Pohl expressed her dismay to the *Oregonian*: "Think of a poor, unfortunate girl, dying among a crowd of grafters, such as Heymans and his assistants!"<sup>59</sup>

The same day that Pohl reported the incident, Heymans sold his interest in the institute and fled the city. Four days later, the police closed the facility. A committee of doctors joined members of the clergy and the local bar



*Dr. Esther Pohl Lovejoy used her position as City Health Officer to support the Progressive Era's anti-abortion campaign. During what became known as the "Rowland scandal" in 1908, she objected to reportedly unhealthy conditions at a notorious abortion site and to an apparent cover-up of an illegal operation.*

## LIQUID SUNSHINE--The Most Marvelous Medical Treatment of the Age

**INDORSED BY THE MOST PROMINENT PHYSICIANS AND SURGEONS THROUGHOUT THE WORLD**

The "Elixir of Life" Now Curing Rebellious and Chronic Diseases Heretofore Pronounced Incurable--Is the New and Successful Treatment at the X-Radium Medical Institute and Sanitarium, the Largest and Most Complete Private Institute in the Northwest.

New York Press Dispatches, Dated June 15, '05, speaking of this famous treatment say: "Liquid Sunshine, as used at the X-Radium Medical Institute, of Portland, Or., is reported as being productive of almost miraculous cures."  
Chicago Press Dispatches, Dated Sept. 2, '05, say: "Liquid Sunshine is bordering close upon the miraculous and Oregon is being prominently identified with the scientific world in producing such remarkable cures as have been made of late at the Portland X-Radium Medical Institute."

Press Dispatches, dated October 1st, under Telegraphic News, say:

**NEW RHEUMATISM CURE**

After Eighteen Years' Chronic Sickness Liquid Sunshine Cures.

ST. PAUL, Minn., Sept. 30.—Darius F. Simms, a cripple for 18 years past, suffering from chronic rheumatism, who left here nine weeks since to visit the Portland Fair, accompanied by a nurse and crutches, returned here last evening with the cure, but minus crutches. He is full of enthusiasm at his remarkable recovery. Eighteen years ago he was taken down with inflammatory rheumatism, which left him a cripple, his condition getting worse each year. On his arrival at Portland, Or., he says, he placed himself in the care of the X-Radium Medical Institute physicians and was treated for seven weeks with the new elixir of life, "Liquid Sunshine" which has effected a complete cure. The local physicians who have treated Mr. Simms for the past 15 years are themselves astonished at his marvelous cure. Other invalids here are preparing to leave for the Portland X-Radium Medical Institute.



**"LIQUID SUNSHINE"**

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The X-Radium Medical Institute is indorsed, patronized and the only institute recognized by the medical profession and hospital clinics throughout the Pacific Northwest for the treatment and cure of CANCER, TUMORS, CONSUMPTION, STOMACH, LIVER, BLOOD POISONING, RHEUMATISM, PARALYSIS, FEMALE TROUBLES, CATARRH, ULCERS, LUMPS, DEAFNESS, ASTHMA, LOCOMOTOR ATAXIA, NERVOUS DISORDERS, RUPTURE, PILES, FISTULA, RECTAL DISEASES, BLINDNESS, KIDNEY AND KIDNEED DISORDERS.

No Mistake Are Made in Diagnosing Your Case and dragging you for months without knowing what ails you. The Liquid Sunshine Ray looks clear through your body and at once locates the cause.

American, German, French and Scandinavian Specialists in attendance. Consultation free; treatment within the reach of all. Correspondence solicited. Strictly confidential. Send for symptom blank covering our home treatment.

By this new and superior method of treatment at the X-Radium Institute, this elixir of life, just discovered, gives vigor to the whole system, creates new energy, strengthens the nerves, makes new blood, bright eyes, a clear brain, restores the healthy complexion of youth, and makes life worth living.

Ladies will find a boon in Liquid Sunshine. It fills out hollow cheeks, restores the curves of beauty to the serenity neck and shrunk bust. It makes women healthy, beautiful and able to be a wife and mother as well as the joy of her family.

Pony Girls and Sick Children Are Given New Life and Growth.

FOR OVERWORKED MEN, suffers from nervous prostration, or people approaching old age, there is nothing that will benefit them so surely, so quickly, or so permanently as Liquid Sunshine.

The X-Radium Medical Institute and Sanitarium is Now Located in its Magnificent New Building, Third and Alder Sts. It Offers to Those Seeking the Highest-Class Medical or Surgical Attendance an Elegant and Refined Home for Sick or Convalescent. Maternity Cases Given Special Attention. Professional Lady Nurses in attendance.

Hundreds of Testimonials and Glor-Edge City References at Office.

### X-RADIUM MEDICAL INSTITUTE AND SANITARIUM

Office Hours--9 A. M. to 12 M. 1:30 to 5 P. M.  
Evenings 7 to 9 P. M.  
Sundays 11 A. M. to 2 P. M.  
X-Radium Building, 3d and Alder, Entrance 253 Alder  
Portland, Oregon  
Telephone Main 2796

With a name that reads today like a hangout for a Spider-Man villain, the X-Radium Institute purported to be a clinic for advanced medical care. Located at Third and Alder streets in downtown Portland, the operation touted elixirs to treat sexually transmitted diseases and suggested women would receive assistance with ending pregnancies. This ad appeared in the Oregonian on October 15, 1905.

association to rid the city of criminal operations.<sup>60</sup> Ministers railed against the circumstances of the case. Dr. J. Whitcomb Brouger, the prominent pastor of the First Baptist Church, spoke of the Rowland "murder" before an overflow audience at a downtown auditorium. He suggested that society made it difficult for "erring" women to return to "rectitude." Many, he declared, might feel driven to death rather than endure the disgrace of their condition. Brouger characterized the state of affairs around Rowland's case as "simply horrible" and tried to rally "moral people" to undertake the disagreeable task of ridding the city of abortion providers, who he called a "generation of vipers."<sup>61</sup>

Several months later, in late July 1909, Heymans was arrested in Seattle and then tried in Portland for the lesser charge of forging the Rowland death

certificate. A jury acquitted him.<sup>62</sup> When the Medical Examiners Board revoked Dr. Eisen's license due to his involvement in the case, the Oregon Supreme Court overruled the decision, citing insufficient proof that Heymans intended to end a life.<sup>63</sup>

Manning vented to the *Oregonian* his immense frustration with what he considered the ambiguities of the abortion law. "I have been through the courts many times in these cases and have never been able to score a conviction, much as the courts and I have tried." He complained that Oregon had a statute against manslaughter, not abortion. "But manslaughter is the taking of life," he said. "Life must be present before it can be destroyed. In nearly every case of abortion there is no taking of life, according to the legal and medical authorities."<sup>64</sup> Several months after the Rowland scandal played out, the Multnomah County Grand Jury essentially agreed with Manning.

MARGIN RESERVED FOR BINDING

WRITE PLAINLY WITH UNFADING INK--THIS IS A PERMANENT RECORD

N. B.--Every item of information should be carefully supplied. AGE should be stated EXACTLY. PHYSICIANS should state CAUSE OF DEATH in plain terms, that it may be properly classified. The "Special Information" for persons dying away from home should be given in every instance.

PLACE OF DEATH		CENSUS OFFICE	
County of <u>Multnomah</u>		STANDARD CERTIFICATE OF DEATH	
Township of _____		PORTLAND, OREGON	
Village of _____		Registered No. <u>124</u>	
City of <u>Portland</u>		No. <u>1577 Macadam</u> St.;	Ward _____
(If death occurs away from USUAL RESIDENCE give facts called for under "Special Information")		FULL NAME <u>Golda W. Rowland</u>	
PERSONAL AND STATISTICAL PARTICULARS		MEDICAL CERTIFICATE OF DEATH	
SEX <u>Female</u>	COLOR <u>White</u>	DATE OF DEATH <u>Sept 26</u> 190 <u>7</u>	
DATE OF BIRTH <u>January 27</u> 188 <u>2</u>		(Month) _____ (Day) _____ (Year) _____	
AGE <u>25</u> years, <u>8</u> months, <u>5</u> days		I HEREBY CERTIFY That I attended deceased from <u>Sept. 21</u> 190 <u>7</u> to <u>Sept. 26</u> 190 <u>7</u>	
SINGLE, MARRIED, WIDOWED, OR DIVORCED <u>Single</u>		that I last saw her alive on <u>Sept 26</u> 190 <u>7</u>	
BIRTHPLACE (State or country) <u>Indiana</u>		and that death occurred, on the date stated above.	
NAME OF FATHER <u>Marquis L Rowland</u>		M. THE CAUSE OF DEATH was as follows:	
BIRTHPLACE OF FATHER (State or country) <u>New Jersey</u>		<u>Septic. Ind. - Corditate</u>	
MAIDEN NAME OF MOTHER <u>Catherine Bright</u>		(duration) _____ days	
BIRTHPLACE OF MOTHER (State or country) <u>Ohio</u>		Contributory _____	
OCCUPATION <u>School Teacher</u>		(Signed) <u>Cora J. J. J. J.</u> M. D.	
THE ABOVE STATED PERSONAL PARTICULARS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF (Invoicant) <u>Mother</u>		190__ (Address) _____	
(Address) <u>1577 Macadam St. Cl.</u>		SPECIAL INFORMATION only for Hospitals, Institutions, Transients, or Recent Residents	
File # <u>127</u> 190 <u>7</u>		Former or Usual Residence _____ How long at _____ Days	
Registrar <u>M. J. Moore</u>		Where was disease contracted if not at Place of death? _____	
Register		PLACE OF BURIAL OR REMOVAL <u>Beverly Cem</u>	
Register		DATE OF BURIAL <u>Sept 28</u> 190 <u>7</u>	
Register		UNDERTAKER <u>J. P. Finley &amp; Son</u>	
Register		ADDRESS _____	

FACSIMILE OF DEATH WARRANT TO WHICH ERNEST HEYMANS FORGED DR. CAREY TALBOT'S NAME.

Golda W. Rowland, a twenty-five-year-old schoolteacher, died from an abortion conducted at the X-Radium Institute in downtown Portland. Her death and the trial that followed triggered sensational newspaper coverage at the peak of the *Progressive Era's* campaign against abortion. On February 8, 1908, the *Oregonian* published a copy of Rowland's death certificate.

In an official report, the panel recognized that abortions had become “an established industry” in Portland and that a “new and more forceful law” was needed because “the present law is of little or no effect.”<sup>65</sup> Whether a more restrictive and punitive ban would have made a difference in ending abortions or increasing the conviction rate is not known, because the state never enacted a more restrictive law.

WITH THE MANY OBSTACLES to successful prosecutions, Portland authorities obtained guilty verdicts in just seven of the twenty-seven trials, for an overall 30 percent conviction rate. Prosecutors in the 1870–1900 period achieved convictions in three of twelve trials (25 percent) compared to the four convictions in fifteen trials (27 percent) during the years 1900 to 1920.<sup>66</sup> The increase in the latter period probably reflects the vigilance of Progressives and the determination of Manning, who served as district attorney from 1902 to 1908, when nine abortion-related trials were prosecuted.<sup>67</sup> Portland’s experience was not much different from that of other jurisdictions. Reagan observes that Chicago sometimes obtained only one or two convictions a year, and in one ten-year period, that city’s conviction rate was less than 25 percent.<sup>68</sup>

Given the repeated entreaties by the district attorney and the medical society, most Portland physicians apparently resisted demands from legal and medical leaders to assist with enforcement of the state’s abortion law. During the early 1900s, the *Oregonian* gave extensive coverage to alleged abortion offenses and allowed parties to the acts to make unsubstantiated, scandalous claims. With convictions difficult to obtain even in high-profile trials, one Portland prosecutor, Manning, vented his frustration at regular physicians and the local medical society. His sentiments echoed the discontent of prosecutors in other cities who also demanded collaboration from physicians. They wanted doctors to identify abortion providers, report indications of abortions, obtain dying declarations, and testify at trials. After the Atwood trial in 1907, Manning placed local doctors and the City and County Medical Society on notice: “I shall when the proper time comes, call upon the society to produce all the evidence its members have.”<sup>69</sup> Anything less, he implied, would be tantamount to hindering prosecutions.

Local medical society leaders needed little prodding; they were already engaged in a public dispute with the AMA over Oregon’s quality of medical education and the state’s medical profession overall, and they wanted no further damage to doctors’ reputations.<sup>70</sup> Dr. Alan Welch Smith, secretary of the society, urged members at a May 1907 meeting to identify and help prosecute practitioners among their ranks and to “stamp out this blot on the medical profession.” He complained of the “clique of doctors” who dared

to advertise their “unholy vocation” and then boasted of the money they pocketed.<sup>71</sup> Another doctor, C.N. Suttner, expressed disgust for the situation in an article for *Northwest Medicine*, a medical journal. He wondered if his law-abiding colleagues would ever have the courage to banish abortion providers from their medical societies, shun them from their homes, and refuse to defend them before a court of law.<sup>72</sup>

The doctors who attended the May 1907 session agreed that abortion had become so rampant in the city that drastic measures were necessary, and the *Oregonian* reported that every member of the medical society had pledged to assist with securing evidence against abortion providers. A few doctors testified at abortion trials, including the prosecution of Dr. Atwood. The physicians continued their efforts into the following year, and in February 1908, society members agreed on an informal collaboration between their “abortion committee” and legal authorities that was similar to arrangements developed in Chicago, Philadelphia, and other cities.<sup>73</sup>

Despite these cases of collaboration, the repeated requests and demands for doctors’ help suggest that cooperation was limited and that most doctors were unwilling to help bring charges against their colleagues or risk involvement at any level in a public abortion case. The AMA’s early anti-abortion efforts had empowered the state to control women’s reproductive lives, but individual doctors apparently did not expect the state to place demands or attempt to exert control of them as well. The *Oregonian* reported that these “legitimate practitioners” had known for some time that at least a dozen physicians performed abor-

**Medical.**

**DR. GLASS' ECLECTIC DISPENSARY,**  
Cor. B & First Sts., Portland, Oregon.

TREATMENT GIVEN WITHOUT THE USE OF Mercury to all Diseases to which the human family is subject. Those who are suffering from Stricture operated on and a Cure Guaranteed.

All other Private Diseases, such as Gonorrhoea, Spermatorrhoea, Impotence, and Syphilis, in all its stages, can be Cured by calling at the Dispensary.

Persons living at a distance, and wishing to consult the Doctor, can get advice by stating their symptoms as near as possible by letter.

**TO FEMALES**  
Who are suffering from Weakness, General Debility, Sterility and all other functional diseases, relief can be given, and in most all cases a Cure Warranted.

**THE REGULATORS.**  
These celebrated Pills, to regulate Suppressed Menstruation, sent free by mail to any address on receipt of \$5 per box. Females who are troubled with the above malady can find sure relief. Address

**DR. C. G. GLASS,**  
Corner of B and First streets, Portland, Oregon.  
OFFICE HOURS—From 11 A. M. to 4 P. M. and from 7 to 9 P. M. j:8dlm

*Oregon's first reported abortion trial led to the conviction of the proprietor of this operation that touted herbal remedies for an assortment of maladies. This advertisement, published in the Oregonian on September 1, 1873, targeted men with "secret habits" and women in need of "Female Regulator Pills." A nineteen-year-old woman died from an abortion procured at this facility in 1873.*



*Edward Stewart and Maude Van Alstyne, both licensed doctors, maintained full-time abortion practices in the Broadway Building at 715 Southwest Morrison Street. Stewart's operation commanded the full eighth floor. Ruth Barnett, a naturopath, later expanded her abortion services with the purchase of Van Alstyne's and Stewart's practices.*

ing physician before the woman died. Reporting the incident as required could bring the suspicions of the coroner or prosecutor. Obtaining dying declarations provided some protection, but that strategy proved contentious as well. One of the few outspoken advocates for legal abortion, Dr. William Robinson of New York, objected to distressing a patient over a dying declaration: "The business of the doctor is to relieve pain, cure disease and save life," "not to act as a bloodhound [for] the state."<sup>76</sup>

No reports in the *Oregonian* during this fifty-year period describe the medical practices, professional lives, or personal motivations of abortion providers who avoided indictments and trials. Nevertheless, those

tions in the city. Smith of the medical society conceded the point and admitted that an earlier lack of vigilance in purging abortion providers from the profession had led to the distressing circumstances before them.<sup>74</sup> The demands on doctors ignored that many physicians, as Solinger notes, "treat[ed] their work as a private business" and valued their clinical and financial independence.<sup>75</sup>

The matter of collaboration by individual physicians was more complicated than it might appear. Doctors who had no direct role in an abortion often risked their reputations when they became implicated as medical experts or as autopsy assistants in a trial. Likewise, providing medical care to a woman suffering from a botched abortion could also mean becoming the last attend-

unprosecuted individuals reveal another part of the city's experience with enforcement of the abortion ban.

Ruth Barnett, a naturopath and abortion assistant, identified several regular, licensed physicians who practiced during this study period and avoided legal troubles for their abortion work in Portland.<sup>77</sup> She published her recollections in her later years and, as a well-known abortion provider at the time, had reason to portray her colleagues in a positive light. Her accounts suggest she held them in high regard. Given the few trials and convictions during this period, the physicians assumed low legal risk and provided the service for professional and personal reasons. Barnett disclosed that she had obtained an abortion from Dr. George Watts, a "highly skilled physician and surgeon" who had shifted his general practice to offer full-time abortion assistance to "woebe-gone women."<sup>78</sup> Barnett then described Dr. Edward Stewart as a cosmopolitan provider with a flourishing practice that occupied the eighth floor of the modern, elegant Broadway Building downtown. He also switched his practice to specialize in abortions, and his swank location probably increased his appeal to middle-class and wealthy patients. Stewart dismissed others' concerns about abortion, according to Barnett, and declared what was important to him was "the appreciation of the hundreds of women I've helped — yes!, and that of their husbands and lovers."<sup>79</sup> Two women abortion providers also became associates of Barnett. Dr. Maude K. Van Alstyne of Grants Pass, Oregon, graduated in 1902 from the University of Oregon Medical Department (UOMD) and maintained a suite of offices in the Broadway Building. Dr. Alys Bixby Griff also completed her UOMD studies in 1902. She established a practice for the diseases of women and maintained it until the increasing demand for abortions prompted her to



*Dr. Alys Bixby Griff established a general practice serving women and children in Portland in 1902, but she shifted to full-time abortion work when the demand became so apparent. With her medical skill and professional discretion, she avoided arrest and prosecution.*



*Portland labor activist Julia Ruuttila, pictured here in the 1940s, knew Dr. Marie Equi for decades, and she confirmed that Equi helped women end their pregnancies. She thought Equi believed women “should have the right of choice and should not be forced to bear a child.”*

Equi witnessed the death of three of them during childhood. She was an eager student, but she was forced to leave her high school studies to work in the city’s gritty textile mills. She managed to escape with a girlfriend to an Oregon homestead, and there she first became known for seeking the intimate company of women exclusively — a lesbian before the term was used.<sup>82</sup>

Equi self-studied her way into medical school and graduated in 1903 as one of Oregon’s early woman physicians. She became a local hero for her relief work after the San Francisco earthquake and fire.<sup>83</sup> She aligned

the newspaper reports of outfits such as the X-Radium Institute, presenting a fuller picture of abortion services during the fifty-year study period.

Dr. Marie Equi stands out among the abortion-providing physicians of her time for offering the service as part of a larger medical and political commitment to women’s reproductive rights. According to her contemporaries, she performed abortions for a wide range of clients, including regular patients, poor and working-class immigrant women, political activists, and the wealthy women referred to her. One of her radical colleagues recalled: “She did most of it for nothing . . . cuz working-class women needed it,” adding: “If they could, they paid, if not, not.”<sup>81</sup> Equi brought to her medical practice a fierce independence as a woman often regarded an outsider. She spent her youth in New Bedford, Massachusetts, as the daughter of Catholic, working-class, immigrant parents, and she understood the difficulties for families at a time when birth control was forbidden. Her mother gave birth to eleven children in sixteen years, and

herself first with Progressives and worked for woman suffrage and civic reforms before becoming radicalized after rough treatment by police during a labor dispute in 1913. She made abortion and birth-control services part of her medical practice, and she was an active member and supporter of the Portland Birth Control League. In 1916, she spent a night in jail with Margaret Sanger, both charged with distributing birth control information.<sup>84</sup> Equi is not known for publicly protesting against the abortion law as she did criminalization of birth control, but her commitment to full patient services and her life as an outsider led her to disregard the demands of prosecutors and medical leaders. Treated as disreputable by many for her lesbianism and her radical politics, Equi sided with women considered morally irresponsible for seeking abortions.<sup>85</sup>

Radical activist Julia Ruuttila, a younger contemporary, thought Equi performed abortions because “she believed that women should have the right of choice and should not be forced to bear a child . . . if they didn’t want that child or couldn’t take care of it.”<sup>86</sup> Portland physician Jessie Laird Brodie, who started her practice in the 1920s, noted that she and other doctors refused to risk performing abortions. Those doctors who did offer the service did so, she said, because “they felt so strongly about it and I think Marie Equi was one of that type.”<sup>87</sup>

THE AMA’S ANTI-ABORTION campaign succeeded in criminalizing the procedure nationwide, an achievement that aided its efforts to diminish the role of midwives and push irregular and alternative practitioners to the periphery of health care. As a result, regular physicians increased their dominance of the nation’s medical marketplace and were well positioned



*Dr. Marie Equi is not known to have protested against the anti-abortion law in Oregon, but her own background combined with the disrespect she encountered for her radical politics and lesbianism led her to stand with women considered morally irresponsible for seeking abortions.*

to enhance their status once scientific and technological advances increased their ability to treat infectious diseases.<sup>88</sup>

The abortion ban also produced unanticipated consequences. Prosecutors found the law extremely difficult to enforce, and their best efforts yielded low conviction rates. And, according to physician observers, women sought abortions no matter how the bans were drafted or revised. For their part, physicians discovered that the willingness of the state to regulate women's reproductive choices might also extend to how they conducted their medical practices. Doctors in Portland and elsewhere proved reluctant to help the state enforce the law. Mohr notes that in the Midwest and on the East Coast, many physicians believed their professional goals for the abortion ban had been met by the 1890s, and they felt less motivated to engage in enforcement.<sup>89</sup> In 1908, the first chair of the abortion committee of the Chicago Medical Society, according to Reagan, concluded that "the public does not want, the profession does not want, the women in particular do not want any aggressive campaign against the crime of abortion."<sup>90</sup> Four years later, another member of the same group remarked that the coroner and prosecutors stood convinced that "the profession of Chicago and [of] the Chicago Medical Society is apathetic in the extreme, in matters relating to criminal abortion."<sup>91</sup>

How much physicians in Portland and elsewhere in the West shared this lack of desire for anti-abortion legislation and the apathy for enforcement is uncertain. They may have prized their independence and clinical prerogatives over helping enforce prohibitions on private decisions. Many Portland physicians enabled the practice of abortion by providing post-abortion medical care, by invoking the therapeutic exception and helping end pregnancies, by referring patients to willing physicians, and by not reporting their colleagues.<sup>92</sup> Reports suggest that more than a dozen Portland physicians skirted the law to help women end their pregnancies during this fifty-year time frame.<sup>93</sup> Many of those practitioners combined surgical skill and discrete service to attract sizeable numbers of clients from all backgrounds, although poor and working-class women were probably hard-pressed to afford their assistance. At least one, Equi, was known to provide abortions regardless of whether a woman could afford her care. She also achieved distinction for distributing birth control information at a time when doing so was illegal.

The first fifty years of attempted enforcement of the abortion ban in Portland became mired in legal, medical, and sometimes political quandaries that challenged and frustrated city and county officials, the medical establishment, and individual physicians. One civic body in 1908 suggested the state abortion law should be revised with "more forceful" provisions to address these difficulties.<sup>94</sup> The recommendation was not pursued. Instead, at the conclusion of the next fifty-year period, in 1969, Oregon adopted a more

liberal abortion law following the Model Penal Code proposed by the American Law Institute. The new law legalized abortion in cases of rape, incest, or when the pregnancy would damage a woman's physical or mental health.<sup>95</sup>

Oregon's revision of its abortion ban held until the U.S. Supreme Court's landmark *Roe v. Wade* ruling on January 22, 1973, which decriminalized abortion throughout the United States. In the seven-to-two decision, the court declared the right of privacy included "a woman's decision whether or not to terminate her pregnancy."<sup>96</sup> Abortions became legal throughout a woman's pregnancy, although states were allowed to set conditions during the second trimester and possibly prohibit abortions during the third trimester except when the life or health of the woman was at risk. The era of illegal abortions ended, and, as historian Reagan notes, "for the first time, the state recognized women's role and rights in reproductive policy."<sup>97</sup> The *Oregonian* carried the abortion story the following day in the middle of page one in its morning edition, but the news was overshadowed by reports of former president Lyndon B. Johnson's death.<sup>98</sup> Embedded on page thirty-seven ran an advertisement: "BIRTHRIGHT, Untimely pregnancy? Is abortion the solution? Call if you desire professional help or advice."<sup>99</sup>

The early history of Portland's abortion trials reflects the difficulty with enforcement since the enactment of the ban, and it foreshadows the abortion policy conflicts of the mid nineteenth century as well as many today. This analysis of the city's experience also highlights the nuanced and disparate reactions of physicians who found themselves on the front lines of abortion services, policies, and enforcement.

Much of the early history of reproductive rights in the Pacific Northwest — and women's roles in the efforts — remains unexamined. It can be argued, however, that an understanding of the conflicts over reproductive policy are as important to women's and the nation's history as the struggle to achieve woman suffrage and other rights of citizenship. Both arenas deserve further analysis. The data source examined in this study yielded several accounts of women's involvement with abortion issues. Women such as Mary Hardman, Hattie Fee, and Golda Rowland, who defied the ban, officials and advocates such as Lola Baldwin and Dr. Esther Pohl, who supported protection of women and enforcement, and physicians such as Alys Griff and Marie Equi, who assumed professional risks by providing abortions — all contributed to the ebb and flow of an issue that has roiled the body politic for more than 150 years. Other data sources — municipal and district court records, arrest and jail records, public documents, additional periodicals, private collections, and medical reports — await the examination that can broaden and deepen our understanding of abortion and women's reproductive rights in the Pacific Northwest.

## NOTES

A digital version of the *Oregonian* served as primary data source for this study. Searches for *abortion* and *criminal operation* from 1864 to 1920 yielded accounts of arrests, investigations, and prosecutions. Incidents occurring outside Portland were excluded from the analysis. When an accused practitioner was identified, an additional search by surname was conducted to obtain additional information, such as trial outcomes. Decisions by the Oregon Supreme Court and the U.S. Supreme Court, some of which are available online, revealed the outcomes of appeals as well as clarifications of the abortion law.

The *Oregonian* mostly offered straightforward accounts of the trials, exercising the restraint that Peter Boag notes in its coverage of anti-vice campaigns and the 1912 same-sex scandal (Peter Boag, *Same-Sex Affairs, Constructing and Controlling Homosexuality in the Pacific Northwest*, Berkeley: University of California Press, 2003, 161). Only during the most controversial cases in the 1900s did the paper appear to stoke as well as report public concern.

A few abortion prosecutions in Portland during this period may not have been reported in the newspaper, and a number of arrests and investigations may have been missed. The newspaper occasionally employed euphemisms for abortion — for example, “for reasons growing out of their intimacy” and “preventing possible working out of the laws of nature” — that eluded searches and were found in full page-by-page readings.

This study did not include reports of trials that may have appeared in non-digitized and less-accessible Portland newspapers, and it did not examine court records. The newspaper coverage cited here failed to examine the national ban on distribution of birth control information as an underlying cause of unplanned pregnancies.

The author appreciates the assistance of several colleagues who helped guide this project, especially the participants at the 2014

Pacific Northwest History Conference, where an earlier version of this study was presented. Thanks also to the anonymous manuscript readers and to Eliza Canty-Jones, editor; Erin Brasell, assistant editor; and Rose Tucker Fellow Melissa Lang of the *Oregon Historical Quarterly* for their excellent support and insight. Dale Danley’s data-driven perspective proved invaluable.

1. “Found Guilty: Concluding Testimony in the Trial of Dr. C.G. Glass – Argument of Counsel.” *Oregonian*, November 17, 1873, 4. Note: C.G. Glass employed the term “Doctor” but there is no evidence of his having obtained a medical degree

2. “1873, Principal Events of the Year,” *Oregonian*, January 1, 1874, 3.

3. “True Bill Found,” *Oregonian*, November 7, 1873, 3; “Oregon,” *Los Angeles Daily Herald*, November 19, 1873, Image 2, <http://chroniclingamerica.loc.gov/lccn/sn84038806/1873-11-19/ed-1/seq-2/> (accessed January 7, 2015). In a separate trial outside Portland, Menly was charged with arranging for the abortion. His acquittal became a factor in Glass’s later receiving executive clemency from Oregon’s governor. “Set for Thursday,” *Oregonian*, November 11, 1873, 3.

4. “The Eclectic Dispensary,” (advertisement) *Oregonian*, October 25, 1873, 4.

5. “Tried for Manslaughter,” *Oregonian*, November 14, 1873, 3.

6. Ibid. “The Noble Representative Woman from Oregon, Dr. Mary Anna Cooke Thompson,” *Oregon Historical Quarterly* 108:3 (Fall 2012): 411. Thompson (1825–1919) lacked a medical degree but had undertaken ten years of medical study and started a medical practice with the guidance of two physicians before settling in Portland.

7. “Tried for Manslaughter: The Trial of Dr. C.G. Glass for the Crime of Manslaughter,” *Oregonian*, November 14, 1873, 3; “Found Guilty,” *Oregonian*, November 17, 1873, 4.

8. Ruth Barnett, *They Weep On My Doorstep* (Beaverton, Ore.: Halo Publishers,

1969); Rickie Solinger, *The Abortionist, A Woman Against the Law* (Oakland: University of California Press, 1996); Nancy Krieger, “Queen of the Bolsheviks, The Hidden History of Dr. Marie Equi,” *Radical America*, 17:5 (1983); Sandy Polishuk, “The Radicalization of Marie Equi,” unpublished manuscript, Oregon Research Library, Oregon Historical Society, 1971 Sandy Polishuk, *Sticking to the Union, An Oral History of the Life and Times of Julia Ruuttila* (New York: Palgrave Macmillan, 2003).

9. Gloria E. Myers, *A Municipal Mother: Portland’s Lola Greene Baldwin, America’s First Policewoman* (Corvallis: Oregon State University Press, 1995); Sadie Anne Adams, “‘We Were Privileged in Oregon’: Jessie Laird Brodie and Reproductive Politics, Locally and Transnationally, 1915–1975,” (M.A. thesis, Portland State University, 2012).

10. Oregon Statutes, chapter 3, section 13 (1854); *Journal of the Council of the Legislative Assembly of the Territory of Oregon . . . Begun and Held at Salem, 5th of December, 1853* (Salem, 1854), cited in James C. Mohr, *Abortion in America, The Origins and Evolution of National Policy* (New York: Oxford University Press, 1978), 138 n48; James Witherspoon, “Re-Examining Roe: Nineteenth-Century Abortion Statutes and the Fourteenth Amendment,” *St. Mary’s Law Journal* 17:29, 32–34. Witherspoon documents 18 states with abortion laws by 1850, and Mohr lists 4 territories with anti-abortion laws by 1854.

11. Linda Gordon, *The Moral Property of Women, A History of Birth Control Politics in America* (Urbana: University of Illinois Press, 2007), 24–34; Leslie J. Reagan, *When Abortion Was a Crime, Women, Medicine, and Law in the United States, 1867–1973* (Berkeley: University of California Press, 1997), 8–18, 80–112.

12. Quotation from Horatio R. Storer, *Why Not? A Book for Every Woman* (Boston: Lee and Shepard, 1868) as cited by Reagan, *When Abortion Was a Crime*, 11 n34.

13. Mohr, *Abortion in America*, vii, 229–30; Gordon, *The Moral Property of Women*, 24–34; Reagan, *When Abortion Was a Crime*, 8–18, 80–112.

14. Janet Farrell Brodie, *Contraception and Abortion in 19th-Century America* (Ithaca: Cornell University Press, 1994), 253–58; Mohr, *Abortion in America*, 3. On quickening, see Gordon, *The Moral Property*, 26; Reagan, *When Abortion Was a Crime*, 25–26, 82–85.

15. Witherspoon, “Re-examining Roe,” 45 n49; Mohr, *Abortion in America*; Reagan, *When Abortion Was a Crime*, 61–64.

16. *Journal of Proceedings of the House of the Legislative Assembly, 1864* (Portland, 1864); and *Journal of Proceedings of the Senate of the Legislative Assembly of Oregon, 1864* (Portland, 1864).

17. Mohr, *Abortion in America*, 119–46, 200–25, 293.

18. Edwin G. Burrows, *Gotham: A History of New York City to 1898* (New York: Oxford University Press, 2000), 1016; Rickie Solinger, *Pregnancy and Power, A Short History of Reproductive Politics in America* (New York: New York University Press, 2005), 76, n49.

19. Reagan, *When Abortion Was a Crime*, 80. The observation was made by Dr. Joseph Taber Johnson before the Washington, D.C., Obstetrical and Gynecological Society on June 7, 1895. Johnson helped lead a second anti-abortion crusade once abortion became illegal in all the states.

20. For example, “Mortality Statistics, 1906, Seventh Annual Report,” U.S. Bureau of the Census, [http://www.cdc.gov/nchs/data/vsushistorical/mortstatsh\\_1906.pdf](http://www.cdc.gov/nchs/data/vsushistorical/mortstatsh_1906.pdf) (accessed January 7, 2015).

21. Barnett, *They Weep On My Doorstep*, 8–15, 20–29, 36. Barnett identified Drs. Albert Littlefield, George Watts, Edward Stuart, Maude K. Van Alstyne, and Alys Bixby Griff as well as Dr. Marie Equi, who kept her general practice but provided abortions.

22. “Atwoods in Jail,” *Oregonian*, October 30, 1908, 12.

23. Reagan, *When Abortion Was a Crime*, 116–17; Portland and Chicago 1910 population figures: <https://www.census.gov/population/www/documentation/twps0027/tab14.txt> (accessed January 7, 2015).

24. Reagan, *When Abortion Was a Crime*, 114–18. The scope of this study is an ex-

amination of one primary source of data to document and better understand Portland's enforcement of the state abortion ban specifically through prosecution of providers. A broader study might assess other facets of the "investigative process" over a fifty-year or more period through other sources. These might include arrest and jail records, county court records, appellate court records, official reports by enforcement personnel, other private and public documents, and coverage in other newspapers. It is possible that the number of abortion prosecutions was greater than those reported by the *Oregonian*. Vagaries in the newspaper business may have led to an incomplete accounting of all prosecutions. Also, the *Oregonian* did not appear to limit its coverage to the most controversial abortion cases.

25. Myers, *A Municipal Mother*, 3, 75–90, 91–107.

26. Reagan, *When Abortion Was a Crime*, 80–112.

27. *Ibid.*, 89–90.

28. *Ibid.*, 110.

29. *Ibid.*, 110–12. The Sheppard-Towner Act was enacted in 1921 to provide federal funds for pre-natal and child health care centers. Many AMA members regarded the act as government intrusion in the practice and finances of medicine.

30. Mohr, *Abortion in America*, 242–45.

31. "The Quacks and Fake Doctors of Portland," *Medical Notes, Northwest Medicine*, April 1908, 155; Alan Welch Smith M.D., "Practical Methods of Dealing with Quacks and Quackery," *Northwest Medicine*, July 1908, 300–307; "Drive Out Quacks, Committee Declares War on Illicit Practitioners," *Oregonian*, February 16, 1908, 8; "Swoop by Officials Bags 11 Doctors," *Oregonian*, September 10, 1911, 10.

32. Reagan, *When Abortion Was a Crime*, 116–17; Mohr, *Abortion in America*, 242.

33. Of the six trials that involved married women, one in 1894 implicated a small-time, irregular female provider, two dealt with the notorious Dr. William Eisen (in 1896 and in 1910), and one with the frequently indicted

Dr. C.H.T. Atwood (1908). See Table 1.

34. Reagan, *When Abortion Was a Crime*, 113–31. Reagan examines the full investigative process that often led to trials in Chicago.

35. "Dr. Eisen's Case," *Oregonian*, September 30, 1896, 10; "Ten Men Are Indicted," *Oregonian*, December 4, 1910, 14; Reagan, *When Abortion Was A Crime*, 118–19.

36. Reagan, *When Abortion Was A Crime*, 124–29.

37. "Fails to Revoke Morrow's License," *Oregonian*, July 23, 1908, 11.

38. Mohr, *Abortion in America*, 72. The outcomes of many of the indictments and trials were inconclusive or were not reported.

39. "Dr. Atwood Is Arrested," *Oregonian*, April 8, 1907, 14. "Accused of Criminal Operation," *Oregonian*, February 24, 1906, 11.

40. Federal Census, Year: 1900, Census Place: Eugene, Lane, Oregon; Roll: T623\_1349; Page: 15A, Enumeration District: 34; Advertisement, *Oregonian*, August 21, 1906, 13.

41. "Will Drive Out Criminal Doctors," *Portland Evening Telegram*, May 16, 1907, 12; "Dr. Atwood Is Arrested," *Oregonian*, April 8, 1907, 14. "Sick Juror Delays Atwood Hearing," *Oregon Daily Journal*, May 16, 1907, 3.

42. Myers, *A Municipal Mother*, 2–3, 75–90.

43. "Dr. Atwood Is Arrested," *Oregonian*, April 8, 1907, 14; "Holdiman to Serve a Year," *Oregonian*, June 16, 1907, 15. Leniency was granted to Holdiman at the request of his attorney and with the concurrence of the District Attorney.

44. Myers, *A Municipal Mother*, 8–24. Baldwin's work led to the establishment of a women's protective unit in the police department in 1908 with Baldwin as director. "Accused of Criminal Operation," *Oregonian*, February 24, 1906, 11.

45. "Doctor Is Out on Bond," *Oregonian*, April 13, 1907, 11.

46. *State v. Clements*, 15 Or. 247, 14 Pac. 410 (date), "The Codes and Statutes of Oregon: Showing All Laws of a General Nature, Including the Session Laws of 1901," Charles B. Bellinger and William W. Cotton

(San Francisco: Bancroft Whitney Company, 1902).

47. "Dr. Atwood Is On Trial," *Oregonian*, May 15, 1907, 19; "Will Drive Out Criminal Doctors," *Oregonian*, May 16, 1907.

48. "Slow Progress Is Made," *Oregonian*, May 18, 1907, 11; "Evidence Completed in Atwood Case," *Portland Daily News*, May 18, 1907, 1. Atwood's attorneys also filed for a dismissal on grounds that there was no state law under which Dr. Atwood could be prosecuted. The motion was overruled.

49. "Jury Cannot Agree," *Oregonian*, May 19, 1907, 11; "Case Against Atwood Dismissed," *Oregonian*, June 11, 1907, 9.

50. "Doctor is Out on Bonds," *Oregonian*, April 13, 1907, 11.

51. "Whitney Is Held in Girl's Death," *Oregonian*, April 1, 1908, 10; "Dentist Whitney Released," *Oregonian*, July 31, 1909, 14.

52. "Jury Blames Physicians," *Oregonian*, September 9, 1908, 18; "Drs. Atwood in Trouble," *Oregonian*, October 29, 1908, 3.

53. "Physician Denies Guilt," *Oregonian*, October 16, 1907, 7; "Say Indictment Is Faulty," *Oregonian*, November 20, 1908, 18.

54. "Quack Crusade Is Bearing Fruit," *Oregonian*, July 12, 1908, 1. Medical society member brought charges against W.T. Eisen and J.W. Morrow.

55. Kimberly Jensen, *Oregon's Doctor to the World, Esther Pohl Lovejoy & A Life in Activism* (Seattle: University of Washington Press, 2012), 52–55, 75–91. On Lane, see Johnston, *The Radical Middle Class: Populist Democracy and the Question of Capitalism in Progressive Era Portland, Oregon* (Princeton: Princeton University Press, 2003), 307–47. "Turning Light on the Rowland Scandal," *Oregonian*, February 4, 1908, 11.

56. Reagan, *When Abortion Was a Crime*, 28–29. Reagan describes how unwed women were urged to bear their children at maternity homes, but that women often objected to the treatment they received there. The name of the institute apparently reflected the public's interest in the relatively recent discovery of radium and the use of x-ray technology in American hospitals as well as "x-radium" for

all sorts of questionable consumer products. "Death Certificate Conceals Crime," *Sunday Oregonian*, February 2, 1908, 10. The X-Radium Institute was located at 3rd and Alder streets. The article lists the age of Golda Rowland as 32, but her death certificate, published in the *Oregonian*, February 5, 1908, 10, reports her birth as January 21, 1882, and her age as 25.

57. "Death Certificate Conceals Crime," *Oregonian*, February 2, 1908, 10; "Turning Light on Rowland Scandal," *Oregonian*, February 4, 1908, 11; "Police Search For Heymans in Vain," *Oregonian*, February 5, 1908, 10; "Heymans Is Still in Hiding," *Oregonian*, February 6, 1908, 7.

58. "Turning Light on Rowland Scandal," *Oregonian*, February 4, 1908, 11.

59. "Death Certificate Conceals Crime," *Oregonian*, February 2, 1908, 10.

60. "Drive Out Quacks," *Sunday Oregonian*, February 16, 1908, 8.

61. "Crusade Is Opened," *Oregonian*, February 17, 1908, 5. Other ministers to join the committee included the pastors of First Congregational Church (Dr. Luther B. Dyott), First Christian Church (Rev. E.W. Muckley), First Presbyterian Church (Rev. William Hiram Foulkes), and Grace Methodist Episcopal Church (Dr. W.H. Heppe).

62. "Heymans Is Coming," *Oregonian*, March 2, 1908, 7; "Heymans To Be Returned," *Oregonian*, July 29, 1909, 10; "Heymans Is Not Guilty," *Oregonian*, October 16, 1909, 10.

63. *Board of Medical Examiners v. Eisen*, 61 Or. 492 (April 23, 1912), Oregon Supreme Court, *Reports of Cases decided in the Supreme Court of the State of Oregon, Volume 61* (San Francisco: Bancroft-Whitney, 1915), 492–96. In 1910, the Oregon State Board of Medical Examiners revoked Dr. Eisen's license for procuring an abortion in Portland, but the Oregon Supreme Court overruled the decision for lack of proof of intent to end a life and mistakes of the lower court. Eisen continued in his practice.

64. "Criminal Doctors to be Prosecuted," *Sunday Oregonian*, February 23, 1908, 12.

65. "Mayor's Crusade Opposed by Jury," *Oregonian*, October 4, 1908, 1, 5.

66. These four trial convictions involved five defendants found guilty (1907, Eisen; 1908, Whitney; 1908, both Atwoods; 1915, Ausplund).

67. "New Regime of Office Is Begun," *Oregonian*, July 7, 1908, 10. Manning was succeeded by George J. Cameron.

68. Reagan, *When Abortion Was a Crime*, 116–17.

69. Ibid., 115–16, 120–25; "Will Drive Out Criminal Doctors," *Portland Evening Telegram*, May 16, 1907, 12.

70. "Misleading, Mischievous, False, Say Doctors in Reply," *Oregon Daily Journal*, March 7, 1906, 8; "Stormy Session of the Doctors," *Oregonian*, January 4, 1906, 14; "Dr. McCormack and the Profession of Oregon," *Northwest Medicine*, June, 1906, 205–206; Alexander Flexner, *Medical Education in the United States and Canada, A Report to the Carnegie Foundation for the Advancement of Teaching* (New York: The Carnegie Foundation for the Advancement of Teaching, 1910), 291–92.

71. "Black Sheep To Be Driven Out," *Oregonian*, May 16, 1907, 10. Other Portland doctors who joined the effort to rid the city of abortion providers included R.C. Coffey, E.P. Geary, E. F. Tucker, and Esther Pohl.

72. C.N. Suttner, M.D., "A Plea for the Protection of the Unborn," *Northwest Medicine*, October 1907, 305–10.

73. "Black Sheep To Be Driven Out," *Oregonian*, May 16, 1907, 10; "Evidence Completed in Atwood Case," *Portland Daily News*, May 18, 1907, 11; "Slow Progress Is Made," *Oregonian*, May 18, 1907, 11; "Drive Out Quacks," *Sunday Oregonian*, February 16, 1908, 8. The Portland doctors on the anti-abortion committee were Alan Welch Smith, E.F. Tucker, and Esther C. Pohl. Reagan, *When Abortion Was a Crime*, 88–89.

74. "Black Sheep To Be Driven Out," *Oregonian*, May 16, 1907, 10.

75. Solinger, *Pregnancy and Power*, 70.

76. Reagan, *When Abortion Was a Crime*, 124.

77. Barnett, *They Weep On My Doorstep*, 9–10 (George Watts), Alys Bixby Griff (11–15),

Maude van Alstyne (23–25) Edward Stewart (27), and Albert Littlefield (36). Sandy Polishuk, *Sticking to the Union: An Oral History of the Life and Times of Julia Ruuttila* (New York: Palgrave MacMillan, 2003), 92–93. Julia Ruuttila with Sandy Polishuk and Nancy Krieger, Interview, Portland, Oregon, June 6, 1981, Oregon Historical Society Research Library, Portland, Oregon, Library Accession 28389, "Materials relating to research on Dr. Marie Equi" [hereafter OHS Research Library, ACC 28389]. Ruuttila confirmed that Marie Equi provided abortions.

78. Barnett, *They Weep On My Doorstep*, 9–10, 20–40; Solinger, *The Abortionist*, 87–116, 129–49. Solinger balances the portrayal of Drs. Watts and Stewart that Barnett provides with information about their difficulties with the law in later years.

79. Barnett, *They Weep On My Doorstep*, 27, 36–39.

80. Ibid., 11–16. The six physicians who provided abortions kept offices in the following downtown buildings: Dr. George Watts (Oregonian building and later the Broadway Building), Drs. Edward Stewart and Maude van Alstyne (as well as Ruth Barnett after 1919, Broadway Building), Drs. Alys Griff and Marie Equi (Lafayette Building). *Seventeenth Annual Announcement, Medical Department of the University of Oregon, Session 1903–1904* (Portland: Anderson Printing, 1901), 29–30. Maud Kremer (later Alstyne) of Grants Pass is listed among the graduates of 1902.

81. Lew Levy with Sandy Polishuk, Interview, April 5, 1976, OHS, ACC 28389. Levy was an Oregon member of the Industrial Workers of the World.

82. Nancy Krieger, "Queen of the Bolsheviks, The Hidden History of Dr. Marie Equi," *Radical America* 17:5 (September-October 1983): 55–71. Mary E. Austin to Evelyn S. Hall, Northfield Seminary, September 6, 1889, Archives/Dolben Library, Northfield Mount Hermon School, Northfield, Massachusetts. Austin taught Equi and, after Equi dropped out of high school to work in the textile mills, wrote for her a reference letter to Hall of Northfield Seminary.

83. Michael Helquist, "Portland to the Rescue, The Rose City's Response to the 1906 San Francisco Earthquake and Fire," *Oregon Historical Quarterly*, 108:3 (2007): 474–86.

84. "Book Sale Stopped," *Oregonian*, June 24, 1916, 18; Margaret Sanger, *Margaret Sanger, an autobiography* (New York: Dover Publications, 1971), 206.

85. "Portland Congressional Body of Suffragists Divide over Seating of Dr. Equi," *Oregonian*, September 20, 1915, 4; "Suffragist Camp Upset and At War," *San Francisco Examiner*, September 26, 1915, 1; Emma B. Carroll to Virginia Arnold, September 19, 1915, National Women's Party Papers, "The Suffrage Years, 1913–1920," Series I, Reel 19. In a well-publicized dispute, an Oregon suffrage leader, Emma Carroll, tried to keep Equi from representing the state at a national suffrage convention in San Francisco in 1915. "Mrs. Carroll Is Sued for Libel by Marie Equi," *San Francisco Examiner*, October 9, 1915, 1; "Dr. Equi Sues Suffragist," *Oregonian*, October 10, 1915, 4; *Marie Equi v. Emma B. Carroll*, Oregon State Circuit Court case #63125. Equi later sued Carroll for slander and libel. "Dr. Equi Is Guilty of Disloyalty," *Oregon Daily Journal*, November 21, 1918, 1; "United States Department of Justice files; National Archives, Civilian Records Unit (Archives II), Case File #9-19-1354-0 and Bureau Papers #9-19-1354, parts 1 and 2. In her sedition trial in 1918, Equi objected to the prosecutor's characterization of her as "an unsexed woman." Federal agents frequently referred to Equi as an immoral and politically dangerous woman.

86. Sandy Polishuk, *Sticking to the Union: An Oral History of the Life and Times of Julia Ruuttila* (New York: Palgrave Macmillan, 2003), 92–93; Julia Ruuttila with Sandy Polishuk and Nancy Krieger, Interview, Portland, Oregon, June 6, 1981, OHS ACC 28389.

87. Jessie Laird Brodie, MD, Interview with Susan Dobrof, date uncertain, 1981–1982), OHS ACC 28389.

88. During the fifty-year period of the study, scientists discovered the causes and treatments for tuberculosis, cholera, diphtheria, rabies, and syphilis.

89. Mohr, *Abortion in America*, 240–45.

90. Reagan, *When Abortion Was a Crime*, 89. The chair of Chicago's Criminal Abortion Committee was Rudolph Holmes.

91. Reagan, *When Abortion Was a Crime*, 90.

92. Carol Joffe, *Doctors of Conscience: The Struggle to Provide Abortion Before and After Roe v. Wade* (Boston: Beacon Press, 1995), 46–67.

93. Myers, *Municipal Mother*, 75–90, 123, 199. Police officer Lola Baldwin listed the following abortion providers who practiced in Portland: Courtney, Von Falkenstein, CHT and CH Atwood, McCormick, Pierce, Walker, Armstrong, Candiani, McKay, Watts, Mallory, King, and Ausplund. Of the fourteen, nine are not known to have been prosecuted in Portland for abortion, although in 1911 a few of these were arrested for practicing without a license. "Swoop by Officials Bags 11 'Doctors'," *Oregonian*, September 10, 1911, 10. Barnett, *They Weep On My Doorstep*, 11–25. Barnett named an additional four physicians who offered abortions without encountering legal problems in Portland: Stewart, Littlefield, van Alstyne, and Griff.

94. "Mayor's Crusade Opposed by Jury," *Oregonian*, October 4, 1908. This report detailed the work of the Multnomah County Grand Jury and its recommendations.

95. "Liberalized Abortion in Oregon," <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1654074/pdf/amjph00473-0069.pdf> (accessed February 13, 2015); Reagan, *When Abortion Was a Crime*, 220–22, 330 115.

96. *Jane Roe, et al. v. Henry Wade, District Attorney of Dallas County*, 410 US 113, 35 L Ed 2d 147 (1973).

97. Reagan, *When Abortion Was a Crime*, 244–45.

98. "Supreme Court Decision Grants Abortion Right," *Oregonian*, January 23, 1973, 1; "Ex-President Lyndon Johnson Dies," *Oregonian*, January 23, page 1.

99. "Special Notices," Advertising Section, *Oregonian*, January 23, 1973, 37.