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Abortion is legally defined as the expulsion of the fetus from the uterus (womb) at any time before its term of gestation is complete. For practical purposes this must be reduced to emptying of the uterus prior to the time when the fetus is capable of survival; i.e., some time between the twenty-fourth and the twenty-eighth week of the pregnancy. Defined in this manner, there are approximately 1,300,000 abortions annually in the United States! This startling estimate is based on the widely accepted medical opinion that three of every ten pregnancies fail to reach term or produce a viable fetus. A slightly lesser figure is reached on the basis of estimates by Taussig, whose book is a classic on the subject. He places the number of abortions at 682,000 a year when the population was 120 millions (1). Extension of this figure to the present population yields an estimate of one million abortions annually.

For medico-legal purposes, abortions may be grouped into three classes; viz., spontaneous, therapeutic, and criminal. The former includes about two-thirds of all abortions. Taussig estimated that from 34 to 69 per cent of all abortions, with the lesser figure for rural and the higher for urban areas, were illegally induced (2). Others (3, 4) tend to a somewhat lower average figure, but even the most conservative reports do not estimate that over 70 per cent of abortions begin without artificial interference with the normal course of events.

Approximately two-thirds of spontaneous abortions are due to abnormal development or death of the ovum or its membranes; while the remainder are caused by maternal disease, either systemic or involving the womb or its accessories. In many cases it is impossible to discover the underlying cause of the abortion. It is this fact that makes so difficult the evaluation of the so-called "accidental traumatic abortions." There is a natural tendency on the part of the pregnant woman to seek a cause whenever an abortion occurs. Therefore, relatively minor accidents, falls or scares are frequently blamed when premature labor ensues. If the accident is the result of the negligence of another person,

as may occur in traffic collisions, the importance of the accidental contribution to the cause of an abortion may become a matter of interest in criminal, as well as in civil litigation. Generally accepted medical opinion holds that accidental traumatic abortions are rare occurrences in the absence of serious injury to the mother. Criteria usually regarded as necessary to prove accidental abortion in the absence of severe maternal injury are:

1. The course of the pregnancy preceding the accident must have been normal;
2. Pathological examination of the abortus (fetus and membranes) must not reveal any evidence of abnormal development;
3. The time interval between the alleged injury and the onset of bleeding or other signs of inevitable abortion must be of the nature of minutes or a very few hours at most.

A therapeutic abortion is an interruption of pregnancy performed to safeguard the health or save the life of the mother. This definition requires that the abortion be performed by a physician, acting in the honest belief that the life of the pregnant woman will be endangered by the continued presence of the pregnancy. Various authorities estimate the incidence of therapeutic abortion at from 1 to 5 per cent of the total. The more common medical indications for therapeutic abortion are the presence of active tuberculosis or severe heart, kidney, or circulatory disease in the mother. Most courts have held that a physician is entitled to the presumption of correct judgment and that he acts in good faith; i.e., if a physician procures an abortion the state must prove that the abortion was not therapeutic. Physicians have, on the other hand, established by common practice certain minimum evidence of good faith, the absence of which justifies serious doubt of the integrity of their "therapeutic intent." These are:

1. The abortion should have been performed by a reputable physician in consultation with a specialist;
2. The physician should have obtained written permission from the husband or guardian as well as of the patient herself;
3. The operation should have been performed in a reputable hospital and suitable records made of history, physical examination, operation, and results of the pathological examination of the operative specimens.

Criminal abortions are unlawful abortions; i.e., the interruption of pregnancy by the mother herself or another person. In lay language,

the term abortion is generally considered synonymous with criminal abortion, whereas the term miscarriage generally implies that the pregnancy stopped spontaneously. The law does not recognize such a distinction. It defines a criminal abortion as one that is illegally induced, that is to say, one which is not justified by the circumstances. The statutes in the various states defining the crime of abortion are similar: They provide that whoever with the intent to cause the termination of a pregnancy unlawfully administers or causes to be given to the pregnant woman any drug or poisonous substance or unlawfully uses any instrument or other means whatsoever with this intent shall be guilty of the offense. The prevalence of this criminal act is far greater than most law enforcement officials realize. Using the conservative estimates of 30 per cent criminal and 1.0 millions total abortions gives 300,000 such cases each year. It is probable that more than 60 per cent of all induced abortions are procured with the help of or entirely by others than the pregnant woman herself. Thus, there are annually nearly two hundred thousand cases in which a criminal abortionist is theoretically capable of prosecution. The actual number of convictions recorded annually in the United States for this offense is not available, but is probably under 2500. It is doubtful if any other felonious act is so free from punishment as is criminal abortion.

Methods by Which Criminal Abortion May be Performed

Physical Methods. These may be attempted by the mother herself or by some other person. The procedures are intended to promote venous congestion in the pelvic organs in the hope that the interference with the circulation will initiate uterine contractions. They include extremely hot baths, severe or prolonged exercise, "manipulations and adjustments," and violence to the lower abdomen. These measures are but rarely successful in accomplishing their purpose unless they produce such severe injury as to endanger the life of or kill the mother.

Chemical Methods. Drugs may be employed systemically or locally in the effort to empty the uterus. Frequently encountered groups include the purgatives, castor oil, croton oil, and aloes; the intestinal and pelvic irritants, oils of pennyroyal, tansy, savin, rue, etc., and the drugs which stimulate the muscle of the uterus to contract, including quinine, ergot, and pituitary extract. A fourth group of chemicals sometimes used by mouth are the true systemic poisons administered in the hope that the fetus will be less able to withstand the toxic chemical than the mother with consequent abortion of the dead or injured fetus but recovery of

the mother. Such compounds as lead salts, kerosene, apiol, mercury salts, oil of wintergreen, and nitrobenzene comprise this group. The criminally dangerous character of this philosophy of abortion procurement is at once obvious to all. As with the physical methods for abortion, the use of chemical agents by mouth is rarely efficacious unless they are given in toxic doses sufficient to cause serious illness of the mother.

The local use of chemical agents varies from simple vaginal douches, which have little chance of penetrating the closed cervix, (lower end of the womb), to the injection of the chemical through douche nozzle or syringe under considerable pressure into the cavity of the uterus itself. The latter are in reality operative procedures but employ chemical agents to kill the fetus and thus insure onset of labor. They are effective largely by an escharotic action. The most frequently encountered chemicals or compounds are bichloride of mercury (corrosive sublimate), potassium permanganate, arsenic compounds, silver salts, formaldehyde solution, phenol or cresols (lysol), oxalic acid, solutions of acids or alkalies, and various soaps. Utra-jel, which has been reported as causing numerous maternal deaths, belongs to the latter group (5, 6). Various similar products may be obtained on the open market, the compounds being sold ostensibly for use as antiseptics and not as abortifacients. Most of these compounds are highly poisonous if they find their way into the blood stream. The locally applied chemicals are effective agents in production of abortion when used in such fashion that they reach the fetus or even short of that if they damage the cervix or vagina and lead to infection or hemorrhage.

Operative Methods. These are practically all attempted through the vaginal canal and are designed to expel the contents of the pregnant uterus either by mechanically dislodging or removing the fetus or by causing its expulsion by stimulating contraction of the uterine muscle. While any method may theoretically be employed by the woman herself, the more technical types of instrumentation are used mainly by professional abortionists. The type of operation used varies with the age of the pregnancy; thus, in early stages, curettage (scraping) is frequently employed. Later in pregnancy, dilation of the cervix, or insertion of a catheter, or other sharp foreign body, to rupture the membranes surrounding the fetus are more likely to be used.

1. Curettage is the technical term used to describe the process of scraping out the inside of the uterus. It is effected, usually under anaesthesia, by using instruments to force open (dilate) the cervix, followed by repeated introduction with a scraping motion of a semi-sharp spoon shaped instrument (curette) into the cavity of the uterus. The use of

the "D & C" for producing abortion is limited to the first few months of a pregnancy largely because of the excessive bleeding which follows if the uterine content is not small enough to be scraped out promptly enough that the muscular wall of the organ can contract and close the many blood vessels opened by the surgery.

2. Forcible dilatation of the cervix alone is frequently effective in causing the uterus to empty if the pregnancy has advanced beyond the third month. This may be effected by the introduction of a compressed sponge, by the use of slippery elm sticks or a laminaria tent, which swell when introduced into the cervix where they absorb water, or by the use of instruments designed for dilating the cervix. Catheters, either of the stiff fibre type or using a wire stiffener (stylet) if a soft rubber catheter is selected, are frequently used for this purpose. A rubber catheter may be left in the uterus to act as an irritating foreign body. The instruments used by the professional abortionist are usually standard surgical instruments. The police investigator concerned with these cases will do well to visit a surgical supply house and familiarize himself with such items as the Goodell dilator, the vaginal speculum, tenaculum forceps, Kelly clamps, curettes, and cervical sounds.

3. Laceration of the fetal membranes with escape of the "waters" (amniotic fluid) may often be effected by passing a long thin sharp object into the uterus. Many of these instruments are very crude such as an umbrella rib, darning needle, hat pin or a piece of wire or wood. The danger to the mother incident to lack of cleanliness and the possibility of penetrating the uterus rather than the fetal parts by the use of this method is easily appreciated.

4. The intra-uterine introduction of irritating substances as a method of inducing abortion was mentioned in relation to *chemical methods*. This is the most frequently used single method for producing criminal abortions, and a great variety of technics exist. Uterine douches of water, salt solution, soap solution, or some antiseptic may be used. The fluids may be introduced via hard plastic nozzles connected directly to large rubber bulbs, or via syringes with blunt needles or catheters attached. Air alone may be introduced into the cavity of the uterus. Inasmuch as fluid is being introduced, frequently under considerable pressure, into the enlarged highly vascular pregnant uterus, it is easy to visualize how a large vein may be entered, and the fluid pass directly into the maternal circulation producing a severe shock known as "embolism."

Death From Criminal Abortion

All procedures give rise to fatal complications since the technic used by abortionists is often crude and frequently is without regard to proper cleanliness or sterilization of instruments. Taussig and others have concluded that the death rate in abortion during the late 1920s was about 1.2 per cent, and amounted to over 8,000 deaths per year. Later estimates quoted by him indicated that 70-75 per cent of all deaths from criminal abortion were due to septicemia. With the advent of modern antibiotic drug therapy it is a safe conclusion that this figure is lowered by two-thirds, leaving the net mortality rate at about one-half per cent. Even this calculates to between five and six thousand deaths from abortion in the United States last year!

Anaesthesia. Occasionally, patients may die in the office during the operation, usually dilatation and curettage. Operative interference may be denied; it may be claimed that the doctor was compelled to put the patient on the table as a life-saving measure to stop excessive vaginal bleeding. In addition to a post mortem examination of the victim, an examination of the premises for bloody instruments and for fetal remnants on the table, sheeting, pails, etc., may provide information attesting to the true facts.

Hemorrhage. This is a common complication, many abortionists sending their patients home immediately after the operation. Frequently, no anaesthetic is used, thus increasing the danger of hemorrhage and other complications. Bleeding starts shortly after the abortion and may cause death within a few hours. If the abortion is complete, the evidence is usually limited to that of severe bleeding. Post mortem examination may reveal fragments of retained placenta in the uterus, and if found, they prove the presence of recent pregnancy as well as explaining the cause of the excessive bleeding. Potassium permanganate in pellet form, when inserted into the vagina or cervix, is especially prone to cause severe bleeding due to erosion of blood vessels. In these cases it is extremely difficult to locate the bleeding site at post mortem, when the now emptied blood vessel collapses and retracts into the tissue surrounding the eroded site.

Infection. This is the most common cause of death in criminal abortion, the uterus during pregnancy, particularly in earlier stages, being highly vulnerable to infection. Usually, the invading bacteria are carried into the uterus by contaminated instruments. A uterus, the seat of extensive tissue death incident to the injection of a strong chemical, likewise provides a fertile field for secondary bacterial invasion. Gas

gangrene is occasionally seen as a particularly terrible type of infection complicating abortion. Local infection in the uterus after criminal abortion, unless vigorously treated, is regularly followed by spread to the blood stream with death from septicemia, or to the abdominal cavity with generalized peritonitis.

Embolism. The rapid introduction of any foreign liquid or of air into the circulation by penetration by pressure, or perforation of a blood vessel during an abortion is likely to be followed by sudden collapse and death of the patient.

The Collection of Evidence in Abortion Cases

The essential proof required to convict an abortionist in instance of death from criminal abortion may be listed in four steps.

1. At the time of the alleged criminal act, the dead woman must be proved to have been pregnant. This does not universally obtain and in some states it is immaterial whether or not the woman was actually pregnant.
2. It must be proved that the accused was responsible for the act intending to or resulting in the interruption of pregnancy.
3. It must be proved that the accused acted for the purpose of producing an illegal abortion.
4. It must be proved that the death occurred as the result of the attempt to interrupt pregnancy.

Sources of Evidence. The strongest evidence is that given by the eye witnesses, and in non-fatal abortion cases it is rarely possible to gain a conviction without such evidence. Usually only the abortionist and the woman are present when the act is committed. If the mother dies, the abortionist, the only surviving witness, is not likely to provide self-incriminating evidence.

Important evidence may often be obtained at the scene in instances where the woman dies during or immediately after an alleged abortion in the abortionist's office. In these instances the operation may be only half completed, and there is a good chance to recover some of the remains of the fetus or after-birth. If one is so fortunate, he should transmit the specimen immediately to a pathologist who can later appear in court, as an expert, competent to testify as to the identification of the material with a recent pregnancy. Photographs of the scene should be taken before disturbance of the premises. Search should be made for instruments that may have been used, soiled clothes, douche cans, abor-

tifacient jellies, medications, and the like, all of which should be preserved.

A dying declaration made by the victim of an abortionist can sometimes be acquired in cases where death is from hemorrhage or infection. Such a dying declaration is a statement, made about the cause and circumstances of a homicide, by the victim under the conviction that she is about to die and cannot recover. The statement may be used as evidence in a criminal trial. It is not admissible if the patient recovers. If a physician is the only person available, he should be responsible for putting the statement in proper form. In well regulated communities it is usually the case that the police are notified of the impending death, so that an officer may be available as a witness to the statement. In obtaining a dying declaration incident to a death from abortion, specific statements should be made to include the following.

1. The dying woman was pregnant.
2. Arrangements were made between her and the accused (abortionist) for the purposes of illegally terminating her pregnancy. Witnesses who may have been present should be mentioned.
3. An abortion did in fact take place, mentioning time, place, and method, insofar as possible.
4. There was or was not bleeding from the vagina immediately prior to the time she submitted herself to the abortionist for operation.
5. A summary of events following the abortion.

Post Mortem examination by a competent pathologist is always essential to provide proof that death did result from causes consistent with the allegation that there was an attempt to interrupt pregnancy. The pathologist may furnish information as follows.

1. That the woman had been pregnant,
2. That a criminal abortion had been performed, and
3. That death was the result of the criminal abortion.

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