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Lifting the Veil of Silence

Personal Abortion Narratives in New Zealand,
1919–1937

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degree of Doctor of Philosophy in History
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Abstract

This thesis examines ordinary New Zealanders' narratives about their abortion experiences and public representations of abortion from 1919 to 1937, using the records of criminal court trials, coroners' inquests, and government department archives, as well as newspaper articles. The first part of the thesis discusses the methods and practical aspects of abortion, and social support for women obtaining abortions, either self-induced or by abortionists. This part of the thesis emphasises how people understood their abortion experiences through the language and narratives they used to describe them. The second part of the thesis investigates the transformation and changed meaning of these narratives in the public domain. By examining how health professionals, legal authorities, and the press interpreted women's abortion experiences, this part of the thesis presents the changing public representations of abortion and its users.

This thesis contributes to the historiography of abortion in New Zealand by redefining the place of abortion in people's lives during the interwar period. Women who described their abortion experiences did not see themselves as desperate. Rather they framed their actions in terms of managing the consequences of their sexuality to fit with their expectations of marriage and family life. This thesis reveals strong gender roles, showing that men played a significant role in the procurement of abortions. For many couples, obtaining an abortion was at once a private and a social practice, involving interactions with family, friends, acquaintances, and professionals. Peoples' abortion experiences became public through various means, including the need for emergency medical care, public complaints, or the investigations of legal authorities. While abortion was an illegal activity, the legal constraints upon the police, criminal courts, and coroners' inquests hindered law enforcement also. These constraints were the subject of complaints by some jury members and members of public organisations in the mid 1930s, while at the same time, press representations of people who used abortion became more negative. These findings suggest there was a gradual hardening of public attitudes towards the practice between 1919 and 1937, prior to the public debates made so vocal by the 1937 McMillan Committee's inquiry into abortion.

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List of Abbreviations

AJHR	<i>Appendices of the Journal of the House of Representatives</i>
ANZA	Archives New Zealand, Auckland
ANZC	Archives New Zealand, Christchurch
ANZD	Archives New Zealand, Dunedin
ANZW	Archives New Zealand, Wellington
ATL	Alexander Turnbull Library
D&C	Dilatation and curettage
DDGH	Deputy Director-General of Health
DGH	Director-General of Health
MOH	Medical Officer of Health
MWQ	Married Women's Questionnaire
NCW	The National Council of the Women of New Zealand
NPA	Newspaper Proprietors' Association
NZBMA	New Zealand Branch of the British Medical Association
NZFPA	New Zealand Family Planning Association
NZLR	<i>New Zealand Law Reports</i>
NZMJ	<i>New Zealand Medical Journal</i>
PID	Pelvic Inflammatory Disease

Chapter One

Introduction

In April 1937, the Committee of Inquiry into the Various Aspects of the Problem of Abortion in New Zealand presented its report to the First Labour Government and the public of New Zealand.¹ Popularly named the ‘McMillan Committee’ after its chairman, Dr D. Gervan McMillan M.P., among other things the Committee’s report directed public attention away from abortion as the product of sexual immorality among the unmarried and onto its role in the family limitation practices of married couples during the 1930s.² The Committee determined the use of abortion was widespread among married women in New Zealand communities, and the primary reasons for the practice were economic. They found married women terminated their pregnancies because they perceived the burdens of mothering were too great a drain on their ongoing health or their ability to cope with limited domestic and financial support. They argued also that couples’ reliance on contraceptives may have led to abortions when these failed to prevent pregnancy.³

¹ D.G. McMillan et al, *Report of the Committee of Inquiry into the Various Aspects of the Problem of Abortion in New Zealand*, Wellington, 1937. (‘McMillan Report’)

² ‘McMillan Report’, pp. 8–12.

³ Ibid.

Most of the Committee's recommendations reflected Labour's mandate to govern; having been elected on a manifesto pointing to the need for economic reforms to help 'restor[e] a decent standard of living' to ordinary New Zealanders.⁴ The Committee recommended an increase to the size and scope of family allowances, free maternity care, and domestic support for mothers during and after confinement.⁵ To address the issue of the perceived unreliability of contraceptives, the Committee recommended the State should regulate public access to contraceptives, prohibiting the existing trade in these products through the retail trade sector and mail order distributors. They recommended that women could gain access to contraceptives through their general practitioners, 'who should also undertake the responsibility of impressing the privileges of motherhood upon young women seeking advice'. The Committee recommended the State should only provide birth control services via hospital clinics to those women who 'in the opinion of their medical attendant, should have temporary or permanent freedom' from pregnancy for the sake of their ongoing health or to ensure their ability to meet the demands of their existing family.⁶

The McMillan Committee's report validated the Labour Party's election manifesto and many of its recommendations were heeded. The Government addressed the Committee's recommendations for maternity benefits in its 1938 Social Security Act. Over the next eight years it renamed the family allowance to the family benefit and gradually extended its coverage to all children under the age of 16 years, not just the third and subsequent children as previously, and removed the means-test.⁷ But the Government did not respond to the recommendations for legislative control of the sale of contraceptives, nor did it implement

⁴ 'Labour's Election Manifesto: Security and Prosperity for All', 1935, Special Collections Glass Case 329.995 N531e1 1935, General Library, University of Auckland.

⁵ 'McMillan Report', p. 14.

⁶ 'McMillan Report', p. 18.

⁷ Melanie Nolan, *Breadwinning: New Zealand Women and the State*, Christchurch, 2000, pp. 137, 163, 202. The family benefit became universal in 1946.

the recommendation for State provision of hospital based birth control services to women on medical grounds.

Historians of abortion during the interwar period have focused on the archives of the McMillan Inquiry hearings and the published responses to its report as evidence of abortion practices. These sources have provided historians with an extensive, accessible source from which to uncover professionals' and reformers' views about abortion in New Zealand during the 1930s. But there was little evidence presented to the Committee by people who directly experienced abortions. The dearth of information about the realities of abortion has left largely unexplored the views of those who used the practice.⁸

This thesis seeks to address this deficit in the historiography. It explores ordinary New Zealanders' narratives about their experiences of abortion and uncovers the processes by which these stories were shaped for public consumption in the press, during the interwar period up to 1937 when the McMillan Report was issued. The thesis is about peoples' descriptions of their efforts to terminate real or suspected pregnancies, placing these in the context of human relationships, wider social and cultural practices and beliefs, and the legal environment in which abortions took place.

New Zealand Historiography on Abortion

Historiography on abortion in New Zealand is limited. The accessibility of the McMillan Committee's archives mean the years immediately preceding and following its report are the most studied period of abortion history in New Zealand. This overview shows prior to 1971, legal and medical scholars made initial explorations into historical abortion practices

⁸ The exception was the 'Married Women's Questionnaire' which is discussed in Chapter Three.

commenting on particular criminal court cases as part of their professional experience. From 1972 onwards, as public debates over the law prohibiting abortion emerged, social historians began to take an interest in historical abortion practices. These historians reviewed the political debates about abortion, motherhood, and birth control current during and after the McMillan Inquiry, interpreting these debates as evidence of women's experiences of abortion. Consequently, histories of abortion in New Zealand tend to emphasise a relationship between women's experience of abortion and political views about the practice.

Early historiography on abortion reflected personal recollections of abortion-related trials. In 1936 lawyer Charles Treadwell recounted the 1923 trial of Daniel and Martha Cooper, which resulted in Daniel Cooper's conviction for infanticide and performing abortions. He received the death sentence for the infanticide conviction. The charges brought against Cooper began with allegations of abortion and then shifted to infanticide when the bodies of four newborn infants were found buried in the ground around his home.⁹ The same theme of the illegal abortionist and babies' bodies was a feature of Philip Patrick Lynch's memoir published in 1970. He had been the pathologist for the Wellington region during the 1930s. In his memoir, Lynch described his involvement in the investigation and trials of Annie Aves, who was accused of being an abortionist and in whose backyard some 22 foetal remains were found in 1936. He went on to describe his involvement in the investigation into Aves' own death and the conviction of her client's boyfriend for murder in 1938. In Lynch's words the case 'showed how this kind of violence can beget violence'.¹⁰ The significance of abortion in each of these monographs is found in its relationship with the more serious crime of murder.

⁹ Charles Treadwell, *Notable New Zealand Trials*, New Plymouth, 1936, pp. 275–85.

¹⁰ Philip Patrick Lynch, *No Remedy for Death: The Memoires of a Pathologist*, London, 1970, pp. 19, 91–8.

Since those early descriptions of abortion-related trials, legal scholars have focused on the development and efficacy of legislation prohibiting or regulating the performance of abortions. Undergraduate research essays by Arran McCowatt and Lisa Carbines during the 1990s charted the development of New Zealand legislation prohibiting abortions for reasons other than direct threat to the woman's life. They focused on the local and international influences shaping the courts' interpretation of the 1908 Crimes Act from the 1950s. They explored the influences on the development of the 1961 Crimes Act, and 1977 Contraception, Sterilisation, and Abortion Act also.¹¹ The interpretation of the law under the 1908 Crimes Act prior to 1950, and indeed the processes by which abortions came to the notice of the courts, have remained largely unexplored.

Social historians' interest in past abortion practices coincided with the first concerted efforts to reform the law prohibiting abortion in New Zealand during the 1970s. Student essays produced in the 1970s were the first to explore the practices described in the archives of the McMillan Inquiry. In 1972 Masters student Lesley Smith explored the submissions to the McMillan Committee, reflecting on the contemporary debates over the illegality of abortion.¹² BA Honours student Barbara Brookes followed suit in 1976 with her research essay on the same topic. Her essay widened the discussion to include the circumstances motivating the request for an inquiry from the Obstetrical Society, a branch of the New Zealand Branch of the British Medical Association (NZMBA).¹³ These essays uncovered information given to the McMillan Committee about past abortion practices and placed these in the context of political debates about abortion during the 1930s.

¹¹ Arran McCowatt, 'New Zealand Abortion Law: History and Development', LLB(Hons) Dissertation, University of Auckland, 1993; Lisa Carbines, 'Abortion in New Zealand: Oppressive Law or Just an Inefficient System?', LLB(Hons) Dissertation, University of Auckland, 1996.

¹² Lesley Smith, 'The Problem of Abortion in NZ in the Nineteen-Thirties', MA Research Essay, University of Auckland, 1972.

¹³ Barbara Brookes, 'The Committee of Inquiry into Abortion in New Zealand, 1936-37', BA (Hons) Research Essay, University of Otago, 1976.

Subsequent historiography attempted to illuminate women's experiences of abortion from past published legal and medical articles, political statements, and the records of the McMillan Inquiry. These monographs focused on material related specifically to abortion and to the general topic of fertility control. In a two-part article for the feminist magazine *Broadsheet* in 1976, Andree Levesque used articles from the popular press and medical sources to uncover methods of abortion and attitudes to the practice between 1897 and 1937.¹⁴ Levesque contrasted the intensity of the published rhetoric against abortion and contraception with the relative silence of women who used the practice. She concluded women's resort to abortion was caused by 'social mores and the double standard of morality' exacerbated by doctors' 'personal "revulsion" for contraceptives and obsession with populationist policies' at the expense of 'the welfare of their patients'.¹⁵ Levesque's analysis explained women's experience of abortion during the early twentieth century as a consequence of their lack of social and political power rather than part of a broader fertility control regime.

Other historians echoed the opinion that women's resort to abortion reflected their lack of political voice and social power by utilising the representations of abortion made by feminist birth control activists to the McMillan Committee. Brookes' 1980 article 'Housewives' Depression', drawn from her earlier research essay, argued the McMillan Inquiry was a response to authoritarian concerns about the falling birth rate among white New Zealanders. Following the McMillan Committee's findings that abortions were the result of unreliable contraceptives, Brookes defined abortion as a problem caused by women's lack of access to reliable methods of fertility control. She cited women's organisations' apparent demands on the State to implement birth control clinics as evidence

¹⁴ Andree Levesque, 'Grandmother took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937), Part One: The Abortionists', *Broadsheet*, 43 October 1976, pp. 18–22; 'Grandmother took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937), Part Two: The Women', *Broadsheet*, 44 November 1976, pp. 26–31.

¹⁵ *Ibid.*, (Part Two: The Women), p. 31.

women wanted an alternative to abortion, and argued that authoritarian concerns about the falling birth rate made meeting these demands untenable for the State.¹⁶ In 1984 Mary Dobbie, who was one of the early members of the New Zealand Family Planning Association (NZFPA), argued the daily lived experiences of New Zealand women during the Great Depression (1929–1935) were of poverty and hardship, with the fear of pregnancy being ever present. Dobbie suggested those who propounded pro-natalist beliefs were so dogmatic they ignored the realities of family life during the Depression and the hardships incurred by those who were unable to control their fertility.¹⁷ These interpretations of women's experiences of abortion posit women as the victims of a pro-natalist dominated State and society primarily concerned with raising the birth rate among white New Zealanders.

Philippa Mein Smith moved the discussion away from women's experience and explored the theme of abortion as a problem of maternal mortality, a matter of great interest for both the State and women themselves. She highlighted the importance of Health Department maternal mortality statistics in providing the impetus for the McMillan Inquiry. Mein Smith showed the falling birth rate may well have circumscribed the McMillan Committee's recommendations and subsequent government responses on the matter of birth control clinics. But she argued the central concern of the Inquiry was how to mitigate the apparently rising number of women's deaths from 'septic abortion' in the overall context of departmental initiatives to lower maternal mortality.¹⁸ In Mein Smith's analysis, the problem of abortion was an issue of women's health for the State rather than one of birth rate decline.

¹⁶ Barbara Brookes, 'Housewives' Depression: The Debate over Abortion and Birth Control in the 1930s', NZMJ, 15, 2, 1981, pp. 115–34, reprinted as 'Reproductive Rights: The Debate over Abortion and Birth Control in the 1930s', in Barbara Brookes, Charlotte Macdonald and Margaret Tennant (eds), *Women in History: Essays on European Women in New Zealand*, Wellington, 1986, pp. 119–36.

¹⁷ Mary Dobbie, *A Matter for Women*, Auckland, 1984, 1995, pp. 1–3.

¹⁸ Philippa Mein Smith, *Maternity in Dispute: New Zealand 1920–1939*, Wellington, 1986.

In addition to Mein Smith, other historians have explored the apparent link between abortion and women's deaths, suggesting abortion was a particularly dangerous form of birth control. The overwhelmingly negative character of the descriptions of abortion practices given to the McMillan Committee by medical witnesses and feminist birth control campaigners provided a large reservoir of evidence for such discussions. In Levesque's words the adoption of dangerous, crude, and painful methods of abortion by women gave 'an indication of how desperate [they] were'.¹⁹ Brookes and Mein Smith used evidence given by doctors and feminists to the McMillan Committee to suggest the methods of abortion available to women in the 1930s were 'horrific practices',²⁰ either fatal or largely ineffective, presenting abortion as little use within the project of controlling fecundity and family size.²¹ Historians used this evidence to show the dangers of past practices, implying on the one hand that doctors' views about the safety and efficacy of abortion practices reflected women's experience, and on the other hand that feminist calls for birth control clinics were representative of women's desperate need for alternatives to abortion.

These views have persisted during the late twentieth century and into the new millennium. Feminist women's health campaigner, Sandra Coney, produced a general history of New Zealand women in 1993 containing a section on abortion and birth control, drawn largely from the aforementioned authors' works.²² Coney argued New Zealand women were 'disappointed' by the First Labour Government's failure 'to act on birth control'. This statement perpetuated the view that the representations of feminist birth control campaigners of the 1930s reflected the opinions of all New Zealand women.²³ The notion that the Government had failed to address women's needs in response to the McMillan

¹⁹ Levesque, 'Grandmother took Ergot, Part Two: The Women', p. 30.

²⁰ Mein Smith, *Maternity in Dispute*, p. 102.

²¹ Brookes, 'Reproductive Rights', pp. 124–5; Mein Smith, *Maternity in Dispute*, pp. 101–2.

²² Sandra Coney, *Standing in the Sunshine: A History of New Zealand Women Since They Won the Vote*, Auckland 1993, pp. 70–5.

²³ Coney, *Standing in the Sunshine*, p. 71.

Inquiry was expressed in a review of New Zealand literature on abortion also. Its authors argued the McMillan Inquiry recognised ‘a need for some “responsible” public contraceptive information’, which the Government did not address.²⁴ This statement is a misinterpretation of the Committee’s recommendation to government suggesting they should legislate to restrict public access to contraceptives by limiting their distribution to the medical profession.²⁵

In the late 1990s scholars began to analyse political representation about abortion as distinctive from women’s experience rather than indicative of their experience.

Sociologists Annabel Cooper and Maureen Molloy suggested the McMillan Inquiry created a representation of abortion that ‘tamed and constructed [women] ... as vulnerable, ineffectual, self-sacrificing victims of poverty and male concupiscence’. Cooper and Molloy argued this representation suppressed women’s demands for reproductive freedom and allowed the First Labour Government to take the role of the ‘father’ and ‘breadwinner’ for the nation in its Social Security Act of 1938.²⁶ In the process of rethinking the political nature of the McMillan Inquiry, women have remained the objects of the State’s (male) gaze leaving a clear gap for historians to explore women’s views with regard to their own experiences of abortion.

The distinction between political activism and women’s experience can be seen in Helen Smyth’s history of the New Zealand Family Planning Association, which contained a section on abortion and the McMillan Inquiry. Smyth centred her discussion on the work of the women who sought mainstream acceptance of their organisation’s perspectives, and those other women who sought their help. She showed the difficulties these women faced

²⁴ Karen McMillan, Alison Jones, Heather Worth, Helen Roberts, *Abortion: A Review of the New Zealand Literature*, Auckland, 1999, pp. 4–6, quote from p. 5.

²⁵ ‘McMillan Report’, p. 15.

²⁶ Annabel Cooper and Maureen Molloy, ‘Poverty, Dependence and “Women”: Reading Autobiography and Social Policy from 1930s New Zealand’, *Gender & History*, 9, 1, 1997, pp. 50–2, 54.

in this project, rather than appropriating their perspectives as representative of all women's needs and opinions.²⁷ Smyth's pictorial and narrative approach adds new perspectives to the history of abortion practices, with images of instruments and advertisements for patent medicines alongside case studies describing women's use of abortion and contraceptives in the 1930s. These offer a tantalising glimpse of colloquial and experimental nature of efforts at abortion and contraception during this period.²⁸

Recent historiography has continued to discuss the political situation into which the McMillan Inquiry's report was released. Christopher Van der Krogt indirectly challenged the notion that women had no choice but to use abortion because contraceptives were unavailable. He traced the activism following the Inquiry and argued the 'strongest political force' in play at the time believed contraceptives were too freely available to the public and demanded legislation to suppress sales rather than expand access to these products. These were views the McMillan Committee endorsed in its recommendations.²⁹ Van der Krogt's argument opens up other possible explanations for the Government's failure to enact McMillan's recommendations on contraceptives and birth control clinics into legislation. Rather than being oppressive towards women, the Government's inaction ensured there was no moral gatekeeper standing between the public and contraceptives.

Angela Wanhalla's MA thesis on women's political movements challenged earlier historians' claims that women's organisations and pro-natalists were opposed to each other. She contextualised feminist activism via the Sex Hygiene and Birth Regulation Society (which later became the NZFPA) and the Women's Division of the Farmers Union in terms of eugenics. Wanhalla found these two groups were more closely aligned than has been

²⁷ Helen Smyth, *Rocking the Cradle: Contraception, Sex and Politics in New Zealand*, Wellington, 2000, pp. 29–30, 34–5.

²⁸ Smyth, *Rocking the Cradle*, pp. 29–30, 34–5.

²⁹ Christopher Van der Krogt, 'Exercising the Utmost Vigilance: The Catholic Campaign Against Contraception in New Zealand During the 1930s', *Journal of Religious History*, 22, 3, October 1998, p. 325.

previously acknowledged. She argued these groups' activities complimented each other's actions because their activism was based 'on similar issues, campaigns and racial desires'.³⁰ Collectively, the work of Van der Krogt and Wanhalla raised questions about the purpose of these groups' demands for policies on birth control from Government.

In the recent period, very few historians have researched abortion during the interwar period. Evidence of women's use of abortion has been touched on by Brookes in the context of wives' experiences of marital sex, reproduction, and fertility control as part of her involvement in the oral history interviews for the Caversham Project.³¹ Although the discussion is very brief, her article suggests during the 1930s abortion may not have been foreign to middle-class couples, or men for that matter, challenging the emphases on women and poverty in earlier historiography.³² It remains to be seen whether the Caversham Project will produce a substantive oral history about the use of abortion and its place within Dunedin women's sexual and reproductive lives.

Potential new directions for future abortion historiography have been explored also.

Caroline Daley critiqued the political nature of early abortion historiography in her aptly named article 'Puritans and Pleasure Seekers'. She roundly criticised the tendency among historians of abortion to describe the sexual acts which led to unwanted pregnancies as something women 'endured rather than enjoyed'. Daley raised important questions about the extent to which feminist historians' modern political agendas have shaped abortion historiography to fit claims of 'sexual repression and fear rather than experimentation and

³⁰ Angela Wanhalla, 'Gender, Race and Colonial Identity: Women and Eugenics in New Zealand, 1918–1939', MA Thesis, University of Canterbury, 2001, pp. 75–9, quote from p. 79.

³¹ Caversham Project is an interdisciplinary research project studying the southern suburbs of Dunedin between 1893 and 1940, which has been underway since the 1970s. For information on the project see the website: <http://caversham.otago.ac.nz/about/project.php>. See also Erik Olssen and Maureen Hickey, *Class and Occupation: The New Zealand Reality*, Dunedin, 2005, pp. 9–28.

³² Barbara Brookes, 'Hygiene, Health, and Bodily Knowledge, 1880–1940: A New Zealand Case Study', *Journal of Family History*, 28, 2, 2003, pp. 306–7.

tolerance'.³³ Daley suggests abortion histories should begin to focus on sexuality in place of the past politics of fertility control.

For most of the late twentieth century, historians of abortion in New Zealand have offered considerable critique of feminist birth control reformers' political relationship with the State over fertility control during the 1930s. This historiography has offered little in the way of direct engagement with women's own narratives about their abortion experiences, however. Instead they focused on representations of abortion made by feminist activists, medical professionals, and State authorities. Such emphases have constructed abortion as a problem related to inadequate access to effective fertility control, producing a very negative impression of past abortion practices.

Overseas Historiography

New Zealand historians' definition of abortion as a problem caused by women's lack of political power to control their fertility by safer methods was part of a wider movement in abortion historiography. In 1977, Angus McLaren and Patricia Knight pioneered the field with their articles on historic abortion practices in Victorian and Edwardian England. McLaren initiated the argument that, during the nineteenth and early twentieth centuries, use of abortion was the product of working-class women's lack of access to reliable contraceptives.³⁴ Knight concurred with this interpretation, arguing the cost of contraceptives would have been prohibitive for many working-class women who would have relied on abortion instead.³⁵ Whilst in New Zealand historiography class has been

³³ Caroline Daley, 'Puritans and Pleasure Seekers', in Allison Kirkman and Pat Maloney (eds), *Sexuality Down Under: Social and Historical Perspectives*, Dunedin, 2005, pp. 51–4.

³⁴ Angus McLaren, 'Women's Work and Regulation of Family Size', *History Workshop*, 4, 1977, p. 78; 'Abortion in England', *Victorian Studies*, 20, 4, 1977, p. 394.

³⁵ Patricia Knight, 'Women and Abortion in Victorian and Edwardian England', *History Workshop*, 4, 1977, p. 59.

subsumed into the category of poverty, McLaren and Knight linked abortion to social class, embodied in descriptions of the relative powerlessness of working-class women to control their fertility.

The definition of abortion as a female working-class fertility control strategy born of poverty and disadvantage remained popular in English historiography for the rest of the twentieth century. But this interpretation is complicated by understandings about working-class traditions. In 1988, Barbara Brookes' monograph on abortion in England between 1900 and 1967 linked social class with particular forms of abortion, arguing that the 'use of abortifacients was part of an enduring tradition of self-medication among working-class women'.³⁶ Despite this reference to tradition, Brookes went on to identify abortion with social inequities, arguing that the law against abortion endangered women's lives by driving the practice underground, leaving economically vulnerable women unable to secure 'safe surgical abortions'.³⁷ Brookes presented the commercial nature of abortion as both an established cultural tradition and an unsafe practice forced upon women who would have preferred other options, implicitly upholding the view that only doctors could perform abortions safely.

Claims the middle classes had better access to safer and more reliable fertility control than their working-class neighbours were taken up in Australian historiography also. Historian Lynette Finch and sociologist Jon Stratton explored descriptions of Australian working-class abortion practices in middle-class activism between 1880 and 1939. They posited activism against the traditional methods of abortion used by the working class showed a shift in middle-class attitudes towards medicalisation of abortion within the wider arena of reproduction and childbirth. They argued the middle classes internalised medical opinions

³⁶ Barbara Brookes, *Abortion in England, 1900–1967*, London, 1988, p. 5.

³⁷ *Ibid.*, pp. 40–2.

about conception and pregnancy and increasingly relied on the medical profession for safe abortions.³⁸ Thus they present the late nineteenth and early twentieth centuries as periods where middle-class practices diverged from working class practices.

Wally Seccombe offered a different perspective on the use of abortion by British proletariat women, suggesting the practice was a sign of changes in the gendered power differential within working-class marriages. He argued the apparently rising rate of abortion among working-class married women during the early twentieth century represented women's limited power to set 'the terms and conditions of intercourse' within marriage, demonstrating women's 'fierce determination to terminate pregnancies that their husbands had not been conscientious enough to prevent'.³⁹ Seccombe inverted arguments about class and poverty raised by earlier historians. He posited that by the middle of the interwar period, considerations of poverty and the economic cost of children led working-class men to become more willing to cooperate with their wives and use contraceptives to prevent pregnancy.⁴⁰ For Seccombe, the effect of economic insecurity on the types of fertility control regimes used within marriage was to synchronise husbands' and wives' opinions about family size thereby reducing women's resort to abortion.

Australian Women's Studies scholar, Barbara Baird questioned historians' reliance on activist and medical sources for information on past abortion practices. In separate articles on the 'backyard abortionist' and the 'self-aborting woman', she argued historians' avoidance of engaging with women's own narratives about their abortion experiences produces very negative portrayals of the practice, its users, and providers. Baird suggests

³⁸ Lyn Finch and Jon Stratton, 'The Australian Working Class and the Practice of Abortion 1880–1939', *Journal of Australian Studies*, 23, 1988, pp. 51–3, 64.

³⁹ Wally Seccombe, 'Starting to Stop: Working-Class Fertility Decline in Britain', *Past & Present*, 126, 1990, p. 187.

⁴⁰ *Ibid.*

this approach both validates ‘the hold of medical discourse’ on abortion history,⁴¹ and ‘foregrounds stories of abjection and suffering and allows no room for stories of competence’.⁴² Baird’s criticism, echoed by Daley some years later in New Zealand, suggests many of the realities of abortion in the past remain unexplored.

North American historian Leslie Reagan explored women’s experiences of abortion from a different perspective: searching archives for commonalities in legal consequences rather than attempting to extrapolate from these records the reasons why women used abortion in the first place. Using extensive legal records, Reagan looked at the interactions between medical professionals, their patients, and the legal system in the United States between 1867 and 1973. She suggested race and class did not influence women’s resort to abortion so much as it increased the likelihood women’s actions would be exposed to the public through the courts.⁴³ Reagan’s emphasis on legal consequences suggests some women’s abortions were more likely to be policed and punished, particularly those of the poor, working class, and non-Anglo immigrants.

British historiography written in the twenty-first century began to engage critically with earlier claims that women were motivated to use abortion by poverty and the inaccessibility of contraceptives. Tania McIntosh researched the use of abortion among working-class residents of the Yorkshire city, Sheffield, during the interwar period. She argued ordinary working-class people used abortion because many apparently preferred it over contraceptives. She noted this preference was visible because of the lack of demand for contraceptives, or support for institutions to distribute these, from ordinary working men

⁴¹ Barbara Baird, “‘The Incompetent, Barbarous Old Lady Round the Corner’: The Image of the Backyard Abortioneer in Pro-abortion Politics”, *Hecate*, 22, 1, 1996, p. 10.

⁴² Barbara Baird, ‘The Self-Aborting Woman’, *Hecate*, 13, 28, 1998, p. 331.

⁴³ Leslie Reagan, *When Abortion was a Crime: Women, Medicine, and Law in the United States, 1867–1973*, Berkeley, 1997.

and their wives during the 1930s and beyond.⁴⁴ McIntosh's findings suggest some people's resort to abortion could have been more to do with its accessibility and acceptability rather than lack of access to contraceptives or their cost.

Recent publications by English oral historian, Kate Fisher, have gone further to uncover ordinary women's and men's views about their own abortion experiences. Fisher's research further disrupts claims abortion was the product of married, working-class women's lack of access to reliable contraceptives during the interwar period. She suggested instead ordinary married women perceived abortion as the more moral strategy for family limitation and that 'Moral objections were associated rather with the new appliance methods [of contraception], which might be seen as unnatural, connected with illicit sexual activity or injurious to the privacy that was felt should surround marital sexual relations.'⁴⁵ Fisher argued historians should be wary of claims that abortion was mostly used by working-class women also. She suggested the evidence is more indicative of middle-class concerns about working-class communities than the reality of abortion practices across the spectrum of society.⁴⁶ Fisher's research suggests that the moral compass in relation to fertility control regimes has been reversed over the course of the twentieth century. People who attempted to control their own fertility during the interwar period attached popular pejorative moral understandings to contraceptives rather than abortion.

Emma Jones took up the task of illuminating the narratives of those who used, or took part in, abortions in her PhD thesis on abortion in England between 1861 and 1967. Jones too

⁴⁴ Tania McIntosh, "An Abortionist City": Maternal Mortality, Abortion, and Birth Control in Sheffield, 1920–1940', *Medical History*, 44, 1, 2000, pp. 93–6.

⁴⁵ Kate Fisher, *Birth Control, Sex, and Marriage in Britain, 1918–1960*, Oxford, 2006, p. 161. See also Kate Fisher, "Didn't Stop to Think, I Just Didn't Want Another One": The Culture of Abortion in Interwar South Wales', in Franz Eder, Lesley Hall and Gert Hekma (eds), *Sexual Cultures in Europe: Themes in Sexuality*, Manchester, 1999, pp. 213–32.

⁴⁶ Fisher, *Birth Control*, pp. 125–6.

argued social class was not a determining factor in decisions to terminate pregnancies and broadened the discussion to show ‘that gender, marital status and locality, as much as social class, shaped experience’ of abortion.⁴⁷ For Jones, the significance of moving the discussion into the broader realm of social networks, relationships, legal proceedings, and popular fictional representations is to show the multiple and conflicting narratives about abortion and its meaning at play in English society, uncovering how these evolved and changed over the course of a century.⁴⁸

German historian Cornelia Usborne in her study of abortion in Weimar Germany used a similar methodological approach. Usborne engaged narratives about abortion in particular thematic domains or forums: popular culture, medical theory and practice, medical politics, women’s experiences, and in an illegal abortionist’s local practice, over the short years of the Weimar Republic (1919–1933). Usborne’s conclusions chimed with Jones; there were multiple, often conflicting narratives about abortion in play during the Weimar era, which formed very different but co-existent cultures of abortion in Germany.⁴⁹

International historiography on abortion was initially in tune with New Zealand historiography, but has moved on considerably from early arguments suggesting women were forced to use abortion because of economic deprivation, lack of power within marriage, and the high cost of contraceptives. Fisher, Jones, and Usborne have brought to the fore women’s own descriptions of their abortions, disrupting earlier emphases on social class and poverty, to show abortion was a choice many women and men described making because it suited their needs and fitted with popular perceptions of morality rather than representing a dearth of other options.

⁴⁷ Emma Jones, ‘Abortion in England, 1861–1967’, PhD Thesis, Royal Holloway, University of London, 2007, pp. 19–22, 150–1.

⁴⁸ *Ibid.*, p. 19.

⁴⁹ Cornelia Usborne, *Cultures of Abortion in Weimar Germany*, New York, 2007, p. 202.

Methodology and Sources

Jones and Osborne, who have argued for multiple ‘cultures’ of abortion in England and Weimar Germany respectively, challenge historians to take greater care with the identification and use of primary sources related to abortion. Earlier historiography in New Zealand and overseas tended to treat political activism and medical discourses as if these provided an unmediated representation of popular beliefs and practices. By contrast, Jones and Osborne’s methodologies presented these discourses as interpretations of popular practices, rather than as a window giving a clear, unreconstructed view upon these practices.⁵⁰ By arguing for separate cultures of abortion, Jones and Osborne have shown it is possible to historicise the voices of ordinary people independently from the claims made about their behaviour by elite or professional observers.

This methodological approach raises interesting questions for a history of abortion practices and representations in New Zealand. How different would this history look if the source material for examining past practices was not the McMillan Inquiry archives? What sources could be used to reveal the voices of ordinary people? And if we were to examine medical sources in the context of the therapeutic relationship between doctors and their patients, what would this tell us about patient experience and the development of medical understandings about abortion at that time?

The most immediately obvious source of information about ordinary people’s opinions about abortion was the popular press. I began my research searching for information on public views about abortion during the interwar period in the available press indexes, such

⁵⁰ See for example, Osborne’s chapters on ‘Medical Termination of Pregnancy’, and ‘Abortion in the Marketplace’ which dispute past medical professionals’ claims that only their profession could provide safe, efficient abortions. Osborne, *Cultures of Abortion*, Chs 3, 4.

as the index to the *Christchurch Press*, databases such as the Southern Regional News Index, which is available online through the Dunedin Public Libraries website, and the National Library's digitised newspaper database, Papers Past, which at the time documented some newspapers, like the *Grey River Argus*, up to the mid 1920s.

I read microfiche copies of newspapers and magazines also, focussing on *NZ Truth* initially. A weekly tabloid, *Truth's* focus on criminal court cases and inquests, and its editors' penchant for tales of immorality and directly worded headlines meant the paper was a goldmine of information about abortion, albeit one known for its sensationalism. *Truth* was one of the most widely distributed and read papers during the interwar period also. As historian Richard Joblin pointed out, by 1928 *Truth* had reached the peak of its circulation, selling nearly 100,000 copies per week. New Zealand's population was at that time around one and a half million people, meaning nearly one in every 15 citizens bought a copy of *Truth* in any given week and many more people probably read the paper. Consequently, the editors altered the paper's banner to 'The National Paper', reflecting its nationwide distribution in urban centres: the cities and large provincial towns. Although *Truth* had a reputation as a paper for working-class men, its range of advertisements suggested readers were women and men, middle and working class alike.⁵¹ *Truth* was an ideal starting point to look for popular views about abortion, given its national, urban coverage and apparently broad readership alongside its propensity to report on aspects of immorality and crime.

The large regional daily papers that were not indexed such as the *NZ Herald*, the *Evening Post*, and the *Dominion* were more laborious to track. These papers I initially approached in three-month bites, looking at the papers produced for a three-month period in one

⁵¹ Richard Joblin, 'The Breath of Scandal: *New Zealand Truth* and Interwar Society, 1918–1939', MA Thesis, University of Canterbury, 1990, pp. 29–33.

publication, moving on to another publication for the next three-month period. I searched these daily newspapers for the period from 1920 to 1925, and 1930 to 1934 and 1937. I had little success in finding information about abortion other than reports of criminal court cases and coroners' inquests, until after 10 April 1937 when the McMillan Committee's report was released.

Consequently, I then took a targeted approach; following up pointers given by newspaper indexes and databases, and based upon information given in other sources such as the *New Zealand Medical Journal* (NZMJ) and archived sources. I also widened the base of publications to include other regional papers such as New Plymouth's *Taranaki Herald*, Napier's *Daily Telegraph*, and Whangarei's *Northern Advocate* and weekly or monthly magazines such as the *Ladies' Mirror*, *New Zealand Observer*, and *New Zealand Woman's Weekly*.

Although the newspaper searches were not exhaustive, the results of my readings suggested a major shift in public representations of abortion occurred with the release of the McMillan Report in April 1937. This shift changed the emphases of representations of abortion from the termination of illegitimate pregnancies to the birth control practices of married couples. This finding is consistent with earlier historiography, which argues the McMillan Report revealed information about abortion which had previously been largely unacknowledged in New Zealand society: married women used abortion to control family size.⁵²

The other major finding of my newspaper searches was prior to the publication of the McMillan Committee's report, press representations of abortion were dominated by

⁵² See for example Brookes, 'Reproductive Rights'.

narratives about abortion in the form of reports about criminal court trials and coroners' inquests. Political statements about abortion were so rare as to be almost non-existent. The social context into which the McMillan Report was released appears to have been steeped in discussion about the legal system's engagement with individual abortion attempts.

The archived meeting minutes of politically active organisations during the interwar period reinforced the view that there was little political activism over abortion, prior to 1937.

Minutes of organisation meetings, such as those of the National Council of the Women of New Zealand (NCW), revealed a dearth of discussion about the issue of abortion. Prior to February 1936 when the Obstetrical Society, a branch of the New Zealand Branch of the British Medical Association (NZBMA), requested the government initiate an inquiry into maternal mortality from abortion in New Zealand, abortion was not an officially recorded topic of discussion in these organisations.

In contrast to the lack of discussion about abortion as a political issue in the press and lay organisations, the medical profession clearly defined abortion as a problem for most of the interwar period. I found numerous articles in sources the public were not privy to: medical textbooks, the NZMJ, and articles from international journals related to obstetrics and gynaecology. These built a picture of doctors' past beliefs about illegal abortion, and their beliefs about the complications related to pregnancy loss generally. References to abortion were prevalent in these sources throughout the 1920s and 1930s. But medical professionals' concerns remained largely internal to the profession and were not widely visible to the public until the McMillan Committee issued its report.

Archived records from government departments, particularly those of the Ministries of Health, Justice, and Customs have documented the interactions between government and

concerned individuals over the issue of abortion. Health Department files track departmental officials' interest in abortion as a potential cause of maternal mortality and their interactions with medical professionals on the matter. The sale of abortifacients and contraceptives intersected with these same officials' interest in quackery and with Customs Department officials' interest in controlling imports. Justice Department files have provided insight into the workings of criminal court trials. These record the opinions of juries and the police that would otherwise have been lost forever. Government archives have contributed information showing the extent to which press editorial staff interacted with advertisers and government authorities to shape the presentation of advertisements for products with potential abortion-related applications.

My research into public representations in the press revealed the dominance of coroners' inquests and criminal court trials in the production of press reports about abortion. Because of this finding, I expanded my search to include inquest files held at Archives New Zealand. Inquests are indexed in annual registers giving reference to the person's details and coroners' findings. Both index registers and inquest files became publicly available 50 years after the year of the inquest. I have reviewed and documented archival records for 83 coroners' inquests during the years from 1919 to 1937, some of which are complimented by newspaper reports.⁵³ These files contain a wealth of information about abortion in New Zealand communities, revealing first hand accounts of abortion attempts. The files revealed coroners' had begun to interrogate married women's abortion-related deaths during the 1930s, predating by some years the revelations of the McMillan Inquiry. In addition, because these files were accessed independently of press reports they revealed inquests were often not reported in full, or even in part, in the local papers.

⁵³ Appendix B.

Criminal court trials were by far the most common representation of abortion in the press. From newspaper searches I gathered information about 94 criminal court trials. These court cases represent just under half of all criminal court trials in relation to abortion conducted during the period from 1919 to 1937.⁵⁴ Access to archived criminal court files proved to be dependent upon newspaper searches. Researchers require Justice Department permission to view archived criminal court files. The registers indexing the cases heard in the various Magistrates and Supreme Courts around New Zealand are closed to the public. Therefore to gain access to a criminal court file I identified the individuals concerned and their ages, the court in which the case was heard, and provide the approximate dates of the hearings. Compiling such a list meant extensive newspaper searches to find the details of particular cases before applying to Archives New Zealand for permission to view the files. In my case, permission was obtained to view files at the Christchurch and Dunedin Regional Archives Offices, relating to criminal court cases taken in those regions. Within these regions some files were withheld because the defendant was still alive and therefore protected by the 1993 Privacy Act and the 2004 Criminal Records (Clean Slate) Act.

The use of legal records as sources of information about everyday life has been the subject of some debate among historians. Jones urged caution when using legal sources, which are shaped as much by legal protocol as by notions of ‘truth’ or ‘fact’. She argued the value of these sources for historians lies in their interpretation as ‘a series of representations and public rationalisations of intimate sexual and criminalised acts’.⁵⁵ Stephen Robertson, who researches histories of sexuality and crime in the United States, expressed similar views. He argued critical evaluation of the narratives presented at criminal court trials allows the historian to uncover understandings of criminality among jurors, giving a window on

⁵⁴ See Appendix A. & Appendix E.

⁵⁵ Jones, ‘Abortion in England’, pp. 26–36.

popular perceptions of crime and justice.⁵⁶ New Zealand historian of sexuality Chris Brickell recently added to the debate, pointing out that evidence like letters presented at criminal court trials were not always constructed by legal processes. The preservation of these documents in court files ‘offer us a way into the categories, language and conventions of their time’, opening up to the historian’s gaze to perspectives that would otherwise have been lost.⁵⁷ For these historians court records provide invaluable insight into the intimate details of relationships and criminal activities, provided attention is paid to the context and limitations of these sources.

As Brickell suggested, criminal court files often contain written information uncovered in the course of police inquiries rather than constructed as a result of these investigations. Personal correspondence, in the form of letters, notes, and telegraphs were stored in court and inquest files after being discovered in the course of investigations. These form part of the source material for this thesis. These intimate but less voluminous sources helped to inform the chapters on women’s experiences of abortion and their efforts to find abortionists. Two autobiographies have added useful material based upon women’s recollections of their own, or others, experiences of abortions which support information gleaned from judicial sources.⁵⁸

The press provided its own valuable source material despite being limited to stories about crime. Criminal court archives contained transcripts of the witnesses’ statements and their responses to questions in court. But these documents did not record the questions asked by the prosecution and defence lawyers nor the Judge’s directions to either lawyers or the jury.

⁵⁶ Stephen Robertson, ‘What’s Law Got to Do with It? Legal Records and Sexual Histories’, *Journal of the History of Sexuality*, 14, 1/2, 2005, pp. 178–81.

⁵⁷ Chris Brickell, ‘Court Records and the History of Male Homosexuality’, *Archifacts: Journal of the Archives and Records Association of New Zealand*, 2008, p. 35.

⁵⁸ Mary Findlay, *Tooth and Nail: The Story of a Daughter of the Depression*, Wellington, 1974; E.M., *Cockabully Story: The Memoirs of [E.M.]*, 1909–1999, undated, Misc-MS-1400/002, Hocken Library, Dunedin.

These interactions were often recorded by the press, along with other information about the demeanour of the witnesses — whether they were distressed or apparently unconcerned by the questions asked of them, for example. Without the contextual details provided by the press, archival records from criminal court trials presented a very narrow and one sided account of the human interactions played out in the courtroom setting.

Reading press reports and archival sources in concert revealed some of the popular understandings of abortion produced by the press also. As this thesis will show, press coverage of abortion trials was overlaid with significant discussion about morality. Yet archived criminal court files, focussed as they were on establishing the veracity of the charges against the defendant, appeared largely devoid of any discussion about individual morality. So while press reports helped to contextualise criminal court trials, they reveal the influence of reporters and editors in producing popular public statements about abortion also.

This phenomenon was not limited to criminal court trials. Press reports contextualise some coroners' inquests by recording coroners' statements during their summing up and delivery of the verdict. But as is mentioned above, finding coroners' inquests was not dependant on newspaper reports. Furthermore, coroners' inquests differed from criminal court trials in that the process was not adversarial. There were no lawyers or jury members involved so the absence of a record of the questions asked of witnesses was less of an issue. Questions from the coroner could be inferred from the answer. Consequently inquest records provide another piece of the puzzle for reconstructing historical abortion practices, offering information supporting or contradicting evidence gleaned from criminal court trials and one which has been located largely independently of press reports.

The submissions to the McMillan Committee have provided another source of information about abortion practices, personal views, and public representations. But these submissions have been treated with caution. As noted earlier, many of these views were expressed by reformers for political purposes: to urge the government to make legislative or policy changes. Of greater interest to this study is the written information given by women contextualising the use of abortion within married life and its relationship with other fertility control strategies. Responses to the 'Married Women's Questionnaire' (MWQ) presented by a number of women to the Committee along with the returns for 1935 sent by Matrons from four St Helens Hospitals and Christchurch's Essex Maternity Home give valuable insight into married women's acknowledged experience of abortion during their reproductive lives.⁵⁹

The emphasis on legal records and their representation in the press reveals the sources for this thesis exclude publicly articulated political statements about abortion and birth control generally. This exclusion is largely determined by the sources themselves; published political statements about these matters only began to appear in New Zealand in 1936. Sporadic references to abortion activism were published in *Tomorrow*, a socialist magazine with a circulation of around 1,000 copies, and *Working Woman*, a magazine with a smaller readership associated with the Communist Party.⁶⁰ The first organisation dedicated to birth control reform (the Sex Hygiene and Birth Regulation Society) slowly came into being as a result of meetings conducted during 1936. Society members were not initially concerned about abortion and limited their political activism to private meetings with the Minister of Health and presentations at hearings of the McMillan Inquiry.⁶¹ Activism for legal

⁵⁹ For responses to the 'Married Women's Questionnaires' see Appendix C. See also 'St Helens Hospital Returns', 1935, H1 1302 131/139/13 9400 Diseases – Septic Abortion – Statistics 1936–1936, ANZW; Evidence of Miss Gow, 6 November 1936, H1 131/139/15 Diseases – Septic Abortion – Evidence 1938–1938, ANZW.

⁶⁰ Joblin, 'The Breath of Scandal', p. 26.

⁶¹ Smyth, *Rocking the Cradle*, pp. 39–41.

restriction of sales of contraceptives was underway during the early to mid 1930s, but was concerned to prohibit the young and unmarried from buying contraceptives and did not make any reference to abortion.⁶² Likewise, some Protestant churches made public statements in support of married couples' right to limit their families in certain circumstances predating the McMillan Inquiry. But again, the churches did not specifically discuss abortion until after the Committee's report was released.⁶³ Published political statements about abortion identifying the practice with birth control did not become a feature in the mainstream press until after the release of the McMillan Report in 1937.

Another source of information which Jones and Osborne have mined extensively in their work was fiction, in film, novels, and plays. They revealed cultures of fictional representations of abortion during the interwar period; thriving and diverse in Germany but rather more muted in England.⁶⁴ Initial searches for plays and films in New Zealand suggest this country did not share in this culture of fictional representations to a great extent. In 1919, theatres at Gisborne, in the Hawke's Bay, and on the West Coast of the South Island played a motion picture filmed in the United States titled 'I Want my Children', which addressed the issue of abortion within marriage. An article in the *Grey River Argus* described the film as being about a husband's assertion of his rights to children by his wife, in the face of pressure from her mother to avoid motherhood by using abortion.⁶⁵ In 1922, His Majesty's Theatre in Wellington presented a play titled 'Her Unborn Child', described as the story of 'a young girl who loved unwisely' and whose female confidante sought to arrange 'the services of a physician to get the girl out of her trouble' because this woman secretly did not want the young couple to marry for her own

⁶² See resolutions sent by women's organisations to the Minister of Justice in J1 18/1/106 Representations Regarding Abortion and Sale of Contraceptives 1932–1938, ANZW.

⁶³ See for example *Church Gazette*, 1 November 1930, pp. 26–7.

⁶⁴ Jones, 'Abortion in England', pp. 205–14, 219–21; Osborne, *Cultures of Abortion*, Ch. 2.

⁶⁵ *Poverty Bay Herald*, 4 February 1919, p. 3; *Grey River Argus*, 12 April 1919, p. 4. The provenance of this film is unclear.

reasons.⁶⁶ But these were apparently the limit of dramatic representations of abortion in New Zealand and offer little insight into the private realities of abortion.

Abortion and Fertility in New Zealand Statistics

The term ‘abortion’ had two different meanings during the interwar period. Strictly speaking abortion was a medical term referring to the gestation of a terminated pregnancy. Abortion occurred prior to the fourth month of gestation, after which time a terminated pregnancy was termed a miscarriage until the seventh month of gestation. After the seventh month pregnancy loss was then named a premature birth or still-birth. In medical language the words ‘abortion’ and ‘miscarriage’ referred only to the gestation of the pregnancy when it ended and did not infer any meaning as to the cause of this event.⁶⁷ In popular language and in the press, ‘abortion’ referred to the cause of pregnancy loss and meant direct or indirect efforts by individuals to bring a pregnancy to an end, however. In this thesis I have used the term abortion following its popular meaning, rather than the medical meaning.

In this thesis I have not engaged in discussion about the efficacy of abortion methods or attempted to describe the prevalence of the practice within New Zealand communities. By limiting the discussion to the attempts admitted by people in historical records, my intention is to shift discussion about abortion away from politics and back into the realm of human experience. For this reason I have eschewed substantial engagement with statistics and have put aside the opinions about abortion of medical professionals, elites, and reformers, except where they are relevant to personal narratives about abortion experiences.

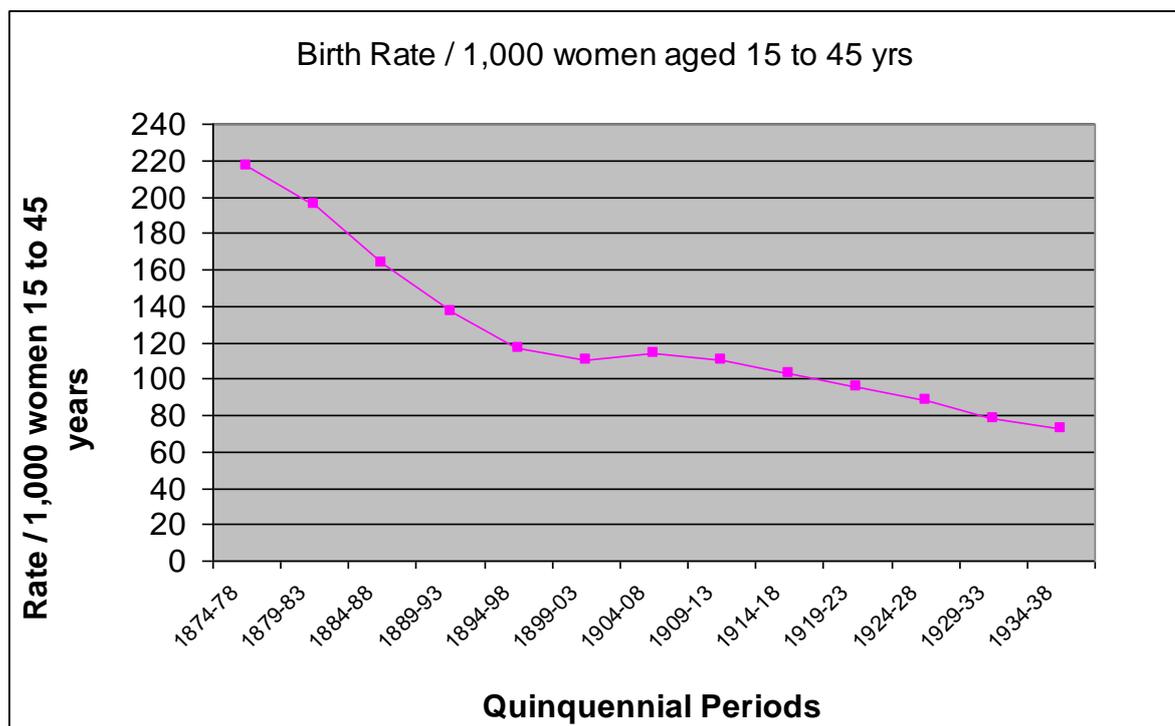
⁶⁶ *NZ Truth*, 11 March 1922, pp. 2, 6.

⁶⁷ J. Clifton-Edgar, *The Practice of Obstetrics Designed for the Use of Students and Practitioners of Medicine*, 2nd ed., Philadelphia, 1905, pp. 385–6; Henry Jellett, *A Short Practice of Midwifery Embodying the Treatment Adopted in the Rotunda Hospital, Dublin*, 7th ed., London, 1918, pp. 280, 287.

Nonetheless, the broad social background to the individual narratives about abortion examined in this thesis is perhaps most easily contextualised in the more traditional method of historical statistics. In New Zealand, as in many other western democratic countries around the world, there is considerable evidence that strategies to limit the number of full-term live births within families were well established before the end of the nineteenth century. The most significant evidence of this phenomenon is the long, steep decline in recorded birth rates among Pakeha women of reproductive age (15 to 45 years of age). Statistics recorded in the *Appendices to the Journal of House of Representatives* (AJHR) show that the national birth rate had halved between 1874 and 1900, down from 217 births per thousand women of reproductive age (15 to 45 years) for the quinquennial period 1874–1878 to 110 for the period 1899–1903. The birth rate then remained relatively constant until the beginning of the First World War. Between 1914 and 1938 the rate declined again, to reach a record low of 73 births per thousand women of reproductive age in the period 1934–1938.⁶⁸ In short the number of women of reproductive age expected to give birth during a five year period had reduced from one in five during the 1870s to one in ten by 1900 and then reduced again to one in 14 by the mid 1930s.

⁶⁸ See Figure 1, below.

Figure 1: Graphical representation of the declining numbers of births per thousand women of reproductive age in five year periods from 1874 to 1938, from the 1939 edition of *Appendices to the Journal of the House of Representatives (AJHR)*.⁶⁹



Source: AJHR, 1939, H-31, p. 15.

But declining birth rates did not necessarily denote an even decline in family size across the population. Demographic historians Ian Pool, Arunachalam Dharmalingam, and Janet Sceats have interrogated the declining Pakeha birth rate, along with other evidence, to show changes in the completed size of New Zealand families during the interwar period. They argue that the interwar period was one of significant diversity in family sizes. This diversity stood in contrast to the situation during the late nineteenth century, when most women married and family size was uniformly large. The falling numbers of births per woman of reproductive age from the 1870s reflected a combination of the limiting of family size and growing numbers of women who never married or those who remained childless within marriage. By the 1930s, women who never married, married couples who remained childless, and those who had only one or two children helped to reduce the

⁶⁹ AJHR, 1939, H-31, p. 15.

average family size to slightly less than three children. This group offset the impact of the large number of families with three to five children and the small cohort who maintained the traditionally large families of the previous century with more than five children.⁷⁰ The range of family sizes was particularly broad during the interwar period, but the realities of family size for the majority of people did not necessarily reflect the average.

As has been suggested earlier, statistics on abortion-related mortality were available to the Government and professional groups during the interwar period. Some forms of ‘septic abortion’ were notifiable diseases. Septic abortion described post-abortal bacterial infections of the vagina, uterus, or peritoneal cavity. From late 1924, the Health Department enumerated septic abortion in a separate category from infections occurring during or after full-term childbirth.⁷¹ Many medical professionals during the interwar period apparently believed septic abortion maternal mortality statistics could be used as an indicator of the changing prevalence of induced abortion within New Zealand communities. Health Department Inspector of Private Hospitals, Dr Thomas Paget, summed up the position in the 1930s: ‘it is universally conceded that the great majority of deaths from [septic abortion] are due to induced abortion’.⁷² Paget’s perspective has been an enduring one. In public statements and in medical studies the orthodox position has continued to be that post-abortal infections were largely indicative of bacterial transfer into the uterus by illegal, instrumental abortions.⁷³

⁷⁰ D. Ian Pool, Arunachalam Dharmalingam and Janet Sceats, *The New Zealand Family from 1840: A Demographic History*, Auckland, 2007, pp. 100–3.

⁷¹ This development and its implications are discussed further in Chapter Six.

⁷² AJHR, 1931, H–31, p. 34.

⁷³ See for example A.J. Wrigley, ‘Puerperal Infection by Pathogenic Anaerobic Bacteria’, *Proceedings of the Royal Society of Medicine*, 23, 1930, pp. 1645–54; T.N. Parish, ‘A Thousand Cases of Abortion’, *Journal of Obstetrics and Gynaecology of the British Empire*, 42, 6, 1935, pp. 1107–21; Arthur Hill, ‘Post-Abortal and Puerperal Gas Gangrene’, *Journal of Obstetrics and Gynaecology of the British Empire*, 43, 2, 1936, pp. 201–51; Hildred Butler, ‘Further Bacteriological Studies of Severe *Clostridium welchii* Infections Following Abortion’, *Journal of Obstetrics and Gynaecology of the British Empire*, 50, 2, 1943, pp. 105–19; A.M. Ramsay, ‘The Significance of *Clostridium welchii* in the Cervical Swab and Blood-stream in Postpartum and Postabortum Sepsis’, *Journal of Obstetrics and Gynaecology of the British Empire*, 1949, 56, 2, pp. 247–58; Ramsay, A.M., E.H. Brown, S.M. Manners, ‘Investigation and Treatment of Septic Abortion’, *British Medical Journal*, 19, 2, 1955, pp. 1239–43.

Not all doctors agreed with the official view that infection was the product of human intervention on the female body. Professor J. Bernard Dawson, Chair of Obstetrics at Otago Medical School, told the McMillan Committee in 1936 in his experience fatal infections could result from spontaneous abortions as well as induced abortions.⁷⁴ Dr David MacMillan, Assistant Gynaecologist at Christchurch Hospital, told the Committee he believed septic abortions could arise independently of instrumental interference.⁷⁵ MacMillan later stated, during his colleague's testimony, there was 'no scientific proof' that septic abortion was caused by instrumental interference with pregnancy.⁷⁶ Although Dawson and MacMillan's opinions were dismissed by the McMillan Committee and have not been discussed in historiography or medical literature, they suggest it was by no means certain a woman who experienced an infection after the loss of her pregnancy had had an illegal abortion.

For much of the twentieth century the majority of induced abortions were illegal. For this reason we have little understanding of the extent to which pregnancies terminated spontaneously in the past. This is an aspect of abortion history I do not explore in this thesis. But I do suggest there are many reasons why we should be cautious about attributing too much credence to past medical professionals' beliefs about spontaneous abortions, infections, and induced abortions.

During the early twentieth century many medical professionals described spontaneous abortions as infrequent and often benign. This belief compounded medical concerns that septic abortions were probably induced abortions. Renowned Master of the Rotunda Hospital in Dublin, Dr Henry Jellett, who became the New Zealand Health Department's Consulting Obstetrician in 1924, drew on his experience at the Rotunda to suggest in his

⁷⁴ Evidence of Prof. J.B. Dawson, 24 September 1936, H1 131/139/15, ANZW.

⁷⁵ Evidence of Dr D. MacMillan, 12 November 1936, H1 131/139/15, ANZW.

⁷⁶ Dr D. MacMillan, quoted in Evidence of Dr M. Brown, 12 November 1936, H1 131/139/15, ANZW.

1918 (seventh) edition of *A Short Practice of Midwifery Embodying the Treatment Adopted by the Rotunda Hospital, Dublin* that around three percent of pregnancies terminated naturally *and* resulted in women's admission to hospital.⁷⁷ American studies undertaken during the mid to late 1930s put spontaneous abortion rates at about ten percent of known pregnancies.⁷⁸ By 1937, New Zealand's McMillan Committee estimated this figure at five percent (one in every 20 pregnancies).⁷⁹

One early twentieth century medical educator, Dr J. Clifton-Edgar, suggested spontaneous abortion was most commonly experienced by women over the age of 40.⁸⁰ His opinion has been confirmed by research conducted in late twentieth-century Denmark, which was able to separate spontaneous abortions from induced abortions by virtue of the current legality of the latter procedure. The Danish study suggested women up to the age of 22 years had the lowest risk of spontaneous abortion at slightly less than nine percent of known pregnancies (around one in every 11 pregnancies). The risk increased slowly with maternal age up to 20 percent in women at the age of 35 (one in five pregnancies) and rose steeply thereafter to 75 percent in women over the age of 45 (three quarters of all pregnancies).⁸¹ This research suggests that during the interwar period, doctors probably under-identified the extent of natural pregnancy loss.

⁷⁷ Jellett, *A Short Practice of Midwifery Embodying the Treatment Adopted in the Rotunda Hospital, Dublin*, 7th ed., London, 1918, p. 280 (my emphasis).

⁷⁸ Regine K. Stix, 'A Study of Pregnancy Wastage', *The Milbank Memorial Fund Quarterly*, 13, 4, 1935, p. 364; Dorothy G. Wiehl, 'A Summary of Data on Reported Incidence of Abortion', *The Milbank Memorial Fund Quarterly*, 16, 1, 1938, p. 88.

⁷⁹ 'McMillan Report', p. 8.

⁸⁰ Clifton-Edgar, *The Practice of Obstetrics*, 2nd ed., p. 390.

⁸¹ A. Anderson, J. Wohlfahrt, P. Chistens, J. Olsen, M. Melbye, 'Maternal Age and Fetal Loss: Population Based Register Linkage Study', *British Medical Journal*, 320, 24 June 2000, pp. 1708–12. Note that an earlier study which involved regular tests for the pregnancy hormone hCG found that the post-implantation pregnancy loss rate was up to 43%, see J. Miller, E. Williamson, J. Glue, Y. Gordon, J. Grudzinskas, A. Sykes, 'Fetal Loss After Implantation. A Prospective Study', *Lancet*, 316, 8194, 13 September 1980, pp. 554–6; see also S.A. Ballagh, H.A. Harris, K. Demasio, 'Is Curettage Needed for Uncomplicated Spontaneous Abortion?', *American Journal of Obstetrics and Gynecology*, 179, 5, 1998, p. 1279.

Modern medical research illuminates the complex relationships between abortion and infection, and suggests we should be sceptical of past medical professionals' opinions about infections. Doctors during the mid 1930s expressed concerns about the rising incidence of pelvic inflammatory disease (PID), called salpingitis, suggesting the disease was evidence of morbidity associated with previous illegal abortions.⁸² Late in the twentieth century, PID was identified as commonly caused by *Chlamydia trachomatis*, a sexually transmitted infection that has been confirmed as one of the main bacterial causes of spontaneous abortions also.⁸³ Late twentieth-century studies into the risk factors for PID attributed vaginal douching as significantly increasing the risk of pelvic infections. Douching facilitates the movement of pathogenic bacteria like *Chlamydia* into the upper genital tract. The practice increases the risk of PID and spontaneous abortion, as well as increasing the risk of post-abortal infections in the wake of pregnancy loss.⁸⁴ For a history of abortion, this information is particularly significant given that douching was a popular method of contraception and menstrual regulation during the interwar period. Thus, today and historically, the relationship between abortion and bacterial infection is not one of straightforward cause and effect. Bacterial infections can be sexually transmitted, and could be a cause of pregnancy loss as well as a sequel to it.

Other medical studies suggested that Dawson and MacMillan's alternative views on septic abortion, expressed during the mid 1930s, may well have had credence. During the 1990s and early 2000s a small number of apparently inexplicable sudden toxic shock deaths occurred among women prescribed 'the abortion pill', also known as RU486 and Mifepristone. Mifepristone was marketed on the basis a medical abortion would be safer

⁸² See for example Evidence of Dr Levy, 1 September 1936, H1 131/139/15, ANZW.

⁸³ Jorma Paavonen, and Matti Lehtinen, 'Chlamydial Pelvic Inflammatory Disease', *Human Reproduction Update*, 2, 6, 1996, pp. 519–29.

⁸⁴ H.G. Miller, V.S. Cain, S.M. Rogers, J.N. Gribble, C.F. Turner, 'Correlates of Sexually Transmitted Bacterial Infections Among U.S. Women in 1995', *Family Planning Perspectives*, 31, 1, 1999, pp. 4–10, 23; D. Hollander, 'Risk of Bacterial Vaginosis is Elevated for Women Who Douche, Whether or Not They have had Symptoms', *Perspectives on Sexual and Reproductive Health*, 34, 2, 2002, pp. 107–8;

because it was not an invasive procedure. Instead Mifepristone worked by cutting the blood supply to the foetus and when taken with prostaglandins, to induce contractions, would prompt the woman's body to evacuate her uterus.⁸⁵ Studies into these women's deaths have brought new perspectives on the aetiology of fatal post-abortion infections, suggesting instrumental invasion of the uterus need not be a prerequisite for life-threatening bacterial infections. Instead these infections could result from a particular combination of chemical and bacterial constituents present inside women's vaginas at the time of the death of the foetus, which provided an ideal nutritive environment for putrefactive bacteria. The chief culprits have been identified as prostaglandins, a family of chemicals that induce uterine contractions, and a rare strain of *Clostridium* bacteria, that in the 1930s was part of a larger group of bacteria called *Clostridium welchii*.⁸⁶ These studies' conclusions suggest another possible explanation for rising numbers of septic abortion deaths during the 1930s. These deaths could reflect changes in the specific combination of chemicals and bacterial flora present inside the vaginas of women who suffered pregnancy loss.

One explanation for this change in bacterial flora could be that some strains of *Clostridium* bacteria had increased in virulence. Prior to the 1920s, fatal *Clostridium* infections had been rare. Around the world, deaths from these infections were apparently on the increase during the late 1920s and early 1930s, however. In 1936, Dr Arthur Hill began researching the rising numbers of septic abortion deaths in Melbourne. He wrote that unexplained increases in previously rare post-abortion *Clostridium* infections were recorded in American, German, Polish, and Australian literature. At Melbourne's Royal Women's Hospital,

⁸⁵ Mary Fjerstad, James Trussell, Irving Sivin, E. Steve Lichtenberg and Vanessa Cullins, 'Rates of Serious Infection after Changes in Regimens for Medical Abortion', *New England Journal of Medicine*, 361, 2, 2009, p. 146.

⁸⁶ *Ibid.*; see also Christian Sinave, et al, 'Toxic Shock Syndrome Due to *Clostridium sordellii*: A Dramatic Postpartum and Postabortion Disease', *Clinical Infectious Diseases*, 35, 2002, pp. 1441–3; A.L. Cohen A.L., et al, 'Toxic Shock Associated with *Clostridium sordellii* and *Clostridium perfringens* After Medical and Spontaneous Abortion', *Obstetrics and Gynecology*, 110, 5, 2007, pp. 1027–33. D.E. Soper, 'Abortion and Clostridial Toxic Shock Syndrome', *Obstetrics and Gynecology*, 110, 5, 2007, pp. 970–1; D.M. Aronoff, et al, 'Misoprostol Impairs Female Reproductive Tract Innate Immunity Against *Clostridium sordellii*', *Journal of Immunology*, 180, 12, 2008, pp. 8222–30.

women's deaths from *Clostridium* infections increased by 250 percent between 1933 and early 1935, doubling the total number of recorded deaths from post-abortal infections.⁸⁷ It appears New Zealand's experience of rising septic abortion deaths was not unique and was perhaps one of a number of geographically localised epidemics related to a change in bacterial virulence.

Another possible explanation is that human behaviour had changed. Human actions may have introduced this specific combination of bacteria and prostaglandins into women's vaginas more often than before. During the interwar period, attempts at contraception were one of the most significant human interactions with the vagina involving the contaminants found in the Mifepristone studies mentioned earlier. New Zealand historiography on the interwar period tends to imply married couples' access to contraceptives was limited.⁸⁸ But there is considerable evidence to suggest this was not the case. Letters from concerned individuals stored in the archival files of the Customs Department show New Zealand importers had a well established trade in contraceptives by 1913.⁸⁹ In the 1920s contraceptive products could be purchased over the counter from chemists and other retailers, like Edna Taylor's fancy goods shop in Dunedin.⁹⁰ NZFPA researcher, Helen Smyth showed a large array of contraceptive devices (diaphragms and cervical caps), soluble pessaries, spermicidal jellies, and condoms were available in New Zealand, particularly during the 1930s.⁹¹ There was a large increase in the number of mail order contraceptive companies during the early 1930s advertising product catalogues to 'Husbands and Wives', which included contraceptives along with feminine hygiene

⁸⁷ Arthur Hill, 'Post Abortal and Puerperal Gas Gangrene', pp. 201–5.

⁸⁸ See for example Brookes, 'Reproductive Rights', p. 122–4.

⁸⁹ See various letters to the Customs Department regarding importation of contraceptives dating from 1913. C1 W1218 24/26 Imports - Importation of contraceptive 1913–1943, ANZW.

⁹⁰ One of Taylor's customers wrote to her in 1923 asking if she had a 'Dutch pessary' in stock and requesting the price. Mrs J. Osborne to E.T., 20 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No. 2.

⁹¹ Smyth, *Rocking the Cradle*, p. 25, 27–9.

products like syringes and abortifacient pills and mixtures.⁹² In 1936, Professor Dawson told the McMillan Committee that in the opinion of members of the Obstetrical Society, ‘the knowledge of birth control [was] very widespread in this country’.⁹³ Anecdotal and archival evidence suggests contraceptive products were widely available during the interwar period.

The most popular contraceptives among respondents to the MWQ were soluble pessaries.⁹⁴ These soluble pessaries and related products, like spermicidal jellies, provided ideal vehicles for the introduction of a combination of prostaglandin-like substances, such as quinine, and *Clostridium* spores into women’s vaginas. Quinine was extensively used for its spermicidal qualities in pessaries and jellies, which were introduced directly into the vagina before sexual intercourse.⁹⁵ During the 1920s, lard or other animal fats were commonly used as a base for spermicidal pessaries, both homemade and commercial. By 1930, many contraceptive manufacturers began to use gelatine as a base.⁹⁶ These meat by-products are prone to contamination by the spores of *Clostridium* bacteria, which are highly heat resistant.⁹⁷ *Clostridium* bacteria are anaerobic; if *Clostridium* spores germinated on living tissue, the bacteria would be killed by exposure to oxygen.⁹⁸ For most women, the

⁹² For more discussion on this phenomenon see Chapter Five.

⁹³ Evidence of Prof. Dawson, 24 September 1936, H1 131/139/15 Diseases – Septic Abortion – Evidence 1938–1938, ANZW; Other witnesses testified that during the 1930s especially many retailers sold condoms over the counter and by mail order, see for example Evidence of Mr Smith, Deputy Chairman of the Pharmacy Board, 22 October 1936, H1 131/139/15, ANZW. Concerns about the availability of contraceptives were also expressed in letters and resolutions to the Minister of Justice see J1 18/1/106, ANZW.

⁹⁴ See Appendix C.

⁹⁵ For a description of the kinds of contraceptives available in England during the nineteenth and early twentieth century see John Peel, ‘The Manufacture and Retailing of Contraceptives in England’, *Population Studies*, 17, 2, 1963, pp. 113–25. The spermicidal qualities of commercial pessaries are discussed in John Baker, ‘The Spermicidal Powers of Chemical Contraceptives. I. Introduction, and Experiments on Guinea-Pig Sperms’, *Journal of Hygiene*, 29, 1930, pp. 323–9.

⁹⁶ *Ibid.*; Peter Neushul, ‘Marie C. Stopes and the Popularization of Birth Control Technology’, *Technology and Culture*, 39, 2, 1998, pp. 253, 256.

⁹⁷ Clostridium spore contamination in gelatine production today is discussed in E. De Clerck, D. Gevers, K. De Ridder, P. De Vos, ‘Screening of Bacterial Contamination During Gelatine Production by Means of Denaturing Gradient Gel Electrophoresis, Focussed on *Bacillus* and Related Endospore-forming Genera’, *Journal of Applied Microbiology*, 96, 6, 2004, pp. 1333–1341.

⁹⁸ My thanks for this information go to Dr Simon Swift, School of Medical Sciences, Department of Molecular Medicine and Pathology, University of Auckland.

presence of spores in the vagina would be inconsequential, passing unnoticed unless pregnancy loss had left dead tissue inside the uterus.

Whilst falling birth-rates and rising numbers of septic abortion deaths provide an interesting overview of the broad social context of the interwar period, they do not necessarily give us an indication of the extent to which abortions were performed. They do indicate to historians of abortion that we should be sensitive to the enormous diversity and complexity of family life and birth control practices during the interwar period. These modern medical studies suggest historians should avoid relying on past medical views associating rising notifications of septic abortion-related deaths and falling birth rates with increasing resort to illegal abortion among New Zealand women. It seems likely that other popular fertility control practices used at the time impacted on these statistics also.

Chapter Outline

The focus of this thesis is limited to the narratives of individuals who participated in abortions and the processes leading to their re-representation in the press for the public. In this way we can gain greater insight into the variety of personal rationalisations and public representations of abortion. This thesis adds another dimension to existing abortion historiography, which has tended to focus on political and medical representations made to the McMillan Committee. But lay peoples' narratives were as constructed as those of the lobbyists and medical professionals who gave evidence to the McMillan Inquiry. As Jones has argued of England, when people described their roles in the performance of abortions they rationalised their behaviour in ways that were historically and culturally contingent.⁹⁹ Their stories did not reflect 'truth' or 'fact' so much as the limits of the language available

⁹⁹ Jones, 'Abortion in England', p. 236.

to the narrators and their commitment to meeting the expectations they perceived were placed upon their stories.¹⁰⁰ The structure of this thesis is oriented to explore these two factors: language and expectations.

The thesis is divided into two parts. The three chapters of the first part explore individual's narratives about abortion experiences: uncovering people's descriptions of their efforts to obtain abortions or the way they helped others to do so, and examining their behaviour and expressed beliefs. The second part consists of three chapters contextualising the expectations placed upon these peoples' narratives. These chapters uncover the processes that made those people's actions visible and resulted in their stories being told in the courts and/or coroners' inquests. The last chapter of this section completes the circle back to popular understandings by exploring the final shaping of stories into published representations of abortion in the press.

Chapter Two explores the popular representations of abortion as relayed by the women who used this practice. It describes the language women used to discuss their predicaments, exploring the centrality of concerns about amenorrhea in women's efforts to bring on their periods. This chapter approaches abortion in the broadest possible sense, following women's stories about their experiences across the spectrum of the concerns they voiced. It discusses their efforts to ensure menstrual regularity, beginning with concern a period might not arrive on time and moving through to efforts to terminate a known, and even advanced, pregnancy. This chapter argues women's own narratives about abortion experiences reveal abortion was not a distinctive or unique practice utilised only by those concerned about pregnancy. Instead it sat within a broader set of strategies enacted to

¹⁰⁰ For discussion about historicising experience see Joan W. Scott, "Experience", in Judith Butler and Joan W. Scott (eds), *Feminists Theorize the Political*, New York, 1992, p. 37.

ensure menstrual regularity overlapping on the one side with efforts at contraception, and on the other side with the induction of premature childbirth.

Chapter Three expands the focus from women's bodies and their own narratives to explore the dominant themes in most women's and their supporters' narratives: relationships and family life. It explores the role of abortion in the context of family life by examining peoples' descriptions of efforts at menstrual regulation performed on young women while in the care of their families, young women's own resort to abortion as an alternative to marriage with the support of lovers and friends, then the use of abortion by married couples as a means of coping with the uncertainties of fertility control. The chapter explores women's narratives about their abortion experiences in the context of wider fertility control regimes, including the use of withdrawal and contraceptives, across the range of incomes and social classes.

Chapter Four widens the frame of view to examine the characteristics of professional abortionists and places abortion within a wider culture of social networking. It reveals the unwritten social contract between abortionists' and their clients and uncovers the changing characteristics of those who sold abortion services during the Depression. In discussing the role of paid professionals in abortionists' support networks it demonstrates how the procurement of abortion overlapped with the services provided by medical and other healthcare professionals. These three chapters combine to give a picture of the realities of abortion as expressed in the words of ordinary people.

The next three chapters explore how these events of abortion were brought to the attention of the authorities and screened, filtered, and interpreted for the public gaze by public forums. This section brings in doctors' views on abortion. These chapters describe the

roles doctors played in the emergence of narratives about individuals' private abortion experiences into the public domain, demonstrating how doctors' views influenced the production of public representations about abortion and yet were also shaped and changed by the same processes.

Chapter Five discusses the ways individuals' efforts to procure abortions came to the notice of the authorities, exploring how these were investigated and the resultant criminal court trials. In New Zealand convictions on abortion-related charges were notoriously difficult to obtain. This chapter explores the legal rules constraining police investigations and governing the performance of trials. It shows how these rules were responsible for the limited enforcement of the law against abortion, and demonstrates that legal rules channelled law enforcement toward abortions performed as a result of social networking.

Chapter Six follows on to explore how women's abortion-related deaths were identified and interpreted for the public through coroners' inquests. It shows connections between the performance of coroners' inquests and medical professionals' evolving views about the significance of abortion-related deaths among married women. By engaging with the conflicts between medical professionals who practised as general practitioners and hospital staff, with those who worked at a policy development level for the Health Department, this chapter shows the growing incentives for women's doctors to distance themselves from association with aborting women and seek the support of coroners' inquests to determine cause of death. But coroners were subject to many of the rules applicable in criminal courts, and this chapter shows even as more married women's deaths were investigated by inquests, the verdicts did not necessarily find their deaths had been the result of illegal abortion.

Chapter Seven completes the circle taking the discussion back to popular understandings of abortion, albeit in the form of representations of abortion in the press rather than personal experiences and narratives. This chapter illustrates the narrative shaping of people's stories by the press in its reports of criminal court trials and coroners inquests; the creation of stereotypical representations of abortion many New Zealanders would recognise today. It looks at the contradictions in the press: the reporting of crime and criminal activity alongside advertisements for menstrual regulation products.

As a condition of access to legal records, the Justice Department required protection of individuals' identities, who were accused of crimes in these records. Because many of these peoples' names were mentioned in other files like coroners' inquests and newspaper reports, I decided to give aliases to everyone mentioned in the thesis who had links to any illegal activity. There are three exceptions, Daniel and Martha Cooper, Annie Aves, and Mary Findlay's friend May, who have been the subject of published biographical work and whose legal records have not been directly examined by me. Where doctors gave evidence to judicial hearings in their capacity as healers I left their names in tact, but changed those of doctors whose actions were investigated for illegal activity.

This thesis includes many stories told by women, their families, lovers, and friends. Because many of these stories include recollections given by multiple members of the same family, I have used first name pseudonyms to identify the central characters. I made this decision primarily to avoid confusing individuals with the same surname within the text. Thus I call Jean Souther, a young woman who had an abortion, by her first name: Jean. Jean's mother is described as Mrs Souther, indicating both her status as a married woman and her relationship to Jean. Appendix F is attached to help readers keep track of the different women whose abortion experiences are described here.

Chapter Two

‘It takes a few hours and it’s a bloody business’: Women’s Experiences of Abortion, 1920–1937

Mosgiel
21 February 1923

Dear Miss [Taylor],
Just a few lines to let you know that I am still alive. To start at the beginning – I called on your lady friend on Sat[urday] afternoon, came home early on Sunday morning. I started coming on. Went to work next day and felt fairly good. I took out the tube in the afternoon (48 hours) and came on pretty solid, everything was saturated. The clots were the colour of liver and part was scarlet. My mother said that was what wanted the shifting. I was glad she could tell me, it lifts such a lot off your mind. I’m still unwell, but just quite ordinary, no flooding at all. I’m also taking plenty of [?] medicine every morning so am feeling almost myself again. You will tell the lady won’t you? I was to come in on Saturday but will not need to now thank God. I will be in town soon so will call along to see you. How did you enjoy the apple jelly? Not too bad was it. Well must close now. Will have a good yarn when I see you. Thanking you in the meantime.

[unsigned]¹

One Wednesday in February, 1923 a young woman whom I will call Amy wrote this letter to her friend Edna Taylor. Amy wrote to tell her friend that her visit to Edna’s ‘lady

¹ Unsigned letter to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD.

friend', the abortionist, had been successful. She gave explicit descriptions about the matter expelled from her body and described the support she had received from her mother to reassure her friend that the worst was over and she would soon be better. Amy's experience of having an abortion does not appear to have been unusual. Like Amy, other Pakeha women discussed their experiences of abortion in letters, in the course of attendances with their physicians, in statements to the police if their abortions were detected, and they have recalled these experiences in memoirs and autobiographies. This chapter uses these sources to explore women's experiences of illegal abortion during the period from 1919 to 1937.

Like Amy, most women did not use the word 'abortion' to describe their activities.

Women's descriptions of these experiences revolved around their perceptions of amenorrhea, the absence of menstrual periods. Amenorrhea had no single root cause and could be symptomatic of a number of conditions such as iron deficiency, physical or mental illness, malnutrition, hormonal disturbances, and normal or ectopic pregnancy.² This chapter situates women's efforts at abortion within a wider culture of responses to perceived amenorrhea, or the fear of it. This approach intentionally disrupts twenty-first century assumptions that abortion was by definition deployed in response to a recognised pregnancy and that it was a unique, discrete practice only concerned with terminating a pregnancy. Instead I argue here efforts at abortion intersected with, and were sometimes indistinguishable from, a broader range of efforts to regulate the menstrual cycle and prevent prolonged periods of amenorrhea.

Amy's visit to the abortionist may not have been her first effort to make her period begin.

The first section of this chapter discusses the widespread practice of menstrual regulation,

² Ina Warriner has discussed the variety of causes of amenorrhea in historic populations see Ina Warriner, 'Demography, Amenorrhea, and Fertility', in Etienne Van de Walle and Elisha P. Renne (eds), *Regulating Menstruation: Beliefs, Practices, Interpretations*, Chicago, 2001, pp. 122–30.

used by women to ‘bring on a period’, often without direct knowledge of their reproductive status. The second section explores the activities of women who expanded upon menstrual regulation strategies to include invasive methods that would induce premature labour if they were pregnant. The third section discusses women’s own descriptions of their experiences and links the experience of abortion with the experience of childbirth. The final section discusses the ethics and morality of abortion, as described by those who used the practice.

‘I am rather afraid of my courses not starting’: Promoting Menstruation

During the interwar period, Pakeha women’s understanding of their reproductive state centred upon knowledge of their menstrual cycles.³ This section explores women’s narratives about regulating their menstrual cycles; their experiences of what we would now call abortion, to disrupt or prevent the attachment of any products of conception to the uterine wall. Women’s descriptions suggested they were often guided by their awareness of their menstrual cycle rather than specific knowledge of conception or pregnancy. Thus women made efforts to force their bodies into regular menstruation. Their choice of language to describe these efforts reinforced the importance of regular menstruation as an indicator of feminine normality.

In European historiography, abortion is widely recognised as being discursively closer in people’s perceptions to menstruation than to birth control. English oral historian Kate Fisher argued abortion was perceived differently from birth control because abortion was ‘after the fact’ and could be procured without discussion about sex. She added that in many cases abortion was not an occasional event but rather ‘a regularly adopted practice to ensure

³ For discussion of this in England see Kate Fisher, *Birth Control, Sex, and Marriage, 1918–1960*, Oxford, 2006, pp. 93.

the monthly appearance of a period'.⁴ Susan Klepp argued amenorrhea was historically defined: sometimes viewed as an indicator of illness and not always interpreted as an indicator of the biological reproductive status of women.⁵ These historians suggest we should be careful not to overlay modern understandings about pregnancy and abortion onto representations of past women's activities.

Pakeha New Zealand women's language used to describe their efforts at abortion reflected the association of amenorrhea with an illness that could be cured rather than as a pregnancy requiring termination. In 1919 Gertrude Bayfield conferred with her boyfriend after her second period failed to arrive on time, and they agreed they needed to get her 'fixed up' — to return her to normal without any need to find out if she was in fact pregnant.⁶ Other women described their efforts in similar terms: Ida Travis described the purpose of her visit to an abortionist as being to 'fix her up'.⁷ Another phrase with similar meaning was 'bringing on a period', as one young woman told the court in 1937 she believed exercise would help her to 'bring on her periods more quickly'.⁸ These women discussed their efforts at abortion in terms of their return to menstruation rather than termination of a pregnancy.

In the context of a missed or delayed period many women described menstruation as a normal, natural, and desirable state. Amy wrote to Edna saying, 'I am still unwell, but just quite ordinary', signalling she had returned to normal and was menstruating.⁹ Amy's optimism for the future and obvious relief and happiness at her current state belied the

⁴ Ibid., pp. 64, 114–5.

⁵ Susan Klepp, 'Colds, Worms, and Hysteria: Menstrual Regulation in Eighteenth-Century America', in Etienne Van de Walle and Elisha P. Renne (eds), *Regulating Menstruation*, pp. 22–38.

⁶ Trial of G.B., 26 May 1920, DAAC/D256/326 No.3 May 1920, ANZD.

⁷ *Otago Daily Times*, 3 March 1923, p. 2. For another example see *Otago Daily Times*, 21 March 1923, p. 3.

⁸ NZLR, 1937, 'King v. B', p. 282.

⁹ Unsigned to E.T., 21 February 1923, DAAC/D256/328 May 1923 No.2, ANZD.

negative meaning indicated by her choice of words.¹⁰ Her language was not meant to convey ill health, rather the opposite. As Barbara Brookes and Margaret Tennant argued, young women's 'self-definition as menstruating females was conveyed through a language which was mostly negative'.¹¹ In the context of a missed or delayed period, women's statements about being 'unwell' did not indicate unhappiness or illness rather it indicated their return to normal menstruation.

Pakeha women's lives were governed by these perceptions of the menstrual cycle as shifting from a state of unwellness to wellness and back again. Their female counterparts in other European cultures viewed menstruation on these terms also. Cornelia Usborne argued of German women during the Weimar period, their monthly 'unwellness' was a normal and natural state.¹² Gigi Santow situated menstrual regulation as part of a broader popular culture among women in Britain and her colonies during the early twentieth century. This culture viewed regularity of bodily functions in general as desirable and conveyed the notion that regularity was able to be promoted by the consumption of laxatives and patent medicines.¹³

Among European and British colonial cultures during the interwar period the notion that menstruation could be promoted appears to have been widespread. In the words of American birth control reformer Margaret Sanger: 'Don't wait to see if you do not menstruate ... make it your duty to see that you do'.¹⁴ Sanger, who was vehemently opposed to abortion, recommended the use of laxatives nightly four days before the

¹⁰ Ibid.

¹¹ Barbara Brookes and Margaret Tennant, 'Making Girls Modern: Pakeha Women and Menstruation in New Zealand, 1930–70', *Women's History Review*, 7, 4, 1998, p. 565.

¹² The popular belief that menstruation was a normal state has also been described by Cornelia Usborne, *Cultures of Abortion in Weimar Germany*, New York, 2007, pp. 156–8.

¹³ Gigi Santow, 'Emmenagogues and Abortifacients in the Twentieth Century: An Issue of Ambiguity', in Etienne Van de Walle and Elisha P. Renne (eds), *Regulating Menstruation*, p. 85.

¹⁴ Margaret Sanger, *Family Limitation*, 10th ed., London, 1920, p. 4.

expected onset of menstruation.¹⁵ In England it was popularly believed that ingestion of laxatives before a period was due, like Beecham's Pills, would ensure menstruation.¹⁶ Late nineteenth century medical opinion seems to have concurred with this opinion: an article in the *Lancet* acknowledged that violent gastric irritation could cause the uterus to expel its contents.¹⁷ In theory, and perhaps also in practice, laxatives and purgatives were an important part of western women's monthly regime to ensure their periods came regularly and on time.

Popular culture among Pakeha New Zealanders endorsed the notion that regular bodily functions were representative of inner health. Humoral theories about the value of regular expulsion of bodily fluids and wastes persisted among New Zealanders throughout the interwar period, particularly in regard to regular menstruation.¹⁸ Many women observed the same imperative described by Sanger to be vigilant in their awareness of their monthly cycles, a belief promoted in imported published literature also.¹⁹ Women's awareness of

¹⁵ *Ibid.*, p. 4–5. In this pamphlet Sanger did not promote the procurement of abortions, either by instruments or abortifacients, the latter of which she linked to bed wetting and 'other organic weakness' in children where drugs have not had the intended effect, see p. 15. Sanger's first edition of the pamphlet was less definite; she included the use of quinine nightly in the same regime as laxatives for women who knew that semen had entered their vagina during the month and she stated that 'there are times where an abortion is justifiable', see Joan Jensen, 'The Evolution of Margaret Sanger's "Family Limitation" Pamphlet, 1914–1921', *Signs*, 6, 3, Spring 1981, pp. 557–8.

¹⁶ Angus McLaren, 'Abortion in England, 1890–1914', *Victorian Studies*, 20, 4, 1977, p.389, quoting *Lancet*, 12 September 1914, p. 704; Santow, 'Emmenagogues and Abortifacients', p. 83; Kate Fisher, "'Didn't Stop to Think, I Just Didn't Want Another One'": The Culture of Abortion in Interwar South Wales', in Franz X. Eder, Lesley A. Hall, & Gert Hekma (eds), *Sexual Cultures in Europe: Themes in Sexuality*, Manchester, 1999, pp.222–3; Beecham's Pills were recommended by Margaret Sanger to 'assist with the menstrual flow' in her first edition of 'Family Limitation' see Jensen, 'The Evolution', p. 558.

¹⁷ William Duncan, 'Post-Graduate Lecture on Abortion', *Lancet*, 140, 3598, 1892, p. 359.

¹⁸ Barbara Brookes, 'Health, Hygiene, and Bodily Knowledge, 1880–1940: A New Zealand Case Study', *Journal of Family History*, 28, 2, 2003, p. 302–5. Barbara Brookes has situated medicinal forms of abortion within the broader English working-class culture of self-medication and regular purging. Barbara Brookes, *Abortion in England*, pp. 4–6. See also Santow, 'Emmenagogues and Abortifacients', pp. 77–86.

¹⁹ Vigilance over the menstrual cycle is discussed further in Chapter Three. See for example J 46 1926/826; 1931/241; 1938/123, ANZW. See also Mary Dobbie, *A Matter for Women*, Auckland, 1984, p. 2. For discussion on mothers observance of the menstrual cycles of their daughters in the United States see Joan Jacobs Brumberg, "'Something Happens to Girls": Menarche and the Emergence of the Modern American Hygienic Imperative', *Journal of the History of Sexuality*, 4, 1, 1993, p. 118. The same notions about the need to ensure menstrual regularity were also reflected in pamphlets on menstruation and birth control. See for example Mary Pauline Callender, *Marjorie May's Twelfth Birthday*, Sydney, 1930; Sanger, *Family Limitation*, 10th ed., p. 4. Barbara Brookes and Margaret Tennant stated that *Marjorie May's Twelfth Birthday* was available in New Zealand at unspecified times during the period from 1930 to 1970. See Brookes and Tennant, 'Making Girls Modern', pp. 566–8. A copy of Margaret Sanger's *Family Limitation* was located in

their monthly cycles was predicated on the notion that regular menstruation was a sign of internal wellness.

In New Zealand, as in England, laxatives had a popular reputation among women as menstrual regulators. Laxatives were widely available and were generally accepted to promote internal health. Historian Andree Levesque argued between 1897 and 1937 New Zealand women caused abortions using ‘violent purgatives’, which worked by irritating the digestive system.²⁰ Advertisers of laxatives played upon words associating their products with the ideals of feminine normality. Beecham’s Pills, for example, were marketed directly to women under the banner ‘will keep you well’.²¹ During the interwar period Beecham’s Pills were popularly associated with the resumption of missed periods as well as the induction of expected periods. Boot salesman/abortionist Henry Yizak recommended the laxative to Ellen Dyson in 1923 when she queried him about how to bring on her period.²² Vera Reid admitted to her doctor she took Beecham’s Pills in the hope these would induce her menses in 1926.²³ Oral historian Helen May found evidence this practice continued into the 1940s.²⁴ New Zealand women’s use of laxatives before, during and after the interwar period appears to have been little different from their contemporaries in other western countries.

the Sex Hygiene and Birth Regulation Society archives (Ms-papers-1388/06, ATL) but without any reference to whether this was widely available in New Zealand prior to the inception of the organisation in 1936.

²⁰ Andree Levesque, ‘Grandmother took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937) Part Two: The Women’, *Broadsheet*, 44, November 1976, p. 30.

²¹ See for example, *Otago Daily Times*, 7 March 1923, p. 8.

²² Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD.

²³ J 46 1926/489, ANZW.

²⁴ Helen May, *Minding Children, Managing Men: Conflict and Compromise in the Lives of Postwar Pakeha Women*, Wellington, 1992, p. 97.

Figure 2: Advertisement for Beecham's Pills from the *Otago Daily Times* depicting the face of a young woman smiling above the caption, 'Beecham's Pills will keep you well'.²⁵



Source: *Otago Daily Times*, 7 March 1923, p. 8.

²⁵ *Otago Daily Times*, 7 March 1923, p. 8.

Women took laxatives and purgatives as part of a wider repertoire of medicinal products to bring on their periods. Substances that had an ecboic effect on the uterus, called emmenagogues, overlapped in action with purgatives and were possibly the oldest and most accessible form of menstrual regulators.²⁶ These substances caused the uterus to contract and promoted the expulsion of its contents. Emmenagogues were popular in folk remedies such as hot gin, pennyroyal tea, and homemade mixtures containing ergot, rue, or oil of savin, mixed with castor oil or alcohol. People purchased the individual constituents from chemists and other suppliers to make up remedies at home; for example Ada Telford mixed quinine with brandy and drank it.²⁷ Drinking gin in a hot bath had a similar reputation to bring on women's periods.²⁸ These remedies were simple and easily accessible for most people.

Instead of using folk remedies, some women took patent medicines containing emmenagogues. These patent medicines were marketed as 'female regulators' or 'corrective pills', a play on the language portraying amenorrhoea as an illness that could be cured.²⁹ These products were widely advertised in New Zealand newspapers and periodicals during the interwar period, and had been from as early as 1848. Products marketed as female regulators were widely available in New Zealand as in many other western countries throughout the nineteenth and into the mid twentieth century.³⁰ New Zealand magazines and newspapers advertised English patent medicines like Martin's

²⁶ See for example John Riddle, *Eve's Herbs: A History of Contraception and Abortion in the West*, Cambridge, 1997.

²⁷ *NZ Truth*, 15 May 1935, p. 8; 5 June 1935, p. 13.

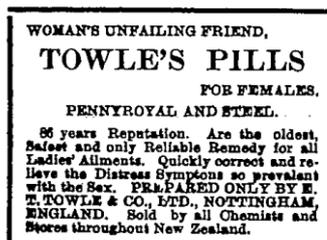
²⁸ May, *Minding Children, Managing Men*, p. 97. Gin was also a popular remedy used in Britain see Fisher, "Didn't Stop to Think", pp. 217, 225.

²⁹ On the historical use of female regulators in England see McLaren, 'Abortion in England'; Patricia Knight, 'Women and Abortion in Victorian and Edwardian England', *History Workshop*, 4, Autumn 1977, pp. 61–3; P.S. Brown, 'Female Pills and the Reputation of Iron as an Abortifacient', *Medical History*, 21, 1977, pp. 291–304; Fisher, "Didn't Stop to Think", pp. 217–8.

³⁰ For example, one of the earliest advertisements for remedies for female irregularities can be found in *New Zealander*, 4, 249, 18 October 1848, p. 4; Dr Hooper's Female Pills were advertised in the *Daily Southern Cross*, 15 January 1861, p. 2. Martin's Pills were advertised by William Martin of Southampton, England, in Britain's white settler colonies all over the world. He claimed his advertising budget was £4,000 pa. W. Martin to Dr Joseph Frengley, Deputy Director-General of Health (DDGH), 26 November 1921, H1 175/50 17185 20484 Quackery Prevention Act – Sale of Abortifacients 1922-1930, ANZW.

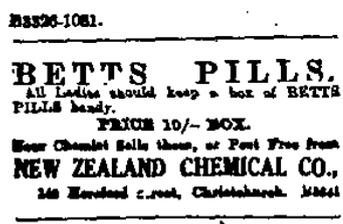
Apiol & Steel Pills, Towle's Pills, Widow Welch's Pills, and Dr Bonjean's Pills alongside local facsimiles like the New Zealand Chemical Company's Bett's Pills and Bridge Drug Stores' Dr Hall's Famous Capsols.³¹ These products could be purchased directly from retailers or by mail order.

Figure 3: Advertisement from the *New Zealand Observer* for Towle's Pills describing these as reliable for the treatment of 'all Ladies' Ailments', and indicating that the product is sold throughout New Zealand.³²



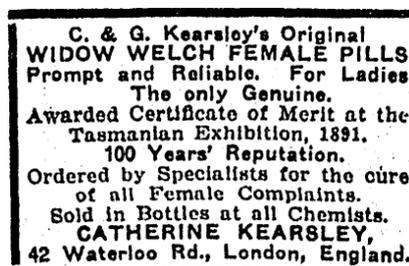
Source: *New Zealand Observer*, 3 July 1920, p.28.

Figure 4: Advertisement from the *Christchurch Press* for Bett's Pills indicating that these are indispensable for 'All Ladies', and indicating that the product is sold by most New Zealand Chemists or available by mail order to the New Zealand Chemical Co..³³



Source: *Christchurch Press*, 14 May 1923, p.2.

Figure 5: Advertisement from *NZ Truth* for Kearsley's Widow Welch Female Pills describing these 'the cure for all Female Complaints', and indicating that the product is sold at all Chemists.³⁴



Source: *NZ Truth*, 12 July 1924, p. 3.

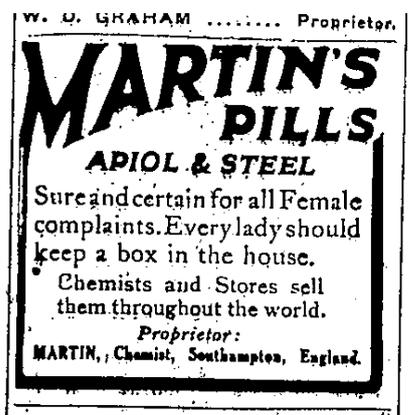
³¹ See for example *Christchurch Press*, 14 May 1923, p. 5; *Sovereign Magazine*, 9 April 1925, p. xi; *NZ Truth*, 9 September 1926, p. 2; 7 April 1937, pp. 24, 25.

³² *New Zealand Observer*, 3 July 1920, p.28.

³³ *Christchurch Press*, 14 May 1923, p.2.

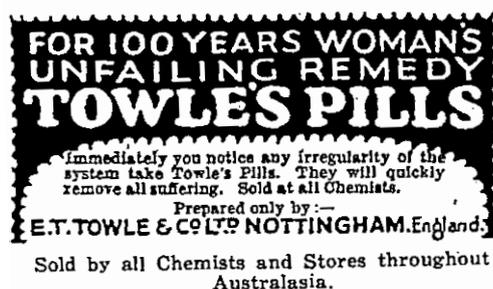
³⁴ *NZ Truth*, 12 July 1924, p. 3.

Figure 6: Advertisement for Martin's Pills from *NZ Truth* describing the contents as 'Apiol & Steel Sure and certain for all Female complaints', and indicating the product is sold by retailers around the world.³⁵



Source: *NZ Truth*, 9 September 1926, p.2.

Figure 7: Advertisement from *New Zealand Observer* for Towle's Pills informing readers that, 'They will quickly remove all suffering' and are sold in all Chemists.³⁶



Source: *New Zealand Observer*, 3 July 1930, p.24.

Figure 8: Advertisement from *Thames Star* for unspecified Corrective Pills, including 'extra strong' varieties available by mail order from G. Hanafin of Christchurch.³⁷



Source: *Thames Star*, 1 May 1934, p. 4.

³⁵ *NZ Truth*, 9 September 1926, p.2.

³⁶ *New Zealand Observer*, 3 July 1930, p.24.

³⁷ *Thames Star*, 1 May 1934, p. 4.

Women did not need to understand themselves to be pregnant to use these products because the goal was to resume or regulate menstruation. During the mid 1920s advertisements for Martin's Apiol & Steel Pills urged women to be prepared, telling readers that 'Every lady should keep a box in the house'.³⁸ Some women did not wait for a period to be missed before they sought remedies to bring it on. In 1923 Mrs Patterson of Central Otago requested Edna Taylor 'send me a small box of pills. I am rather afraid of my courses not starting as they are due in a few days'.³⁹ In 1927, Marilyn Parsons told a hospital nurse she swallowed all the pills in a full bottle of Dr Bonjean's Pills because she wanted to make sure that her period came, not because she thought she was pregnant — an autopsy later revealed that in fact she was not pregnant.⁴⁰ These women attempted to control their monthly cycles by using female regulators, which products, along with laxatives and other emmenagogues, formed part of women's monthly regime of menstrual promotion.

The action of patent medicines may well have mirrored that of laxatives. Most female regulators contained some form of purgative or laxative, such as aloes or magnesium sulphate, along with emmenagogues. Commonly used emmenagogues were apiol,⁴¹ ergot,⁴² or oils from herbs such as pennyroyal, savin or rue. Some medicines contained metals such as iron and steel. Martin's Apiol & Steel Pills contained 'Pil Aloes et Ferri gr 4 and Apiol 1% in Mass'.⁴³ Widow Welch's Pills contained 29mg iron with liquorice, turmeric, and sulphur.⁴⁴ Iron and steel did not have an ecboic effect on the uterus, but these metals did have a strong association with the restoration of menstruation in women

³⁸ *NZ Truth*, 9 September 1926, p. 2.

³⁹ Mrs F.P. to E.T., 22 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

⁴⁰ J 46 1927/808, ANZW. Marilyn died of ergot poisoning caused by an overdose of Dr Bonjean's Pills. For another example of a woman attempting to bring on her period when she was not pregnant see *NZ Truth*, 21 October 1922, p. 6.

⁴¹ Apiol is a distillation of parsley, see André Levesque, 'Grandmother Took Ergot, Part Two', p. 30.

⁴² *Ibid.*, p. 30. Ergot is a fungus which forms a sticky coating on the seeds of rye grass.

⁴³ W. Martin to Dr J. Frengley, DDGH, 15 April 1922, H1 175/50 17185, ANZW.

⁴⁴ Brown, 'Female Pills', p. 293. This formula was published in 1907 see *British Medical Journal*, ii, 1907, pp. 1653–8.

suffering amenorrhea as a result of iron deficiency.⁴⁵ By stimulating the evacuation of bodily fluids and perhaps also addressing iron deficiency, products such as these were integral parts of the monthly regime of women keen to maintain and regularise their menstrual cycles.

Patent medicines marketed as menstrual regulation products were available throughout the country. In 1923 Amy's friend Edna Taylor ran a fancy goods shop in Dunedin's Royal Arcade and supplied mail order customers from rural Otago and Southland with a variety of contraceptive and abortifacient products.⁴⁶ Chemists stocked these patent remedies and other abortifacient drugs in their individual constituents also. In 1936 Ida Bell purchased from an unidentified chemist three different types of pills, which separately contained compounds of quinine in white tablets and ergot in black tablets.⁴⁷ A police inquiry on a mail order chemist in the mid 1930s uncovered a similar array of pills with instructions on their use:

The large capsule at bedtime.
One black pill night and morning.
One white midday.
Hot foot bath with a little mustard is an advantage⁴⁸

The reference to a mustard footbath might have referred to an older folk remedy thought to aid menstruation. Fisher found that mustard foot baths had such a reputation in England, if used regularly before a period was due.⁴⁹ Its mention with this prescription might have been intended to help soothe and relax the customer also, which in itself was a worthy motive for inclusion.

⁴⁵ Brown, 'Female Pills', pp. 302–3.

⁴⁶ See for example J.O., Owaka to E.T., 20 February 1923; M.S., Alexandra to E.T., 20 February 1923; F.P., Waikonaiti to E.T., 22 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

⁴⁷ J 46 1936/1296, ANZW.

⁴⁸ Mailing Sales Co. to V.N., 31 December 1936, H1 131/139/12 4049 Diseases - Septic Abortion Evidence 1922–1937, ANZW.

⁴⁹ Fisher, "‘Didn't Stop to Think'", p. 222.

Doctors and chemists distributed mixtures intended to ‘cure’ amenorrhoea and bring on women’s periods also. Some doctors prescribed mixtures containing laxatives and emmenagogues to women who complained of amenorrhoea, which were made up by chemists.⁵⁰ In 1926 Vera Reid’s doctor faced awkward questions about his prescription of an emmenagogue mixture for her.⁵¹ Dr Oswald Jennings prescribed his own ‘secret formula’, written on the prescription form in a special code, for women suffering amenorrhoea that he directed his patients to have made up by a particular chemist.⁵² In 1935 the police discovered an unregistered doctor living in Auckland received a regular supply of these mixtures from a local chemist.⁵³ These cases reflect the interconnection between technical expertise of medicine and pharmacology in the wider arena of ‘bringing on a period’.

⁵⁰ See for example J 46 1930/1334, ANZW.

⁵¹ J 46 1926/489, ANZW.

⁵² E.C. Cachemaille, Secretary, The Chemists’ Defence Association of New Zealand, Limited to the Secretary, New Zealand Branch of the British Medical Association, 24 February 1926; File notes C.J. Drake, Secretary, The Medical Board of New Zealand, 6 July 1926; 23 July 1926, H1 1306 184/71 10198 Medical Council – [G.O.J.] 1926–1926, ANZW.

⁵³ *NZ Truth*, 9 October 1935, p. 11; See also J 46 1935/441, ANZW; Trial of D.C., 14 May 1935, CH273/Box 5 T7/1935, ANZC.

Figure 9: Recipe from C.B. McDougall Chemist Ltd Prescription Book, 1920–1921, for a mixture containing abortifacient ergot and purgatives magnesium sulphate and aloes.⁵⁴

Mrs A. G. Taylor
 M. Calc. Lactate gr x
 M. Ft. pulv. M. x ii
 Sy. i t. d. o. inter c. 28
 43675
 M. Mag. Sulphate gr x
 Ext. Ergot. liq. m x
 M. Mux Rom. m vii
 4/- liq. Acon. m iii
 M. Aloes. 3 ss
 M. Card. Co.
 Mux Zingib. aa 30 28
 Sy. M. Pot. ad 30
 3vi
 28.10.20. J. d. t. d. o. a. e. L.A.L.
 43676

Source: Record No. 43675–6, p. 9, MSY-1380 C.B. McDougall Chemist Ltd: Prescription Book, 1920–1921, ATL.

At times these medicines did appear to have worked to induce menstruation and resulted in a miscarriage if amenorrhea was caused by pregnancy. In her autobiography Mary Findlay recalled supporting her friend May through a miscarriage caused by May's attempt at abortion. May told her about the various methods she usually used to bring on her periods: 'epsom salts, hot baths, jumping off chairs, quinine and ergot'.⁵⁵ Historian Philippa Mein Smith has reported that medical research conducted by Dr Henry Jellett into the histories of New Zealand women who died during childbirth from post partum or ante partum haemorrhage during the late 1920s and early 1930s revealed evidence women took pills and

⁵⁴ Record No. 43675–6, p. 9, MSY-1380 C.B. McDougall Chemist Ltd: Prescription Book, 1920–1921, ATL.

⁵⁵ Mary Findlay, *Tooth and Nail: The Story of a Daughter of the Depression*, Wellington, 1974, p. 173.

medicines during early pregnancy.⁵⁶ The widespread advertising of patent medicines and women's possession of these products support the suggestion their use was common.⁵⁷

Some women backed up the action of ingested pills with syringes or douches. Women flushed the inside their vagina with fluids hoping that irritating the cervix would induce their periods. Vera Reid told her doctor she took pills and used a douche to spray soda and hot water into her vagina every afternoon to help bring back her periods.⁵⁸ In 1936 one respondent to the 'Married Women's Questionnaire' (MWQ) replied she adopted the practice of 'douching for 2 days before a period also taking a good aperient' to make sure that her periods came every month.⁵⁹ Syringing and douching the vagina and cervix — practices historians more commonly associate with efforts to prevent conception after sexual intercourse — were used to bring on women's periods also.

Women who used syringes and douches could potentially go further inside their bodies with these instruments. Women flushed the uterus with fluids or air, by passing the nozzle of the syringe or douche through their cervix. The use of syringes and douches to promote menstruation by flushing the uterus with fluid or air has been dated back to nineteenth-century Europe. During the late nineteenth century it was possible to buy syringes with specially designed nozzles for penetration of the cervical canal.⁶⁰ In New Zealand, no such specialisation appears to have existed, although there was nothing to stop individuals importing such goods in personal mail. One of the most common syringes in New Zealand

⁵⁶ Research quoted in Philippa Mein Smith, *Maternity in Dispute, New Zealand 1920–1939*, Wellington, 1986, p. 105. See also Medical Officer of Health, Auckland to Dr Michael Watt, Director-General of Health (DGH), 13 January 1932, H1 1278 13/6/5 8428 Maternal and Child Welfare — Maternal Mortality 1926–1932, ANZW.

⁵⁷ See for example J 46 1926/489; 1930/1379; 1936/1296, ANZW. Evidence given to the McMillan Committee also endorsed this view. See for example Evidence of Dr Shirer, 1 September 1936; Evidence of Mrs Freeman and Mrs Barrington, 3 December 1936, H1 131/139/15, ANZW.

⁵⁸ J 46 1926/489, ANZW.

⁵⁹ Appendix C., 'a4'. See also 'Married Women's Questionnaire', H1 1302 131/139/13 9400 Diseases – Septic Abortion – Statistics 1936–1936, ANZW.

⁶⁰ For more information on the syringe or douche as a method of abortion see Edward Shorter, *A History of Women's Bodies*, New York, 1982, pp. 199–203.

was the Higginson's Syringe, an enema syringe made of rubber with a central bulb between two long hoses. The Higginson's Syringe enabled a large volume of water to be pumped from a bowl into the body cavity and its long hose was ideal to span the distance between the vulva and the cervix.⁶¹ People also modified other forms of syringe or douches with nozzles and catheters to provide the long neck needed to gain access to the cervix. Syringes were not necessarily designed, or ever intended, to be used in this way.⁶² Syringes and douches were easy to come by because of the popularity of home enemas and vaginal douches, and were easily converted at home for the purpose of abortion.

The place of syringes in promotion of the menses has been explored in English culture by British family planning researcher, Moya Woodside in the 1960s. She indicated some women syringed their uteruses prior to the expected onset of menstruation to ensure it began.⁶³ New Zealand evidence of this practice, if it existed at all, is scant and largely inconclusive. A late nineteenth century Native Health Officer complained in his annual report of 'the baneful practices' used by unmarried Maori women at the time of menstruation which caused fever and chills. The account did not specifically describe the use of syringes, however.⁶⁴ In 1928, Edith Bullock's eleven year old daughter testified at the inquest into her mother's death that Edith had used an enema in her bedroom every night of the preceding week, except on Saturday when Edith's husband, a mariner, was at home. But, she said, there was not always evidence in the chamber pot showing her mother

⁶¹ A similar syringe was used by Vera Drake in the movie of the same name. *Vera Drake*, Directed by Mike Lee, Alan Sarde and UK Film Council, 2004; Emma Jones also found the Higginson Syringe was frequently mentioned in abortion trials in England, see Emma Jones 'Abortion in England, 1861–1967', PhD Thesis, Royal Holloway, University of London, 2007, p. 67, n. 131.

⁶² Helen Smyth, *Rocking the Cradle: Contraception, Sex and Politics in New Zealand*, Wellington, 2000, p. 26. Smyth described the use of a small syringe popular for giving babies enemas as also used to procure abortions, for another example of the use of this syringe to procure an abortion see J 46 1930/1460, ANZW.

⁶³ This suggestion was made by women interviewed by Moya Woodside, 'Attitudes of Women Abortionists', *Family Planning*, 12, July 1963, p. 33; See also Shorter, *A History of Women's Bodies*, p. 201.

⁶⁴ AJHR, 1885, G–2A. The symptoms described are potentially indicative of salpingitis, an infection and congestion of the fallopian tubes possibly caused by fluid injected into the uterus, but could also result from Chlamydia infections. See Jorma Paavonen and Matti Lehtinen, 'Chlamydial Pelvic Inflammatory Disease', *Human Reproduction Update*, 2, 6, 1996, pp. 519–29.

used it to help evacuate her bowels.⁶⁵ Although the evidence is sparse, syringing of the uterus may have been used to promote menstruation in the same way that laxatives and abortifacients were used.

Women's efforts to bring on their periods, both before they were due and after one or more had been missed, were undertaken without overt reference to pregnancy. These efforts were part of a culture of self-medication and facilitated by a wide range of commercially available products and medicines. It is fair to say that Pakeha New Zealand culture was saturated with advertising and promotion of a variety of products for menstrual stimulation and regulation. These products were widely available across a range of suppliers from retailers, medical professionals and chemists. But women's efforts to bring on a period were not always successful and women sometimes found themselves faced with compelling physical evidence of an unwanted pregnancy.

‘send me a mixture ... I have been pregnant 5 weeks’:
Terminating a known pregnancy

Women's perceptions of amenorrhea may have crystallised into awareness of pregnancy at some point, although there was no fixed point of recognition. Some women quickly assumed amenorrhea meant pregnancy while others denied or downplayed the potential for pregnancy for some time. However they defined the root cause of amenorrhea, women who were determined to avoid motherhood continued to take medicines and use instruments in their attempts to return to regular menstruation.

Women's acknowledgment of pregnancy brought up the limited success of emmenagogues. In 1923 Mrs Smith of Alexandra requested Edna Taylor ‘send me a mixture as soon as

⁶⁵ J 46 1928/1400, ANZW.

possible. I have been pregnant 5 weeks.’⁶⁶ Mrs Smith was clear she needed something specific to early pregnancy rather than non-specific amenorrhea. Some people believed laxatives and emmenagogues would not work once a pregnancy had passed the first three months’ gestation. As Dr Jennings advised one of his patients, he doubted a prescription would work for her at four months’ gestation, and it did not.⁶⁷ In these cases women had to make decisions about whether to intensify their efforts or to allow their amenorrhea to proceed to its natural conclusion, which was likely to be childbirth.

During this time women often described continuing to ingest emmenagogues as well as adding more invasive strategies to their efforts. As was the case for Amy, medicine combined with instrumental interference with pregnancy to facilitate the full expulsion of the products of conception and reduce the possibility of haemorrhage.⁶⁸ Amy assured Edna she saw the part that ‘wanted the shifting’ and was taking plenty of medicine to help bring her back to normal.⁶⁹ Women continued to ingest laxatives like Beecham’s Pills or Chamberlain’s Tablets to keep their uterus contracting to evacuate its contents, and the bowels moving to prevent obstruction, which could be a complication of abortion.⁷⁰ Thus there was an interconnection between instrumental and medicinal forms of abortion.

These two methods of abortion were further complimented by a third: physical activity. Because the effect of efforts at abortion took some time to begin, women undertook physical activities to push the process along. Amy described in her letter to Edna how she went to work as usual on Monday morning before her miscarriage began in earnest.⁷¹ Most women kept relatively active during the waiting period; they went to work or attended to

⁶⁶ Mrs J.S. to E.T., 20 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

⁶⁷ *NZ Truth*, 16 September 1926, p. 5.

⁶⁸ Unsigned letter to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

⁶⁹ *Ibid.*

⁷⁰ See J 46 1925/1198, ANZW. See also Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No. 6, ANZD.

⁷¹ Unsigned to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

their household duties.⁷² One young woman mowed her abortionist's lawn in order to 'bring on [her] periods more quickly'.⁷³ Physical exertion was part of a concerted strategy used by women to force their bodies to eject the contents of their uteri.

The most common instruments introduced through the cervix into the uterus were syringes, douches, and catheters. Syringes and douches sat at the intersection of menstrual regulation and induction of a miscarriage. Both could be used to terminate a known pregnancy by contaminating the uterine contents and disrupting the connection between placenta and uterine wall, causing a miscarriage.⁷⁴ To help prevent infection, people added disinfectants to syringing fluid: Isla Peters used Jeyes fluid, a very strong household disinfectant, and Edith Bullock used Epsom salts.⁷⁵ Some doctors reported that glycerine could also be injected into the uterus.⁷⁶ On rare occasions a syringe was intentionally used to pump air into the uterus.⁷⁷ The use of syringes extended beyond the induction of menstruation and could also be used to abort a recognised pregnancy.

Syringing the uterus was a popular home remedy for abortion which could be employed by women alone, or with the help of their sexual partner, in the privacy of their own homes. By nature, syringing was a messy process, which required a degree of undress. This meant that women often used this method in the bathroom or in their bedroom with a chamber pot. In 1932 Elsie Hallett squatted in a dry bath while she syringed her uterus, as did Ellen Fraser in 1936.⁷⁸ Isla Peters lay down on her bed with a towel under her bottom while she attempted to negotiate the insertion of the syringe nozzle through her cervix.⁷⁹ Agnes

⁷² See for example J 46 1924/172, ANZW.

⁷³ NZLR, 1937, 'King v. B.', pp. 282–9.

⁷⁴ Shorter, *A History of Women's Bodies*, pp. 199–203.

⁷⁵ J 46 1924/1358; 1928/1400, ANZW.

⁷⁶ See for example Evidence of Dr Levy, Wellington Hospital, 1 September 1936, H1 131/139/15, ANZW.

⁷⁷ J 46 1935/441, ANZW.

⁷⁸ J 46 1932/782; 1935/637, ANZW.

⁷⁹ J 46 1924/1358; See also J 46 1928/1400; 1932/402; 1937/740, ANZW.

Bright did the same, but sought the help of her lover to get the syringe nozzle in place.⁸⁰

Syringing the uterus was a relatively simple home remedy that could be enacted in private, and appeared to have been achievable for many women.

Other invasive methods were more technical and had stronger links to the induction of premature labour than induction of menstruation. Premature labour could be induced by the introduction of a catheter to the uterus.⁸¹ Expansion of the cervix with catheters that could be filled with water, called bougies, also helped to bring on labour.⁸² Other expanding substances such as laminaria, sea-tangle tents and slippery elm bark had the same effect also.⁸³ Once the foetal sac was easily accessible to sharp implements passed through the cervix, after four months' gestation, premature labour could be induced by piercing the membranes. Other techniques included the application of irritants to the cervix and packing the vagina with cotton wool.⁸⁴

The most commonly used tools to invade the uterus were catheters, which were well established as tools for the induction of premature labour by the first decade of the twentieth century. But use of catheters perhaps required greater technical skill than syringing.⁸⁵ Use of a catheter was complicated by its reach inside the uterus, which was spongy and soft during pregnancy and easily perforated. Agnes Herbert's effort at using a catheter on her own uterus resulted in a perforation through the vault of her vagina and a

⁸⁰ J 46 1935/441, ANZW.

⁸¹ For discussion on this as a medical method of inducing labour see NZMJ, 28, 1929, pp. 157–60. See also Tanfer Emin-Tunc, 'Technologies of Choice: A History of Abortion Techniques in the United States, 1850–1980', PhD Thesis, Stony Brook University, 2005, pp. 38–9.

⁸² Emin-Tunc has discussed the history of the use of these methods of abortion by doctors in the United States, *Ibid.*, pp. 38–41.

⁸³ *Ibid.*, pp. 39–41; Levesque, 'Grandmother took Ergot, Part Two', p. 30.

⁸⁴ Emin-Tunc, 'Technologies of Choice', p. 39; Evidence produced at the trial of Rita Cooper in 1923 included large quantities of cotton wool and disinfectants found at her home, see Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No.5, ANZD.

⁸⁵ Shorter, *A History of Women's Bodies*, pp. 197–205; Levesque, 'Grandmother Took Ergot, Part Two', p. 30.

tunnel up through the outer wall of her uterus.⁸⁶ But perforations of these tissues were not necessarily life-threatening; wounds often healed quickly and without any evidence of ongoing complications, although these did increase the risks of haemorrhage and infection.⁸⁷

Catheter types varied according to the time period. In the 1920s catheters were often made of metal.⁸⁸ By the 1930s rubber or gum elastic catheters were more commonly used to procure abortions. The most common catheter used by abortionists was the gum elastic catheter with a thin wire insert called a stillette or stylet. The wire held the catheter rigid while it was inserted through the cervix and could be removed to allow the catheter to be rotated or bent around in the uterus, or to allow fluid or air to be pumped through it.⁸⁹ Catheters may have worked to irritate the uterus into contractions, to pierce the foetal membranes, or separate the foetal sac from the uterine wall, which would cause contractions also.

Professional abortionists often used catheters.⁹⁰ Amy's letter to Edna Taylor contained a classic description of abortion by use of a gum elastic or rubber catheter. Inserted by the abortionist, the catheter was left inside her body for 48 hours and then Amy removed it herself.⁹¹ Catheters were generally less effective in very early pregnancy – one abortionist told her client that at two months gestation it was too soon to use a catheter.⁹² But they were cheaper than syringes and douches, and were easier to sterilise and dispose of.

⁸⁶ Trial of M.M., 30 July 1929, CH24/Box 217 T3/1929, ANZC. Agnes died as a result of a ruptured ectopic pregnancy rather than complications related to her use of the catheter.

⁸⁷ See for example J 46 1929/875, ANZW; 'Labour After Criminal Abortion', *Lancet*, 13 August 1921, pp. 362–3.

⁸⁸ Trial of J.H., 10 August 1923, DAAC/D256/329, August 1923 No. 3, ANZD.

⁸⁹ See for example Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD; Trial of L.D., 6 May 1937, CH24/Box 219 T3/1937, ANZC.

⁹⁰ See for example J 46 1923/501; 1925/1198; 1930/1334; 1937/740, ANZW.

⁹¹ Unsigned to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD.

⁹² Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

Expanding substances sold for insertion into the cervix included the sea-tangle tent or laminaria and slippery elm bark, which was sold in stick form. Sea-tangle tents, a form of seaweed, had similar properties to slippery elm bark: both would swell when they came into contact with moisture so that when inserted into the cervix it would be forced open, inducing contractions.⁹³ Purchased in boxes by the dozen, these were inexpensive and easily disposable.⁹⁴ Although slippery elm bark was considered the most common instrument used in illegal abortions in England, there is no evidence this was the case in New Zealand, where slippery elm and other substances like sea tangle tents, rarely featured in stories of abortion in the public domain.⁹⁵

Like slippery elm, knitting needles and crochet hooks appear to have a reputation as ‘instruments’ of abortion exceeding the evidence of their use.⁹⁶ Symbolically the knitting needle and crochet hook were very powerful. They suggest an archetypal ‘anti-mother’ — the woman who used the tools more commonly associated with a baby’s layette to kill her unborn offspring. These instruments featured in only two out of 83 coroners’ inquests and one out of 94 criminal court trials held during the interwar period examined for this thesis.⁹⁷ In spite of their reputations it seems knitting needles and crochet hooks were not popular instruments for abortions between 1919 and 1937.

⁹³ Levesque, ‘Grandmother took Ergot, Part Two’, p. 30; Emin-Tunc discussed the variety of products used for this purpose; see Emin-Tunc, ‘Technologies of Choice’, pp. 39–41.

⁹⁴ J 46 1935/1328, ANZW; *NZ Truth*, 19 June 1935, p. 13.

⁹⁵ The exception being abortionist Annie Aves who specialised in abortions by the use of sea-tangle tents in the 1930s see Barbara Brookes, ‘Aves, Isabel Annie’, *Dictionary of New Zealand Biography*, updated 22 June 2007, URL: <http://www.dnzb.govt.nz/>. Four examples of the use of slippery elm and sea tangle tents can be found in: J 46 1930/1379; 1935/1328, ANZW; *NZ Truth*, 19 June 1935, p. 13; Dr W.B. Mercer, Medical Officer of Health, Napier to DDGH, 24 October 1922, H1 131/139 B.100 Diseases – Septic Abortion 1922–1937, ANZW.

⁹⁶ Sandra Coney, *Standing in the Sunshine: A History of New Zealand Women Since They Won the Vote*, Auckland, 1993, p. 74; Barbara Brookes, ‘Reproductive Rights: The Debate over Abortion and Birth Control in the 1930s’ in Barbara Brookes, Charlotte Macdonald and Margaret Tennant (eds), *Women in History: Essays on European Women in New Zealand*, Wellington, 1986, p. 125; Mein Smith, *Maternity in Dispute*, pp. 101–2; In the USA the wire coat hanger has a similar reputation.

⁹⁷ J 46 1926/488; 1929/913, ANZW. Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No. 6, ANZD.

Like Findlay's friend May, women did on occasion resort to the most 'home-made' of abortion implements, but for reasons other than ignorance. Findlay wrote that May's distress at having to resort to a knitting needle was because she expected her initial efforts using laxatives, emmenagogues, and physical activity to work, as they apparently had in the past. May's resort to a knitting needle was a response to having exhausted all the 'usual' options available to her.⁹⁸ A similar theme can be seen in other stories about the use of these instruments. Experienced abortionist Judith Campbell used a sharpened crochet hook, but only after the more common implements — catheters, a syringe, and a sea tangle tent — failed to produce the desired effect.⁹⁹ Isolation may have been a factor also: Isla Peters created her own implement out of wood which she used to force a passage through her cervix. She was a single mother who worked and lived on an isolated South Otago farm with her four year old son.¹⁰⁰ Edna McNeill used a crochet hook on her uterus; she too was a single mother who lived and worked on a rural homestead as a housekeeper to support her child.¹⁰¹ These cases suggest that women who used crude 'stabbing' implements like the crochet hook and knitting needle were likely to be geographically or socially isolated, or to have exhausted other avenues.

Although women might continue to employ the language of menstruation, they did on occasion acknowledge their efforts to bring on a period were in fact aimed at the termination of a pregnancy. Their language and actions blurred the distinctions between contraceptive techniques, bringing on a period, terminating an early pregnancy, and inducing premature labour. As women perceived amenorrhea proceeding beyond the first month(s), they demonstrated also a belief their condition could potentially be alleviated by

⁹⁸ Mary Findlay, *Tooth and Nail*, p. 173.

⁹⁹ Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No. 6, ANZD.

¹⁰⁰ J 46 1924/1358, ANZW.

¹⁰¹ J 46 1929/913, ANZW.

their own actions. Their strategies to induce menstruation expanded to include the invasive use of instruments on their bodies. But invasive measures did not replace the ingestion of purgatives and emmenagogues; rather they were used in a complementary way along with physical activity.

‘nature does the job’: Women’s experiences of abortion and miscarriage

Women’s use of these strategies was only the first step in procuring their abortions, the success of which remained to be seen in their return to menstruation. Amy’s letter to Edna did not dwell on the negative aspects of her abortion experience. Her visit to the abortionist and subsequent bleeding were couched as representative of a positive outcome. This is not to say the experience was innocuous. Other women recorded their abortion experiences and subsequent miscarriages as ordeals ranging from deeply unpleasant to agonisingly painful. Few complained about the feelings of pain and nausea they experienced, rather they appeared to accept that these were the consequences of their actions.

A number of women described or were observed to have experienced drastic vomiting and purging as a result of taking laxatives and emmenagogues. Marilyn Parsons’ reaction to taking a bottle of Dr Bonjean’s Pills was continuous vomiting, which she downplayed to her husband by describing it as ‘biliousness’.¹⁰² Other women experienced similar symptoms: one young woman told the court her doctor gave her a prescription for pills, which she stopped taking because ‘they made me feel squeamish’.¹⁰³ In 1927 Gina Salt’s friend Jessie recalled that Gina seemed dazed and was foaming at the mouth after taking pills and some brown medicine she received through the post.¹⁰⁴ That same year another

¹⁰² J 46 1927/808, ANZW.

¹⁰³ Trial of J.C., 14 August 1935, DAFG/D504/121 August 1935 No.1, ANZD.

¹⁰⁴ Trial of C.B., 29 November 1927, CH239/Box 13 T3/1927, ANZC.

young woman told the court some medicine she received from her doctor made her sick so she did not take more than one dose.¹⁰⁵ These so-called noxious drugs were so named because they often had very unpleasant side effects.

Women's recollections of their experience of direct interference by invasion of their cervix with instruments varied enormously. Some recalled it as unpleasant, as one woman described her feelings when the instrument was inserted: 'I only felt a slight pain.'¹⁰⁶ But others described it as agonisingly painful: 'When the instrument was inserted I felt a terrible pain all round my stomach.'¹⁰⁷ The pain did not end when the instrument was removed. The subsequent ordeal of the miscarriage was all the more painful.

As Leslie Reagan has pointed out, the success or failure of measures to bring on a period was often a matter of interpretation rather than established fact.¹⁰⁸ Whatever the method used, women perceived it to be successful if their bodies responded to evacuate the products of conception. To use Amy's words she, 'came on pretty solid, everything was saturated' and took this as a sign her abortion had been successful.¹⁰⁹ These methods of abortion, whether undertaken to bring on a period or to terminate an acknowledged pregnancy, have been categorised as 'slow' or 'passive' methods of abortion. Slow methods 'imitat[ed] nature' and stimulated women's uteri to expel their contents.¹¹⁰ Findlay's friend May summarised the process rather more succinctly as 'nature does the

¹⁰⁵ *NZ Truth*, 17 May 1928, p. 7.

¹⁰⁶ Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No. 6, ANZD.

¹⁰⁷ Trial of G.T., 19 & 26 October 1937, CH273/Box 6 T2/1937, ANZC.

¹⁰⁸ Leslie Reagan has described the case of the doctor who prescribed a placebo to a young woman who later miscarried after a train accident and told her friends to visit him for the same prescription. Leslie Reagan, *When Abortion Was a Crime: Women, Medicine and the Law in the United States, 1867–1973*, Berkeley, 1997, p. 26.

¹⁰⁹ Unsigned to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

¹¹⁰ Emin-Tunc, 'Technologies of Choice', pp. 36.

job'.¹¹¹ The commencement of heavy bleeding was one of many steps towards a completed abortion.

Findlay recalled in her autobiography the experience of assisting her friend May during her miscarriage. 'It takes a few hours and it's a bloody business' May told Mary. But her reassurances did not prepare Mary for the distress of watching her friend as she sweated, groaned, and strained to push the foetus and placenta out of her body.¹¹² Elsa Morgan recalled the experience as extremely bloody and painful also, after which she 'felt very weak and stayed in and out of bed for nearly a week'.¹¹³ There were clear parallels between women's experience of childbirth and the miscarriages occurring after abortion attempts. These women endured considerable pain to achieve their desired outcome.

The pain and distress of a miscarriage was endured with stoicism and its passing was often greeted with relief. In her letter to Edna, Amy glossed over any pain or anxiety she may have experienced. She chose instead to emphasise her relief the worst had passed and said she was 'feeling almost myself again'.¹¹⁴ Likewise, Findlay marvelled at 'how calm and matter-of-fact' May had been in the face of an obviously gruelling experience.¹¹⁵ Although Elsa acknowledged the pain she felt during her miscarriage, she too emphasised the relief she experienced after the loss of her pregnancy. 'It was marvellous to be free from nausea', she noted, by which she meant morning sickness.¹¹⁶ When women recounted their stories about abortions they described looking forward to resumption of their normal lives rather than back at their actions and experiences with regret.

¹¹¹ Findlay, *Tooth and Nail*, p. 171.

¹¹² Findlay, *Tooth and Nail*, pp. 171–5.

¹¹³ E.M., *Cockabully Story: The Memoirs of [E.M.], 1909–1999*, undated, Misc-MS-1400/002, Hocken Library, Dunedin, p. 60.

¹¹⁴ Unsigned to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

¹¹⁵ Findlay, *Tooth and Nail*, pp. 171.

¹¹⁶ E.M., *Cockabully Story*, p. 60.

In part, women's expressed relief in the wake of successful efforts at abortion may have been the product of the uncertainty of the whole procedure. There was no guarantee slow methods of abortion would work. The efficacy of these methods was sometimes more a matter of perception than reality. Many women did experience miscarriages or the resumption of periods within hours or a day or two of their efforts at abortion.¹¹⁷ Others had to wait far longer for evidence their efforts may have worked.¹¹⁸ Women who tried instrumental interference with their uteri did not always experience a quick result. In 1931 Katie Caldwell had instruments passed through her cervix on seven different occasions over some weeks until the eighth attempt, perhaps facilitated by some unidentified pills, finally brought the onset of labour.¹¹⁹ Likewise Maud Henry submitted to four invasions of her uterus over a period of four to six weeks in 1936 in an effort to terminate her pregnancy.¹²⁰ Many women's expressed relief at the successful completion of their abortions may well have been a response to the long wait between efforts at abortion and their miscarriage.

Women's willingness to express relief in the wake of their abortions rather than distress over the implications of their actions also hints at more immediate concerns about abortion. In public discourses, the association between abortion and death was well established.¹²¹ As one woman queried of Edna Taylor: 'could you tell me if there is any great danger of losing ones [sic] life[?]'.¹²² Amy's opening line in her letter to Edna said it all: 'Just a few lines to let you know I'm still alive'.¹²³ This phrase is often used in New Zealand today to signal that the writer has undergone an arduous or even life-threatening task. In spite of its ambiguity, this phrase, coupled with Amy's optimistic description of her ongoing recovery,

¹¹⁷ See for example J 46 1928/102; 1930/1334; 1934/1004, ANZW.

¹¹⁸ Angus McLaren has highlighted the way that some manufacturers of patent medicines capitalised on the uncertainty and delay between ingestion and abortion by producing 'extra strength' versions to cater for ongoing demands for emmenagogue preparations. McLaren, 'Abortion in England', pp. 381–90.

¹¹⁹ Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No.6, ANZD.

¹²⁰ Trial of L.D., 5 May 1937, CH24/Box 219 T3/1937, ANZC.

¹²¹ See chapters Five, Six, and Seven for discussion on the association between abortion and death in the detection of abortion as a crime and its representations in the press.

¹²² M.W. to E.T., undated, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

¹²³ Unsigned to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

suggests that she too perceived a risk attached to her abortion. Edna may well have told Amy most abortions did not end in death; indeed Amy's experience was representative of the norm. Like the experiences described by Findlay and Elsa, Amy's abortion was an arduous but not life-threatening event from which she expected to recover fully.¹²⁴

Women's narratives about their experiences of abortion and the miscarriages that followed varied enormously, yet they shared similar responses. Like Amy they looked forward to the time when they would be back to normal and came through their abortions relieved they were successful. It remains unclear whether women's expressions of relief were the product of their perception of success, relief at the cessation of the pain and discomfort, or whether these expressions were prompted by an awareness of the risks of abortion. Nonetheless the uncertainty, pain, and potential adverse consequences did not appear to have dissuaded women from using abortion.

'I hated doing it because I love babies': The Ethics and Morality of Abortion

The historical records of women's experiences of abortions offer very little information about women's perception of the morality of their actions. Women defined their actions in terms of menstruation rather than pregnancy, which allowed them to overlook that their actions resulted in the death of a foetus and the denial of its human potential. Consequently there is little evidence of a moral or ethical dilemma in relation to the foetus in women's stories of abortion examined here.

The language of menstruation offered little room for discussion of abortion in relation to the foetus. But this lack of language did not preclude women from admitting regret. As

¹²⁴ Findlay, *Tooth and Nail*, p. 177; E.M., *Cockabully Story*, p. 60.

May told Findlay ‘I hated doing it because I love babies’. For May, protecting her employment and that of her husband during the Depression took priority over the potential her foetus offered.¹²⁵ Women could overlook that their actions led to the death of their foetuses by discussing these in terms of bringing on a period, but May’s expression of regret suggests there were no apparent injunctions against the acknowledgement of foetal potential denied fulfilment.

Anecdotal evidence from the interwar period suggests people who identified as Roman Catholics were perceived to be opposed to abortion because foetal life was sacred in their view. For example, May told Findlay she did not involve her husband in the abortion because he was Catholic and would not approve.¹²⁶ In 1920, during a court case taken against two doctors by the New Zealand Branch of the British Medical Association, it was argued a young woman’s parents would not have sought an abortion for her illegitimate pregnancy because they were Catholic.¹²⁷ Religious considerations aside, we should not assume the insubstantial evidence of moral or ethical consideration in relation to foetal life meant there was no moral framework underpinning women’s decisions to attempt abortion.

There is some evidence people may have attributed a moral distinction between ‘bringing on a period’ and the invasive use of instruments on the uterus. In 1936 Elsie Freeman told the Committee of Inquiry into the Various Aspects of the Problem of Abortion in New Zealand (the McMillan Committee) that in her experience New Zealand women did not consider self-medication with drugs and douches to be the same as abortion.¹²⁸ Fisher acknowledged an echo of this belief in her research in Britain. She argued her interviewees described self-medication in response to a late period as perfectly normal. Indeed it was

¹²⁵ Findlay, *Tooth and Nail*, p. 173.

¹²⁶ Findlay, *Tooth and Nail*, p. 173.

¹²⁷ *NZ Truth*, 16 October 1920, p. 5. The case was not specifically about abortion, the doctors were charged over their role in supporting a married man to abduct his young lover from her parents care.

¹²⁸ Evidence of Mrs Freeman and Mrs Barrington, 3 December 1936, H1 131/139/15, ANZW.

seen as closer in action to the prevention of conception than abortion, which was more commonly associated with instrumental abortion in later gestation, especially that performed by abortionists.¹²⁹

Historians have long endorsed ‘the quickening’ as a popular diagnosis of pregnancy and the point when efforts to bring on a period ceased to be morally permissible.¹³⁰ Brookes and Angus McLaren have cited the quickening as ‘the most immediate indication that new life had begun’, arguing women ended their efforts to resume menstruation once they felt the foetus move inside them.¹³¹ Even abortionists were believed to observe the quickening as a moral injunction against interfering with a pregnancy. Brookes stated that Annie Aves, one of New Zealand’s well-known abortionists during the interwar period, was unusual in performing late term abortions.¹³²

But New Zealand women’s descriptions of their abortion experiences examined for this thesis suggest a rather different story. None of the women whose abortion narratives were examined for this thesis used the term quickening. Women simply did not cite the experience of the quickening as guiding their understanding of their reproductive status, nor did women cite the lack of quickening as a moral justification for their actions.¹³³ If social injunctions against abortion after the quickening existed, these were not verbalised by any of the people whose stories were examined for this thesis.

¹²⁹ Fisher, “‘Didn’t Stop to Think’”, pp. 216, 221–4.

¹³⁰ ‘The quickening’ was when women first felt the movements of their foetus at around four months gestation.

¹³¹ Brookes, *Abortion in England*, p. 14; Angus McLaren, ‘The Sexual Politics of Reproduction in Britain’, in John R. Gillis, Louise A. Tilly, and David Levine, *The European Experience of Declining Fertility*, Cambridge, Massachusetts, 1992, p. 87.

¹³² Brookes, ‘Aves, Isabel Annie 1887 – 1938’.

¹³³ The lack of discussion about the quickening may not mean that it was not present in popular discourses but it appears it was irrelevant to legal proceedings.

Many married women with some experience of the cycles of reproduction probably did not see the need to wait for the quickening to determine they were pregnant. For some, like Mrs Smith of Alexandra, who defined her status to Edna Taylor as ‘pregnant 5 weeks’, the experience of amenorrhea may have been confirmation enough.¹³⁴ For others, a diagnosis of pregnancy was irrelevant to their efforts at abortion because these actions intersected seamlessly with efforts to regulate and bring on menstruation. As has already been discussed, Marilyn Parsons’ story suggests a diagnosis of pregnancy was irrelevant for some women. She ingested a number of Dr Bonjean’s Pills because she wanted to make sure her period came on time.¹³⁵ Rita Fellows story is another example. Rita died after attempting to bring on her period with an instrument. A post-mortem examination determined that like Marilyn, Rita was not pregnant at the time of the attempt.¹³⁶ Privately, these women may well have viewed their lack of menstruation as an indicator of pregnancy. But they did not apparently see the need to confirm their reproductive status before taking steps to bring on menstruation.

For many women who used abortion, the experience of quickening did not appear to produce a major injunction against the practice. Indeed statistics from coroners’ inquests suggest once women made the decision to bring on their periods, efforts could continue well after they would have been aware of foetal movements. Forty-nine of the inquests examined for this thesis gave the foetus a gestational age. Twenty-four of those inquests (49 percent) recorded attempts at abortion taking place after three and a half months’ gestation, around the time of the quickening or afterwards. Fourteen of those 24 inquests (58 percent) took place well after the quickening at five or more months’ gestation. There is no evidence the quickening automatically brought efforts to resume menstruation to an end.

¹³⁴ Mrs J.S. to E.T., 20 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923/2, ANZD.

¹³⁵ J 46 1927/808, ANZW.

¹³⁶ *NZ Truth*, 21 October 1922, p. 6.

Instead, some women who sought to resume menstruating stepped up their efforts as their pregnancies entered the second or third trimester. May Pickles visited an abortionist when her pregnancy was at six months' gestation in 1920.¹³⁷ In 1931 Jack Fowler contracted Judith Campbell to provide an abortion for his lover when she was four months' pregnant; again the process took some time and was not complete until a month later.¹³⁸ Six years later, Maud Henry's pregnancy was at the stage of quickening when she first submitted to an abortion, which was unsuccessful. Her abortionist made four unsuccessful attempts over the next month. As the gestational age of her pregnancy advanced, Maud, her husband, and the abortionist did not appear to have any qualms about continuing their efforts at abortion.¹³⁹ In these cases, the obviously advanced pregnancies did not apparently restrict efforts at abortion. In fact quite the opposite; the efforts described became more intensive with gestational age.

In women's descriptions of their own behaviour, and those descriptions made by their supporters, they rarely discussed abortions in terms of their feelings towards their foetus. Only Findlay's biography recounts an expression of regret.¹⁴⁰ The lack of discussion about the foetus in women's narratives mirrored their lack of discussion about pregnancy generally. These women did not cite the quickening as a diagnostic for pregnancy, nor did they use the concept to define the morality of their actions. Nonetheless, as most of these stories suggest, the correlation between increasing intensity of efforts at abortion and advancing gestational age signalled that such efforts were undertaken with an understanding of the ramifications of delay.

¹³⁷ Trial of H.G., 5 August 1920, DAAC/D256/326 6/1920, ANZD.

¹³⁸ Trial of J.C., 21 August 1931, DAFG/D504/119 Aug 1931 No.6, ANZD.

¹³⁹ Trial of L.D., 5 May 1937, CH24/Box 219 T3/1937, ANZC.

¹⁴⁰ Findlay, *Tooth and Nail*, p. 173.

Conclusions

May's comment to Findlay that to complete an abortion 'takes a few hours and it's a bloody business' reflected the reality Findlay later witnessed. When women described having abortions during the interwar period, it was a long and involved process. Abortion was most commonly undertaken using 'slow methods' stimulating women's bodies to later eject the products of conception. The subsequent miscarriage could be a painful, gruelling experience women like May and Amy bore with stoicism in the hope they would experience the relief of being 'fixed up' and returning to normal menstruation.

Women's and their supporters' narratives about their abortion experiences reveal that abortion sat within a broader category of menstrual regulation. The practice encompassed a wide range of activities including vigorous exercise, self-medication with folk remedies or patent medicines, syringing to promote bodily evacuations, and the physical induction of labour. Many women described ingesting laxatives, purgatives, and emmenagogues in the belief their actions would bring on their menses. Their actions were not out of place in a culture of self-medication facilitated by widespread commercial advertising and readily available products claiming to promote menstrual regularity. Some women went on to describe how they attempted more invasive methods, interfering with the cervix, uterus, and its contents if medicines did not initially work. These methods were deployed in diverse, interconnected ways without clear boundaries. Ingested emmenagogues such as ergot and quinine complimented the actions of instruments, and the combined action of these was further promoted by vigorous physical activity.

Very often it was impossible to tell if the actions taken by women had directly resulted in the termination of their pregnancies. Success was largely determined by the perception of a

particular physiological response inside women's bodies. But there were no specific markers identifying these processes as natural or induced. Ultimately within the diverse range of practices constituting menstrual regulation, there was no guarantee of success — although initial failures did not necessarily prevent further action. The question remains: what motivated women to take such steps to bring on their periods? The next chapter continues to explore the notion that abortion was part of a wider culture by exploring the use of abortion in the context of family life.

Chapter Three

‘I didn’t want any more children’: Abortion in the Context of Relationships and Family Life, 1920–1937

In her letter to Edna Taylor, Amy described her mother’s support during her miscarriage. Her mother had shown Amy the part of her miscarriage that ‘wanted the shifting’, and Amy wrote that to have her mother’s support and guidance lifted ‘such a lot off [my] mind’.¹ Like Amy, many women’s stories about their abortion experiences included descriptions of the help and support they received from family members. Likewise, these women’s families also at times recounted their role in helping women gain access to abortions. Family members were an important part of many women’s abortion experiences. They supported women to obtain abortions. They nursed women during the miscarriage, and in doing so educated young women on what to expect when a miscarriage took place.

This chapter explores the use of abortion in the context of relationships and family life. It broadly tracks the journey many young New Zealanders may have followed on their

¹ Unsigned letter to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD.

emergence from the parental home into adulthood with courtship, marriage, the processes of family building, and making the decision to end the reproductive phase of marriage. The first section explores the narratives of young people and their family members whose abortions were initiated as an introduction into menstrual regulation strategies. The second section explores single women's narratives about their abortion experiences, relating the use of abortion to the delaying or avoidance of marriage. The third section discusses the role of abortion in family building, exploring the ways that married couples represented their decisions to terminate legitimate pregnancies rather than carry them to full term. The last section places women's and men's admissions about using abortion in the context of fertility control regimes and social groupings.

‘she had never been regular’:

Educating young women about menstrual regularity and abortion

New Zealand historiography on the educative functions of families in early twentieth century is very limited. It has long been acknowledged that the education of young people in life skills began in the home. Parents, particularly mothers, were expected to educate their daughters on how to cope with their biological functions, such as menstruation, and how to behave in socially acceptable ways. As Barbara Brookes and Margaret Tennant have stated, ‘[m]others were *supposed* to convey bodily knowledge to daughters in the first half of the twentieth century’.² Historians tend to focus upon the complaints of women who felt that their mothers had left them ill-prepared for the shock of menarche. But women's recollection of the experience of menarche suggests mothers acted responsively rather than proactively.³ Mothers adopted a wait-and-see approach, educating their young

² Barbara Brookes and Margaret Tennant, ‘Making Girls Modern: Pakeha Women and Menstruation in New Zealand, 1930–70’, *Women's History Review*, 7, 4, 1998, p. 566 (their emphasis).

³ Joan Jacobs Brumberg, ‘“Something Happens to Girls”: Menarche and the Emergence of the Modern American Hygienic Imperative’, *Journal of the History of Sexuality*, 4, 1, 1993, p. 118. For historiography on preparation for menarche, or lack thereof, in the New Zealand context see Brookes and Tennant, ‘Making

with the skills they needed to cope with events that had already happened rather than preparing girls for events that had not yet occurred.

Familial responses to amenorrhea in the teenaged girl who lived in her parents' home had strong correlations with this responsive approach to the education of girls and young women about adult life. North American historian Joan Jacobs Brumberg pointed out that mothers' control over the domestic arrangements provided an ideal opportunity for them to confirm the regularity of their daughters' menstrual cycles by 'monitor[ing] the family wash'.⁴ Mothers watched for the signs of regular menstruation in their daughters in the same way they were vigilant about their own menstrual cycles.

Some Pakeha mothers in New Zealand admitted sharing their North American counterparts' vigilance, by claiming to monitor the regularity of their own daughters' menstrual cycles. Mothers' perceptions of amenorrhea in their daughters provided opportunities for them to educate their daughters on how to bring on their periods and stay regular. In 1926 18 year old Enid Masters' mother told the inquest into her daughter's death she interpreted Enid's amenorrhea as a symptom of anaemia and took her to the doctor for iron pills and a tonic to bring on her periods.⁵ If amenorrhea was ongoing, mothers might instigate more invasive strategies to bring back their daughters' periods. In 1929 19 year old Mildred Davidson's mother made an appointment with the local abortionist to examine Mildred and introduce a catheter to her uterus. Mrs Davidson later told the police she did this because Mildred 'had never been regular'.⁶ Mothers' practice of monitoring their daughter's periods appeared to have continued into the 1930s. In 1937, Mrs Wilson told the court she 'came to the

Girls Modern', pp. 566, 570–3; Barbara Brookes, 'Health, Hygiene, and Bodily Knowledge', *Journal of Family History*, 28, 2, 2003, pp. 304–5; see also Suellen Murray, "'Keeping Their Secret Safe": Menstrual Etiquette in Australia, 1900–1960', *Hecate*, 24, 1, 1998, pp. 63–80; Julie-Marie Strange, 'The Assault on Ignorance: Teaching Menstrual Etiquette in England, c. 1920s to 1960s', *Social History of Medicine*, 14, 2, 2001, pp. 247–265.

⁴ Brumberg, "'Something Happens to Girls'", p. 118.

⁵ J 46 1926/826, ANZW.

⁶ Evidence of Mrs D., Trial of M.D., 10 May 1929, DAAC/D256/333 No.5 April/May 1929, ANZD.

conclusion that her 14 year old daughter was [pregnant]' after she noticed her daughter's period had not appeared for the third consecutive month. In response to this realisation she arranged to take her daughter to an abortionist.⁷ By surveillance and intervention these mothers modelled for their daughters the belief that vigilance and action could bring on delayed or missed periods and ensure regularity.

If young women did not have a mother, other female relatives might take over the maternal role and give advice to young women about how to overcome amenorrhea. In 1928, Frances Cooper confided in her older sister that she had missed a number of periods. Her sister arranged for her to travel from the Waikato to Auckland where she was met by her sister's friend Ruth who delivered her to an abortionist's nursing home in Grey Lynn.⁸ Alice Porter travelled from Waihi to Auckland, ostensibly to visit her married sister, but while in her care arranged an abortion.⁹ Older married siblings and other relatives could fill the gap left by absent or deceased mothers.

Young women could be severely disadvantaged if they did not have a relationship with a maternal figure. In 1929, 16 year old Eileen Henderson's stepfather John was appalled when he realised she was six months pregnant. Her mother had died before Eileen became pregnant, and her absence was perhaps one of the reasons why the pregnancy remained undetected for so long.¹⁰ Young women who worked and lived away from the family home could be similarly disadvantaged. In 1920 May Pickles returned home three months' pregnant after working at the Seacliffe Asylum as a wardress.¹¹ Without the guidance and support of a watchful maternal figure, some young women were severely disadvantaged when it came to learning about amenorrhea and its implications.

⁷ *NZ Truth*, 10 February 1937, p. 8.

⁸ J 46 1929/819, ANZW; *NZ Truth*, 6 December 1928, p. 5.

⁹ J 46 1929/1017, ANZW.

¹⁰ J 46 1929/875, ANZW.

¹¹ J 46 1920/774, ANZW. See also J 46 1931/822, ANZW.

The contacts young women made in the workplace could also provide much needed advice and support. Brumberg stated of the United States, ‘learning about womanhood probably was less privatized and more social in the working class’.¹² New Zealand historian Caroline Daley noted that young women in female-centred employment established ‘their own, female, work cultures’ which allowed them to discuss subjects like sex and contraception.¹³ Young New Zealand women who took jobs while still living in their parents’ home, acknowledged they asked for help from work colleagues and received support. In 1928 18 year old Jean Souther obtained the name of an abortionist from her friend Amelia Thomas, a widow she worked with at the local factory. Later, colleagues of the two women claimed Amelia referred them to the same abortionist.¹⁴ Women might call upon male colleagues and friends for support also. In 1931, when Maureen Bland sought help to terminate her pregnancy, she rekindled an old friendship with a male colleague from her previous employment situation.¹⁵ Social networks, even those crossing gender boundaries, could provide valuable opportunities to learn about how to obtain an abortion.

Illegitimate pregnancies posed as much of a problem for women’s families as they did for the women themselves. When confronted by her stepfather over the visible evidence of her advanced pregnancy, Eileen Henderson told him she was ‘interfered with’ by a family friend when she was just 15 years old. Her stepfather later told the inquest into Eileen’s death he decided against taking the allegation to the police ‘for fear the family name would be disgraced’. Instead he turned to his own mother, sister, and brother for advice which resulted in the premature induction of Eileen’s labour and, sadly, in Eileen’s death.¹⁶

Familial responses to young women’s pregnancies were not necessarily always in tune with

¹² Brumberg, “‘Something Happens to Girls’”, p. 118.

¹³ Caroline Daley, *Girls & Women, Men & Boys: Gender in Taradale, 1886–1930*, Auckland, 1999, pp. 65–6.

¹⁴ J 46 1928/102, ANZW.

¹⁵ J 46 1931/496, ANZW.

¹⁶ J 46 1929/875, ANZW. Note Eileen and her twin sister had themselves been illegitimate babies.

the women's desires. Some women expected pregnancy would initiate them into adult life and marriage, only to be disappointed by their families' reaction. In 1935, 19 year old Maude Belcher tried to use her pregnancy as leverage to gain her mother's permission to marry her boyfriend. Mrs Belcher refused to consent to the marriage, instead she and her cousin James pressured Maude to buy some pills from the chemist to bring on her periods.¹⁷ Family support for abortions did not always respect the views of the pregnant women and sometimes reflected wider concerns about the implications of illegitimate pregnancies for the family as a whole.

Eileen's and Maude's stories bring to the fore men's roles in the procurement of abortions. Male support for abortions has not been seen as an important feature of abortion history in New Zealand.¹⁸ Until recently, overseas historians have tended to view abortion as a woman-centred activity undertaken in spite of men or in the absence of their support.¹⁹ Recent English historiography offers a different perspective, however. Emma Jones argued men played an integral part in both shaping female responses to pregnancy and in the procurement of abortions.²⁰ In New Zealand women's lovers were on occasion pressured to take responsibility for the consequences of their actions by women's family members and other supporters. May Pickles' father took her to see the young man she named as responsible for her pregnancy and demanded he take responsibility for her condition. The young man did as he was told. He accompanied May to the home of an abortionist and

¹⁷ *NZ Truth*, 3 April 1935, p. 13.

¹⁸ For more on researchers' emphasis on abortion as an exclusively female practice see Penny Fenwick, 'Fertility, Sexuality and Social Control', in Philidda Bunkle and Beryl Hughes (eds), *Women in Society*, Wellington, 1980, pp. 80–3; Barbara Brookes, 'Reproductive Rights: The Debate over Abortion and Birth Control in the 1930s', in Barbara Brookes, Charlotte Macdonald and Margaret Tennant (eds), *Women in History: Essays on European Women in New Zealand*, Wellington, 1986, pp. 119–22; Philippa Mein Smith, *Maternity in Dispute, New Zealand 1920–1939*, Wellington 1986, pp. 109–10.

¹⁹ See for example Angus McLaren, 'Abortion in England, 1890–1914', *Victorian Studies*, 20, 4, 1977, pp. 380–1. Wally Seccombe, 'Starting to Stop: Working-Class Fertility Decline in Britain', *Past & Present*, 126, 1990, pp. 186–8.

²⁰ Emma Jones, 'Abortion in England, 1861–1967', PhD Thesis, Royal Holloway, University of London, 2007, pp. 81–119. See also Kate Fisher, *Birth Control, Sex, and Marriage, 1918–1960*, Oxford, 2006, pp. 64–5.

paid £10 for the procedure.²¹ Jean Souther took her friend Mrs Thomas with her when she visited the man she held responsible for her pregnancy. Mrs Thomas convinced him to part with £24 to cover the cost of the abortion and travel, and to make an appointment with the abortionist by telephone also.²² These young men were none too subtly indoctrinated into the societal expectations imposed upon sexually active males. They were to be breadwinners and providers regardless of whether they were married to the woman concerned.

Amenorrhea or the confirmation of pregnancy provided opportunities for young women and men to learn about the gendered societal expectations of sexually active adults. Parents, other family members, and friends passed on to young women information about how to control and regulate their menstrual cycles on the basis of the perception of amenorrhea. Women's families did not shoulder the burden of single women's abortions alone. In some cases they pressured the men responsible to meet the costs of the young woman's abortion and participate in making the arrangements. Women were expected to care for their own cycles as best they could. But men were responsible for providing the money and support to gain outside help if it was required. The importance of these interactions should not be underestimated. How to bring on a period, procure an abortion, or find an abortionist were important life skills that might later be of use to women and men during marriage.

²¹ Trial of H.G, 5 August 1920, DAAC/D256/326 6/1920; 6 August 1920, DAAC/D256/442 Aug 1920 sitting, ANZD. See also J 46 1920/774, ANZW.

²² Trial of M.C., 7 March 1928, DAAC/D256/397 March 1928 No.3, ANZD.

‘my commitment to him was steadily increasing’:
Abortion to delay or prevent marriage

Many single women’s stories about abortion attempts indicated they were procured outside the context of the parental family. These stories reflected young couples’ autonomous decision-making about entering into marriage and family life. Historical demographers have tended to view late marriage as a form of birth control in and of itself. Ian Pool, Arunachalam Dharmalingam, and Janet Sceats have argued that by delaying marriage men and women delayed sexual experience, and therefore delayed first births and the onset of family building.²³ Undoubtedly, the social imperative to contain childbirth within marriage was a key motivation for chastity, but for some people it contributed to decisions to procure abortions. Unmarried women and men were not necessarily sexually inactive, and pregnancy was an important feature of many young people’s transition into marriage and family life. The latter is illustrated by the 15 to 20 percent of legitimate first births occurring within seven months of marriage during the interwar period.²⁴ But for some women and their lovers, marriage was either unwanted or unattainable. Some unmarried women took their pregnancies to full term in spite of the social stigma associated with having an illegitimate child.²⁵ Others resorted to abortion to solve the problem.

Abortion narratives provide a window onto the sexual lives of some young New Zealand women during the interwar period. Martha Newton was exposed in court as having two visits to an abortionist, the first in June 1936 and the second in March 1937.²⁶ In 1927, Selma Biddle, a 19 year old housemaid, was described to the court as the mother of an

²³ D. Ian Pool, Arunachalam Dharmalingam and Janet Sceats, *The New Zealand Family from 1840: A Demographic History*, Auckland, 2007, pp. 101, 103; See also Claire Toynbee, *Her Work and His: Family, Kin and Community in New Zealand 1900–1930*, Wellington, 1995, pp. 26–7.

²⁴ Caroline Daley, ‘Puritans and Pleasure Seekers’ in Allison Kirkman and Pat Maloney (eds), *Sexuality Down Under : Social and Historical Perspectives*, Dunedin, 2005, p. 55.

²⁵ *The New Zealand Year Book* places illegitimate first births at around 12 to 15 percent of all first births as recorded by censuses from 1916 to 1936, see table in Daley, ‘Puritans and Pleasure Seekers’, p. 55.

²⁶ Trial of G.T., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

illegitimate child and accused of consorting with at least two men, in addition to the man charged with having paid for her abortion.²⁷ Secrets hidden within women's bodies could be revealed at an autopsy, as was the case for May Pickles, who was found to have evidence of an earlier pregnancy before her death in 1920.²⁸ In spite of the moral injunctions against pre-marital sex, it seems some single women were sexually active and some experienced one or more pregnancies as a result.

Abortion had obvious advantages for single women who could gain sexual experience without being forced into an early marriage at the first pregnancy. Twenty-two year old Noeline Beal told her lover she 'thought it was the best way out of the difficulty.' Her motivation was difficult to unpack from that statement. But evidence presented at the criminal court trial of her lover suggested she preferred her life as it was, and was unwilling to be pushed into marriage with this man for the sake of her pregnancy.²⁹ Not all women wanted to make marriage part of their life experience. On occasion New Zealand's equivalent of 'career women' also resorted to abortion in order to maintain their positions. Quite apart from the stigma of illegitimate pregnancy, there was no job protection for women who became pregnant. In 1931, Melva McKellar, a 37 year old spinster who worked as a bank clerk, took three weeks' leave from her job, during which time she had an abortion. She gave her employer a medical certificate from her doctor that stated she had an irregular heartbeat and was unfit for work.³⁰ In 1936, 29 year old typist Madeleine McDowell sought an abortion, in part because the man she held responsible was a married work colleague. She told her work colleagues and family she had influenza to cover for her

²⁷ Trial of H.F. & R.B., 1 August 1927, CH239/Box 13 T3/August 1927, ANZC.

²⁸ J 46 1920/774, ANZW.

²⁹ Trial of H.F. and R.B., 1 August 1927, CH239/Box 13, T3/August 1927, ANZC.

³⁰ J 46 1931/241, ANZW. See also comment by Dr Brown in his evidence to the McMillan Committee that female bank clerks were not allowed to marry. Evidence of Dr Brown, 12 November 1936, H1 131/139/15 9402 Diseases – Septic Abortion – Evidence 1938–1938, ANZW.

absence.³¹ These women covered up their illegal abortions with claims of illness and hoped they would recover and return to their normal, working lives.

Couples who were unable to marry sometimes described their resort to abortion as a way to cope with or to hide their ongoing association. Some young people who were below the legal age for marriage without parental consent, like Maude Belcher, attempted to use pregnancy as leverage to gain their parents' consent.³² If parents continued to withhold their consent, young lovers who might otherwise have married in response to their pregnancy resorted to abortion instead. Martha Newton's parents had not allowed her to marry her boyfriend but the pair continued to see each other, a situation resulting in two visits to the abortionist.³³ At the other end of the spectrum grounds for divorce required separation by agreement for at least three years before married individuals could apply for a divorce and remarry.³⁴ Donald Cowperthwaite had been separated less than three years when he first met Agnes Bright. Agnes' mother tried to warn her against associating with him, because he was not yet free to marry. When Agnes became pregnant the couple still could not marry and chose abortion instead.³⁵

Young couples who were free to marry found abortion a helpful strategy in cases of poorly timed pregnancies. Dunedin-born Elsa Morgan wrote about her abortion, performed by herself and her boyfriend, Ian, while she was at university in England during the mid 1930s. The joint decision to attempt abortion and the subsequent miscarriage served to strengthen the couple's relationship. As Elsa put it, Ian's loving attention and care during her illness

³¹ J 46 1936/614, ANZW.

³² *NZ Truth*, 3 April 1935, p. 13.

³³ Trial of G.T., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

³⁴ Divorce and Matrimonial Causes Amendment Act, 1920, s. 4. Note that this was then complicated by the Divorce and Matrimonial Causes Act, 1921–1922, s. 2 which allowed for the court to refuse a decree if the respondent proved that the separation was caused by the 'wrongful conduct' of the petitioner.

³⁵ Trial of D.C. 14 May 1935, CH273/Box 5 T7/1935, ANZC.

meant ‘my commitment to him was steadily increasing’.³⁶ Abortion did not necessarily signal the end of a relationship. In Elsa’s case the experience was an opportunity for her to assess Ian’s potential worth as a future husband, a test he passed.

Not all women’s decisions to bring on their periods were calmly entered into. At times sheer bad luck appeared to have motivated women to find an abortionist. Ida Travis had been ‘keeping company’ with a young man named William for two years when she became pregnant in 1923. William’s sudden and unexpected death meant there was no opportunity for the couple to make plans for their future together. Unmarried, alone, and pregnant, Ida visited Edna Taylor for help to find an abortionist.³⁷ Some women found themselves abandoned by their lovers. One young woman wrote to *NZ Truth*’s ‘Inquirers’ Corner’ column for advice on whether she could pursue legal action against ‘the other party’ to help relieve debts she had incurred from two months’ lost income and hospital bills after an illegal abortion. The answer given was that the matter was best left alone lest she be prosecuted for her actions.³⁸

Illegitimate pregnancies also on occasion constituted a crisis for separated, divorced, and widowed women. These women would have arguably had greater knowledge of the potential consequences of illicit sexual encounters, but were nonetheless not always inclined to chastity.³⁹ Their financial position was particularly vulnerable. They often had existing children whom they supported through paid employment.⁴⁰ Pregnancy, childbirth, and the subsequent care needed by an infant could jeopardise women’s ability to support

³⁶ E.M., *Cockabully Story: The Memoirs of [E.M.], 1909–1999*, undated, Misc-MS-1400/002, Hocken Library, Dunedin, p. 60.

³⁷ Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No. 2, ANZW.

³⁸ *NZ Truth*, 26 June 1930, p. 22.

³⁹ Hera Cook has suggested that fear of pregnancy led women to avoid sexual intercourse during the early to mid twentieth century; however this is not borne out by these women’s stories. Hera Cook, *The Long Sexual Revolution: English Women, Sex, and Contraception 1800–1975*, Oxford, 2004, pp. 101, 105, 106–7.

⁴⁰ Occupations included waitresses, cleaners, and housekeepers. See for example J 46 1927/869; 1930/1334; 1930/1379, ANZW.

their family. Former husbands might use an illegitimate child as grounds to challenge women's rights to custody of their children from the marriage also. Eileen Watson outlined these concerns in a letter found with her dead body in 1934. Although it is unclear whether she was writing to her ex-husband or a lover, what was clear in her letter was her dread of going to hospital and her fear for the wellbeing of her children when she was not there to care for them. She wrote that she felt very alone, and closed her letter with an appeal for his 'dear love more than anything'.⁴¹ Eileen's predicament, her plea for support and most of all for love, reminds us of the pressing need for divorced or separated women to avoid further children.

Single women were often not alone in their efforts to terminate pregnancies. They sometimes invited support from their male sexual partners. Men's involvement in the procurement of abortions should not be viewed as an infringement on women's practices. When housemaids Selma Biddle and Noeline Beal found they were pregnant in 1927, both young women requested their lovers find an abortionist for them.⁴² Martha Newton left the arrangements for her abortions up to her lover in 1936 and 1937.⁴³ These women asked for, and expected to receive, this assistance from their male partners — expectations that were often supported by their family and friends.

Some men acted as caregivers as well as breadwinners for their lovers during the ordeal of their abortion and subsequent miscarriage. In 1923 Terry Vincent found the abortionist for his girlfriend Rose, accompanied her to the arranged venue, took her home, and visited regularly during her illness.⁴⁴ Matthew Mason stayed the night at his girlfriend Agnes Hunter's house while she suffered, he thought because of her attempt at abortion. Mason

⁴¹ J 46 1934/388, ANZW.

⁴² Trial of H.F. & R.B., 1 August 1927, CH239/Box 13 T3/August 1927; Trial of W.M., 1 & 22 August 1927, CH239/Box 13 T3/August 1927, ANZC.

⁴³ Trial of G.T., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

⁴⁴ J 46 1923/501, ANZW.

called in the doctor to attend to her and freely volunteered information about his role in the purchase of the catheter.⁴⁵ Elsa Morgan described her lover Ian's help to procure her miscarriage along with his support and care during her subsequent recovery.⁴⁶ Taking responsibility for the consequences of their sexual activities meant men were not necessarily remote from their lovers' experiences of the most gruelling aspects of their abortions.

Some men even took it upon themselves to learn how to perform the procedure. Elsa's recollection of her abortion was that she and Ian had performed it together.⁴⁷ In 1935 Donald Cowperthwaite admitted after Agnes Bright's death he helped her to pass the syringe nozzle through her cervix, although he claimed it was Agnes who gave the fatal squeeze to the bulb causing her death from an air embolism.⁴⁸ How to perform an abortion could become part of the repertoire of male family limitation practices.

Single women described a variety of reasons for their resort to abortion. Some young women like Eileen Henderson fit the classic stereotype of the aborting woman, the victim of male sexual excesses.⁴⁹ But most of the women's narratives about abortion examined here suggest that single women's resort to abortion was more often a conscious strategy, deliberately undertaken to delay entry into marriage or to resolve the problem of pregnancy when marriage was unwanted or impossible. These stories reveal strong gender roles, but at the same time they challenge the notion that abortion was solely a feminine practice. For a number of these couples procuring an abortion was a shared endeavour.

⁴⁵ Trial of M.M., 30 July 1929, CH24/Box 217 T3/1929, ANZC. Agnes' illness and death were caused by an undiagnosed ruptured ectopic pregnancy rather than her attempt at abortion.

⁴⁶ E.M., *Cockabully Story*, p. 60.

⁴⁷ *Ibid.*, p. 60.

⁴⁸ Trial of D.C., 14 May 1935, CH273/Box 5 T7/1935, ANZC.

⁴⁹ Concerns about men's apparent inability to control their sexuality were prevalent during the 1920s and 1930s. See Brookes, 'Reproductive Rights', pp. 121–2.

‘I didn’t want any more children’: The Place of Abortion in Family Building

The use of abortion by married couples on legitimate pregnancies places the practice within the context of the reproductive phase of marriage: the building of couples’ families.

Individual cases brought before the criminal courts and coroners’ inquests on occasion suggested that some married women resorted to abortion more than once. Abortion was one of many strategies available to couples as part of their fertility control regime, but the extent to which it was used and at what point in the process of family building has not been explored in New Zealand historiography.

Family size is one indicator of New Zealand women’s reproductive careers. Pool, Dharmalingam, and Sceats suggested in their demographic history of New Zealand families that the interwar period was one of family size diversification. They concluded the drop in average family sizes of the interwar years had not occurred evenly across the board but rather reflected the increasing diversity of family sizes. Increasing numbers of women had no children, either within marriage or because they remained unmarried. Many more families had three to five children, and a smaller but not insignificant number of families had five or more children.⁵⁰ The question remains, what role did abortion play in this overall reduction in family sizes?

The coroners’ inquests into abortion-related deaths of 30 married women examined for this thesis and 56 responses to the ‘Married Women’s Questionnaire’ (MWQ) presented to the McMillan Committee in 1936 provide information on abortion in the context of family

⁵⁰ Pool, Dharmalingam and Sceats, *The New Zealand Family from 1840*, pp. 100–1, 103. Note Kate Fisher has found that working class couples in England and Wales rejected family planning as cold and calculated during the interwar period see Fisher, *Birth Control*, pp. 77, 80–1, 95–8.

life.⁵¹ In addition, the Committee received statistics on the reproductive histories of 1731 married women who gave birth at St Helens Hospitals in the major cities around New Zealand and another 98 married women who gave birth at the Essex Maternity Home in Christchurch in 1935.⁵² Collectively, this information gives a sense of the role of abortion in the regulation of fecundity within marriage.

Coroners' inquests provide a wealth of information about family structure and daily life. Women's ages, numbers and ages of their children, and their husband's occupations formed part of the record of the inquest.⁵³ If women had died in their own homes their daily routine was explored.⁵⁴ The police gathered evidence for inquests to try to determine how women felt about their pregnancy and any other potential factors, like marital stress, that may have influenced women to try abortion.⁵⁵ Arguably, because abortion-related deaths were accidental these did not give a full picture of the women's reproductive career, but rather a foreshortened version. Nonetheless coroners' inquests provide a wealth of otherwise private information that is not available elsewhere.

The MWQ provides a snapshot of women's reproductive careers, albeit an incomplete one. Again, the sample is not representative of all women; women with an interest in birth control clinics solicited responses to the questionnaire from other women known to them. The primary focus of the questionnaire was not to uncover the abortion practices of New Zealand women but rather it was used to support political demands for birth control clinics. Elsie Freeman told the McMillan Committee she was concerned that many women she

⁵¹ Appendix C., the 'Married Women's Questionnaire' was designed, distributed and collected by a group of Wellington women who met during 1936 to explore the possibility of a birth control clinic for the city. That group went on to become the Sex Hygiene and Birth Regulation Society, which later changed its name to the Family Planning Association. See Helen Smyth, *Rocking the Cradle: Contraception, Sex and Politics in New Zealand*, Wellington, 2000, pp. 39–40, 43–4.

⁵² 'St Helens Hospital Returns', 1935, H1 1302 131/139/13 9400 Diseases – Septic Abortion – Statistics 1936–1936, ANZW; Evidence of Miss Gow, 6 November 1936, H1 131/139/15, ANZW.

⁵³ See for example J 46 1922/1049; 1922/1051; 1926/489; 1930/58; 1932/975; 1934/432, ANZW.

⁵⁴ See for example J 46 1928/1400; 1931/1166; 1932/782, ANZW

⁵⁵ See for example J 46 1931/1166; 1934/1004, ANZW.

spoke to may have thought using ‘drugs and douches’ did not constitute abortion, indicating the questionnaire may have under-reported menstrual regulation strategies.⁵⁶ Nineteen of the 56 respondents admitted having had abortions, and the questionnaire placed these abortions in the context of women’s overall fertility control regimes giving valuable information not found in coroners’ inquests.

Notwithstanding the reservations about representativeness, the families of women whose abortions were described by coroners’ inquests and in the MWQ collectively reflect the demographic trends described by Pool and his co-authors. Of these women, two percent had no children, 16 percent had one child, 27 percent had two children, 30 percent had three children, 20 percent had four children, and four percent had more than four children. The average family size was just under three children.⁵⁷ The majority of the women whose use of abortion is described in this thesis did not appear to be using the practice in response to an overly large family.

Pool and his co-authors suggest three fundamental factors in the overall decline of family sizes during the interwar period. First, there was a tendency among young couples to delay marriage, and among some women to avoid marriage altogether. Second, there was an increased tendency among married couples to remain childless within marriage. Third, many more couples stopped building their families earlier than previous generations had.⁵⁸ Another feature of family building commonly discussed during the McMillan Inquiry was the spacing of births.⁵⁹ Earlier in this chapter I described how abortion played a role in delaying or avoiding marriage. But was abortion one of the strategies that couples

⁵⁶ Evidence of Mrs Freeman and Mrs Barrington, 3 December 1936, H1 131/139/15, ANZW. Only one respondent to the questionnaire described menstrual regulation strategies, see Appendix C., ‘a4’.

⁵⁷ Appendix B., figure 3.

⁵⁸ Pool, Dharmalingam and Sceats, *The New Zealand Family from 1840*, p. 100. Seccombe has noted a similar trend in England by the late 1940s, see Seccombe, ‘Starting to Stop’, p. 154.

⁵⁹ See ‘McMillan Report’, pp. 17–8.

described using to maintain childlessness, space births, or to stop the production of children before menopause?

There is some evidence to suggest couples might resort to abortion to delay first births in the same way some of their unmarried counterparts used abortion to avoid marriage. Pool *et al* have shown that around 25 percent of first births were conceived soon after marriage and similar numbers of first births were conceived before marriage.⁶⁰ Abortion was one way that couples might buy time to build family capital before they embarked upon parenthood. Newlywed Irene Mander told her friends in 1922 she terminated her pregnancy because she wanted to have a ‘decent home’ before starting a family.⁶¹ Young couples starting out with little work experience or qualifications realised they would struggle to live on one income. Of the 19 women who admitted to abortions in the MWQ, one young woman wrote she terminated two pregnancies over three years of marriage because she and her husband were both working. In her view, living on a mere 35 shillings per week they could not afford to have children.⁶² But the dearth of examples of the use of abortion to delay family building within marriage suggests that although not unheard of, it was not a common occurrence.

Evidence of the use of abortion to space births is also sparse. In 1931, 23 year old Alice Fogarty used a syringe to terminate her second pregnancy, conceived within ten months of the birth of her first child. Alice’s mother and husband testified at the inquest into her death that she had been very upset when her periods ceased and was determined to bring them back.⁶³ One respondent to the MWQ admitted to using abortion as a tool to space births. In 1936 this woman had been married for 18 months; she had given birth to her first

⁶⁰ Pool, Dharmalingam, and Sceats, *The New Zealand Family From 1840*, p. 103.

⁶¹ J 46 1922/1049, ANZW.

⁶² Appendix C., ‘c14’.

⁶³ J 46 1931/1166, ANZW.

child and terminated a pregnancy in the same year.⁶⁴ Another respondent had terminated her second and fourth pregnancies within a year of earlier births to produce a family of three children. In her answer to questions about contraceptive methods, this woman wrote that sheaths worked to prevent conception for her but not soluble pessaries.⁶⁵ These women used abortion to resolve the problem of close interval pregnancies as they and their husbands sought to cope with the demands of an infant and perfect the art of fertility control by other means.

Couples might also use abortion to give a temporary hiatus in family building. Glenn Bishop told the court he arranged an appointment with an abortionist for his wife because they ‘did not want any arrival at that time’.⁶⁶ Doreen Howard, who had two children, told the court in 1926 she visited an abortionist because the family was accompanying her husband on a business trip to Melbourne.⁶⁷ Such a journey would probably have been at best uncomfortable for a pregnant woman, and if it were to be a long stay in Melbourne then perhaps her pregnancy rendered the trip impossible for her and her children.

Maternity hospital records suggest women did not commonly admit to using abortion to space births, however. In August 1936 Health Department official, Dr Thomas Paget, asked all the Matrons of St Helens Hospitals to provide statistical returns of the obstetrical histories of women who had used their services in 1935.⁶⁸ St Helens Hospitals were government-run maternity hospitals for ““respectable wives of working men” with incomes of less than £350 per year’.⁶⁹ The Committee reviewed returns from St Helens Hospitals located at Auckland, Wellington, Christchurch and Dunedin. The returns itemised the

⁶⁴ Appendix C., ‘b5’.

⁶⁵ Appendix C., ‘b14’.

⁶⁶ Evidence of G.B., Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

⁶⁷ *NZ Truth*, 11 February 1926, p. 7.

⁶⁸ Dr T. Paget to Matrons, St Helens Maternity Hospitals, 26 August 1936, H1 1302 131/139/13, ANZW.

⁶⁹ Mein Smith, *Maternity in Dispute*, p. 20; For information on St Helens Hospitals see Gabrielle Bourke, ‘Mothers and Midwives: Auckland’s St Helens Hospital, 1906-1990’, MA Thesis, University of Auckland, 2006.

obstetrical histories of 1731 women in total, who had on average two to three children per family, and gave a pregnancy loss rate of just six percent of all pregnancies. One in six women recorded having an abortion or miscarriage (in this context abortion would have been used in the medical sense, indicating the gestation at time of pregnancy loss), although whether this was spontaneous or induced was not recorded. Only one in 33 women reported more than one lost pregnancy.⁷⁰ Similar statistics were produced from Christchurch's Essex Home, a home for unmarried mothers that also provided maternity services to 98 married women in the 1930s.⁷¹ The Essex Home catered for a larger proportion of women whose husbands received government relief or sustenance than St Helens; these women made up 70 percent of the Home's married clientele in 1935. On average one in five married women who gave birth there had experienced pregnancy loss of unspecified cause.⁷² The St Helens Hospital and Essex Home returns, combined with the evidence from coroners' inquests and the MWQ, suggest that women did not commonly acknowledge they used abortion to delay first births or space births.

Abortion came to the fore in family building strategies once couples perceived their families to be complete. The MWQs, in particular, show women most commonly declared abortions after the birth of their youngest child. Fifteen of the 19 women who admitted to abortions described using the practice in this way.⁷³ For older women this could mean multiple abortions. One of the respondents to the questionnaire, married since 1916, showed how abortion could be used to stop family building: she induced five abortions

⁷⁰ 'St Helens Hospital Returns', H1 1302 131/139/13, ANZW.

⁷¹ For a brief history of the development of what became the Essex Maternity Home see Margaret Tennant, 'Ladies Committee of the Canterbury Female Refuge, 1876–1911', in Anne Else (ed.), *Women Together: A History of Women's Organisations in New Zealand Nga Ropu Wahine o te Motu*, Wellington, 1993, pp. 122–4.

⁷² Evidence of Miss Gow, NCW, 6 November 1936, H1 131/139/15, ANZW. This research did not give individual women's data so it is difficult to distinguish how many women had more than one abortion or miscarriage.

⁷³ Appendix C., 'a2', 'b3', 'b6', 'b10', 'b11', 'b13', 'b15', 'b17', 'b18', 'b19', 'c6', 'c7', 'c19', 'c21', 'd1'.

after the birth of her youngest child in 1921.⁷⁴ Another woman, married 12 years, wrote she had three abortions between 1927 and 1936, after the birth of her last child.⁷⁵ Both women cited the maturity of their existing family and an unwillingness to start another young family as reasons for their desire to limit their families.

Coroners' inquests help to contextualise the family pressures contributing to women's decisions to stop family building. In 1926, 29 year old Vera Reid told her doctor she tried abortion because she 'didn't want any more children as [her three] children are very young'.⁷⁶ Four years later, 24 year old Jean Martin's husband told the coroner that she decided to bring on her period because 'she thought four children was enough'.⁷⁷ Abstract concerns about optimal family size did not dictate these women's resort to abortion. They simply defined their decision in terms of having had 'enough'.

Once the decision to stop family building was made it was sometimes difficult to prevent further pregnancies. Years of successful avoidance of childbirth did not always protect women from the 'change-of-life' pregnancy. Forty-four year old Diane Matthews' youngest child was fourteen years old when she attempted to terminate her pregnancy.⁷⁸ One questionnaire respondent wrote she turned to abortion to deal with a late pregnancy because after 16 years of marriage and with an almost grown up family of four she did not wish to start again with another infant.⁷⁹ For these women abortion offered an artificial end to their childbearing years well before the onset of menopause.

⁷⁴ Appendix C., 'b11'.

⁷⁵ Appendix C., 'b15'.

⁷⁶ J 46 1926/489, ANZW. See also J 46 1930/58; 1930/969, ANZW.

⁷⁷ J 46 1930/969, ANZW. The couple has four children aged five, four and three year old twins.

⁷⁸ J 46 1938/123; See also J 46 1930/58; 1932/782; 1932/975, ANZW.

⁷⁹ Appendix C., 'd1'.

For some women the size and structure of their family were the least of their concerns. Edith Bullock performed her abortion in 1928, and possibly did so for as many as three earlier pregnancies, because she and her husband ‘did not get on too well’. For Edith, who had two children aged eleven and five, an infant would impede her ability to support these children in the event of separation from her husband.⁸⁰ Many more women may have used abortion to cope with staying in an unhappy marriage. One of the questionnaire respondents wrote of life with ‘a man who only thinks of drink and races’ that she would like to have ‘time for the things I love like music etc or the chance of having a home of my own’.⁸¹

Married women’s resort to abortion did not necessarily mean the marriage was unhappy. Abortion could be a response to other factors such as the insecurity of the working environment. Findlay recounted in her autobiography her friend May feared she and her husband would lose their positions on the station if they had a child. May’s husband was 60 so the likelihood of him finding another job during the Depression that could support both her and an infant was slim.⁸² In the immediate post-Depression years these concerns continued to influence couples’ abortion decisions. In 1936 John Henry recalled he and his wife Maud decided to terminate their third pregnancy, because John was struggling to find enough work to support the family they already had.⁸³ The precarious nature of employment and inadequate social support for families during the Depression contributed to the sense of crisis that some pregnancies evoked.

As was the case for unmarried couples, many men walked the path to and from abortion with their wives. John Henry contracted an acquaintance, jeweller Lionel Drysdale, to

⁸⁰ J 46 1928/1400, ANZW.

⁸¹ Appendix C., ‘a2’.

⁸² Mary Findlay, *Tooth and Nail: The Story of a Daughter of the Depression*, Wellington, 1974, pp. 171, 173–4.

⁸³ J 46 1937/740, ANZW.

terminate his wife's pregnancy. John purchased and sterilised the catheter Drysdale used, and desperately tried to revive Maud as she lay dying from an air embolism.⁸⁴ In 1934 Allan Grainger borrowed money from his employer to take his wife to Auckland for an abortion. Later when she became ill, he nursed her through the miscarriage and tidied up afterwards.⁸⁵ In 1935 Leonard Frazer purchased the syringe for his wife that ultimately led to her death from an embolism.⁸⁶ The same year Paul Telford purchased the quinine his wife drank to try to bring on her periods.⁸⁷ Both Frazer and Telford were present when their wives became ill; they witnessed the shocking sight of their wives' deaths and desperately sought help but to no avail.⁸⁸ For these men marriage, love, and support meant they did not abandon their wives to attempt their abortions on their own.

For married women and their husbands, abortion was one method by which they could control the process of building their families. Criminal investigations and coroners' inquests place emphasis on family size and family life in their efforts to uncover the 'facts' behind women's deaths from abortions. These records, coupled with the MWQs, St Helens Hospitals and Essex Home returns reveal married women used abortion for a variety of reasons. Women rarely admitted, or indeed were observed, to use abortion as a primary or regular form of birth control. Apart from the occasional crisis, the practice appears to have been largely avoided until women and their husbands decided they had enough children.

⁸⁴ Trial of L.D., 5 & 6 May 1937, CH24/Box 219 T3/1937, ANZC. Embolisms are discussed further in Chapter Six.

⁸⁵ J 46 1934/1004, ANZW.

⁸⁶ J 46 1935/637, ANZW.

⁸⁷ *NZ Truth*, 5 May 1935, p. 8.

⁸⁸ J 46 1935/637, ANZW; *NZ Truth*, 5 May 1935, p. 8.

‘I took ordinary care when having sexual relations’: Abortion, Fertility Control Regimes and Social Class

Historians of abortion in England and North America usually discuss abortion in the context of broader fertility control regimes. It is generally accepted that in British national and colonial cultures abortion was not a primary method of birth control during the twentieth century. Abortion is instead commonly described as a backstop to strategies aimed at limiting the number of conceptions. During the nineteenth and into the early twentieth century, the most common of these methods were withdrawal, or *coitus interruptus*, and post-coital vaginal douching.⁸⁹ Although contraceptives were available during the nineteenth century, it is generally believed their use across the range of social classes was not widespread until the early to mid twentieth century.⁹⁰ Because contraceptives were commercial products many historians have assumed social class and economic prosperity dictated the uptake of these products, leading to claims the middle classes had better access to effective and reliable birth control methods than working-class people. Abortion, as oral historian Kate Fisher noted, is ‘generally presented as an urban working-class fertility strategy’.⁹¹ Thus it is widely perceived that social class dictated the type and reliability of fertility control regimes used by couples and by inference shaped the likelihood that they would subsequently resort to abortion.

⁸⁹ Barbara Brookes, *Abortion in England*, London, 1988, pp. 2–3.

⁹⁰ How the transition from withdrawal to contraceptives took place is still disputed. Simon Szreter and Angus McLaren have separately argued for ‘a multitude of “cultures of contraception”’ within different social groups and communities across British society during the interwar period. Simon Szreter, *Fertility, Class and Gender in Britain, 1860–1940*, Cambridge, 1996, pp. 435–9, quote from p. 439. Angus McLaren, ‘The Sexual Politics of Reproduction in Britain’, in John Gillis, Louise Tilly, and David Levine (eds), *The European Experience of Declining Fertility: A Quiet Revolution 1850–1970*, Cambridge, 1992. Hera Cook has argued that knowledge about contraception ‘percolated outward from radicals and [contraceptive] purveyors’ through all social groups. Hera Cook, *The Long Sexual Revolution*, pp. 77; Kate Fisher has pointed to a slow, incomplete uptake of contraceptives by working class couples during the interwar period based mainly on the need to purchase, insert, retrieve and clean appliance contraceptives which disrupted marital privacy and spontaneity on the one hand and the moral superiority attributed to men’s use of withdrawal on the other hand. Fisher, *Birth Control*, pp. 148–9, 155–6.

⁹¹ Fisher, *Birth Control*, pp. 125–6.

In New Zealand, existing research on abortion history emphasises women's powerlessness and ignorance as a factor in their resort to abortion. Eve Ebbett stated 'contraceptive advice was almost non-existent' during the 1930s, a point echoed by Mary Dobbie.⁹² Brookes argued that 'abstinence was unlikely and [contraceptive] methods and devices were unreliable and expensive' which left abortion as the last resort for women who missed their periods.⁹³ These analyses present women's resort to abortion as an almost inevitable response to their social disabilities.

Recent British historiography has interpreted differently evidence of similar perceptions of women in English society. Fisher argued ignorance was a persona adopted by women to reinforce the appearance of respectability. Furthermore she argued that popular anxieties about the reliability of birth control information and contraceptives were the norm during the interwar period.⁹⁴ Fisher's interpretation suggests we should be wary about directly linking claims of ignorance regarding contraception and popular anxieties about such products' reliability with use of abortion.

In New Zealand, the McMillan Committee expressed concerns in its report about the unreliability of contraceptives, suggesting this caused unwanted pregnancies, which people then dealt with by attempting abortion.⁹⁵ Arguably, evidence produced by lay women for the McMillan Committee did suggest contraceptives were widely used and their reliability was indeed highly variable. Most women respondents to the MWQ reported using various contraceptives. Thirty-six used soluble pessaries, naming popular brands like Rendell's, Speton, and Surement. One woman made up her own pessaries at home from quinine and

⁹² Eve Ebbett, *Victoria's Daughters, New Zealand Women of the Thirties*, Wellington, 1981, p. 118; Mary Dobbie, *A Matter for Women*, Auckland, 1984, p. 2–3.

⁹³ Brookes, 'Reproductive Rights', p. 124. Andree Levesque, Philippa Mein Smith and Helen Smyth also argue that contraceptives were unreliable and expensive, see Levesque, 'Grandmother took Ergot (Part 2)', p. 27; Mein Smith, *Maternity in Dispute*, p. 110–1; Smyth, *Rocking the Cradle*, p. 23.

⁹⁴ Fisher, *Birth Control*, pp. 27, 52–55.

⁹⁵ D. Gervan McMillan M.P., et al, *Report of the Committee of Inquiry into the Various Aspects of the Problem of Abortion in New Zealand*, Wellington, 1937, (McMillan Report), p. 12.

cocoa butter.⁹⁶ Next most popular were condoms, 18 women used these as contraceptives.⁹⁷ Only six used check or rubber pessaries or diaphragms.⁹⁸ One had a ‘silver stud’, possibly an early form of intrauterine device.⁹⁹ These women described mixed experiences of success. Some perceived their efforts at contraception were very successful at controlling their fertility.¹⁰⁰ For others this was not the case, and they listed using more than one method to try to gain control.¹⁰¹

Older birth control methods like withdrawal and douching were still in use during the interwar period. In a rare admission of birth control practices, Donald Cowperthwaite described his birth control strategy to the court at his trial for the manslaughter of his girlfriend Agnes Bright. He stated, ‘I took ordinary care when having sexual relations with [Agnes], I did not use any preventives but invariably withdrew from her before I had an emission’. He added that when he had failed to withdraw in time, Agnes used a douche to cleanse her vagina. Unfortunately for the young couple, the strategy had not been a success.¹⁰² Five women replied on the MWQ they used withdrawal, around nine percent of the respondents.¹⁰³ Two of these women perceived their efforts were successful. One woman noted that using this technique she and her husband limited their family to two children over more than five years of marriage.¹⁰⁴ Another found the method, along with observance of the ‘safe period’, worked as long as her husband had not ‘slipped up’.¹⁰⁵

⁹⁶ See for example Appendix C., ‘a3’ to ‘a5’, ‘b1’ to ‘b10’.

⁹⁷ Ibid., ‘a3’, ‘a4’, ‘b2’, ‘b4’, ‘b6’, ‘b8’, ‘b9’.

⁹⁸ Ibid., ‘a5’, ‘b20’, ‘c14’, ‘c19’, ‘c20’, ‘c23’.

⁹⁹ Ibid., ‘c19’.

¹⁰⁰ See for example Appendix C., ‘b3’, ‘b16’, ‘c5’, ‘c10’, ‘c16’.

¹⁰¹ Ibid., ‘a3’, ‘a5’, ‘b9’, ‘b13’, ‘b17’.

¹⁰² Trial of D.C., 14 May 1935, CH273/Box 5 T7/1935, ANZC.

¹⁰³ Appendix C., ‘a1’, ‘a3’, ‘c4’, ‘c14’, ‘c21’.

¹⁰⁴ Appendix C., ‘c4’.

¹⁰⁵ Appendix C., c21’. The safe period recognised that at certain times in women’s monthly cycle conception was unlikely. See Fisher, *Birth Control*, p. 33.

Nonetheless the MWQ showed contraceptive products and strategies did not always work, and pregnancy was occasionally the result. Some respondents to the MWQ clearly struggled to find the right combination of products and techniques.¹⁰⁶ Yet many of these couples appear to have accepted the pregnancies they tried to avoid and took these to full term. Just like their English counterparts, whether these New Zealand couples used withdrawal or contraceptives, most took the resultant pregnancies to full term if the failure occurred in the context of family building.¹⁰⁷ Obstetrical histories of women who gave birth at St Helens Hospitals and the Essex Home in 1935 back up the view that abortion was not the primary means by which couples spaced births.¹⁰⁸ Just because couples actively tried to prevent pregnancy did not mean abortion would inevitably follow.

Social class may have influenced decisions to use abortion. The practice was far more prevalent among the respondents to the MWQ who had a substantial income than those who had very little. The sample included 23 wives of middle class professionals and white collar workers, 30 identified themselves as working class or on low incomes, and three did not give any occupation or income. The notion that abortion was more commonly a working-class fertility control strategy was not reflected in the declared experiences of these respondents. Forty-three percent of the middle-class wives reported having had an illegal abortion, compared to 30 percent of the working-class wives.¹⁰⁹

Most women's decision to resort to abortion relied on wider subjective interpretations of their situation than simply that the pregnancy was unintended. Some argued in the MWQ

¹⁰⁶ Ibid.; see also Appendix C., c14'.

¹⁰⁷ See for example Appendix C., 'a3', 'b7', 'b9', 'c4', 'c12', 'd6'. Fisher, *Birth Control*, pp. 77–80.

¹⁰⁸ Spacing has been discussed earlier in this chapter; See also 'Returns from St Helens Hospitals', H1 1302 131/139/13 9400, ANZW; Evidence of Miss Gow, 12 November 1936, H1 131/139/15, ANZW.

¹⁰⁹ Appendix C., ten out of 23 middle class women and nine out of 30 working class women had had abortions.

that the maturity of their existing family left them with ‘no wish to start more’.¹¹⁰ Many of the middle-class women argued their desire to stop adding to their family was driven by future uncertainty. They cited a desire to protect their income for their existing children and concerns about the impact of future pregnancies on maternal health as reasons for their decision to stop family building.¹¹¹ The use of abortion to stop family building may well have been a strategy to shore up and protect family income that was more prevalent among the middle classes than the working classes.¹¹² Most commonly the histories given by women who did have abortions following failure to prevent conception, whether by contraceptives or withdrawal, showed the decision to complete their families had already been made.

In contrast, none of the women who reported that their income came from government benefits, whether sustenance or relief, reported using abortion.¹¹³ Only one of the 56 respondents wrote that unemployment motivated her decision to stop building her family. She did not admit to having abortions, but rather listed trying a number of methods to prevent conception including sheaths, soluble pessaries, withdrawal, and syringing.¹¹⁴ The Essex Home returns mirrored the finding that abortion was not a common experience of the very poor. Relief workers’ wives reported experiences of pregnancy loss which were on a par with those of women whose husbands were in regular work. This group also had family sizes at the large end of the spectrum averaging around four children per family.¹¹⁵ Given that relief and sustenance payments were tied to family size, for families not yet receiving the maximum payment a new infant might bring in much needed additional

¹¹⁰ Appendix C., ‘d1’, see also ‘b11’, ‘b18’, ‘c5’.

¹¹¹ See for example Appendix C., ‘b10’, ‘b10’, ‘b13’, ‘b18’.

¹¹² Fisher has noted that the 1949 Lewis-Faning survey conducted in England on family limitation methods suggested that the ‘incidence of attempted abortion increased with social status’. Fisher, *Birth Control*, p. 126.

¹¹³ See Appendix C., ‘a3’, ‘a4’, ‘a5’.

¹¹⁴ Appendix C., ‘a3’.

¹¹⁵ Evidence of Miss Gow, NCW, 12 November 1936, H1 131/139/15, ANZW. This research did not give individual women’s data so it is difficult to distinguish how many women had more than one abortion or miscarriage.

income whilst, initially at least, not being too much of a drain in terms of expenses.¹¹⁶

Historian Melanie Nolan has pointed to another government measure, predating the Depression, which helped to reduce the financial burden of large families for those on small incomes. The 1926 Family Allowances Act granted an allowance to families earning less than £4 per week for their third and subsequent children, which was paid to the mother on application by the father.¹¹⁷ Another child may well have been an advantage to some of the very poorest of New Zealand families rather than an economic disaster.

When women contextualised their experiences of abortion in terms of family building and fertility control they did not present their decision to use abortion as an inevitable consequence of failed contraceptives or withdrawal. Instead they indicated that their resort to abortion was largely dictated by personal feelings about the completeness of their family. For these women, abortion was not just another method of birth control, freely mobilised to prevent all unplanned births. Nor was it tied to any one type of fertility control regime. Those women who had abortions used the practice across the spectrum of fertility control regimes. As the use of withdrawal gave way to contraceptives in the 1930s, abortion continued to provide the backstop in support of the completion of family building.

The stories examined in this section suggest use of abortion was not tied to any one social class or economic circumstance. Both middle-class and working-class women admitted to using abortion to stop building their families, with the practice being most readily admitted to by middle-class women in the MWQ, at least. Women's narratives about using abortion did not commonly contextualise the practice in terms of responses to overly large families

¹¹⁶ In 1935 married men on sustenance received between 21 to 41 shillings per week tied to family size, which was raised to a maximum of 57 shillings in 1936. See 'Rates of Pay and Sustenance', H1 1302 131/139/13, ANZW. Gabrielle Bourke has shown that during the Depression St Helens Hospitals were increasingly catering for the wives of unemployed men and those on relief work schemes with a correspondingly large forgiveness of the lying-in fees. Bourke, 'Mothers and Midwives', pp. 82–3.

¹¹⁷ Melanie Nolan, *Breadwinning: New Zealand Women and the State*, Christchurch, 2000, pp. 154–60. See also Family Allowances Act, 1926. The allowance was initially two shillings per child per week although that figure was reduced during the Depression.

or poverty. Quite the opposite, it appears abortion allowed some families to protect disposable income and social standing giving a hedge against the possibility these experiences might one day arise.

Conclusions

The production of families and managing family life were dominant themes in women's stories about their abortion experiences. This chapter charts women's and their supporters' descriptions of abortion experiences through the stages of women's reproductive careers. In women's own words, and in the words of their supporters, abortion took on new meaning in women's lives as they progressed through the various life stages from young unmarried women in the care of their parents through to adulthood, with marriage and family building.

This chapter began by examining the transmission of information about abortion, including menstrual regulation strategies, from an older generation to the younger. This informal pedagogy reproduced and reinforced gendered cultural and social expectations that would guide the behaviour of young people as they moved through the transition of sexual activity into the lives of adults in their communities. Young women and their lovers described the role of abortion as a consequence of youthful sexuality, contributing to their selection of a suitable marriage partner and in the maintenance of intimate heterosexual relationships outside the context of marriage. Finally, I have argued that abortion played a role in the building of couples' families and in cementing the completion of family size.

The most common use of abortion described in the material examined in this chapter was to contain family building. Single couples reported using abortion to delay or avoid marriage

or to cope with their inability to marry. Married couples rarely admitted using abortion to delay family building or space births. Instead they acknowledged resort to the practice for the most part to end family building altogether. Couples' resort to abortion was more in tune with their subjective understanding of the completeness of their families rather than being identified with any particular type of fertility control regime or social class. Evidence presented by the respondents to the MWQ suggests that as family income increased so too did the tendency to make firm decisions about the completeness of the family and resort to abortion rather than accept new pregnancies.

Knowledge of the diverse methods of abortion and how to procure or perform these probably did not come naturally to many people. Although many people did have the skills to bring on their periods themselves, others turned to professionals for help. The next chapter discusses the role of abortionists and doctors in the performance of abortions and explores the processes by which people found out about their services.

Chapter Four

‘I called on your lady friend on Sat[urday]’: Abortionists, Social Networks, and Doctors, 1919–1937

Amy’s letter of February 1923 to her friend Edna Taylor illustrated the importance of social networks for women like Amy who sought abortions, and to the abortionists who provided that service. Having made an appointment through Edna, Amy wrote to tell her that ‘I called on your lady friend on Sat[urday]’ and went on to describe the successful completion of her miscarriage.¹ Whilst Chapters Two and Three indicate many women may have self-induced their abortions, others like Amy relied on the services of abortionists.

The professional abortionist has not been widely discussed in New Zealand historiography. Existing histories of abortion tend to gloss over abortionists and their practices, giving very little discussion about their particular characteristics.² Only Annie Aves, who practised in

¹ Unsigned letter to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD.

² See for example Andree Levesque, ‘Grandmother took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937), Part One: The Abortionists’, *Broadsheet*, 43, October 1976, pp. 18–9; Sandra Coney, *Standing in the Sunshine: A History of New Zealand Women Since They Won the Vote*, Auckland, 1993, p. 73.

Napier during the early to mid 1930s, has been subjected to any biographical investigation.³

The lack of discussion about the characteristics of abortionists mirrors English historiography. Historian Emma Jones argued that ‘the abortionist has rarely been the subject of rigorous and detailed investigation’, leading to sensationalised accounts of their activities which have ‘done little for our broader understanding of the human realities’.⁴ Australian scholar of women’s studies Barbara Baird argued that negative portrayals of the abortionist mask other discourses showing competence, affordability, and relative safety.⁵ This newer scholarship suggests abortionists occupied a more complex social position than has traditionally been acknowledged by historians.

This chapter explores the role of abortionists in the history of illegal abortion in New Zealand and situates these individuals within a complex web of social, professional, and commercial interactions. The first section discusses the characteristics of professional abortionists, showing distinctive differences in practice according to both gender and time. The next section demonstrates how the links between abortionists and pregnant women’s wider social networks facilitated introductions for the purpose of procuring abortions. The third section explores the role of medical professionals in both the performance and ‘finishing off’ of abortions and in the care of women who became unwell as a result of illegal abortions.

The sources used in this chapter are similar to those used in the preceding chapters, but include information about individuals accused of being abortionists drawn from probation office reports. These reports were part of the criminal court trial archival files and were produced by the probation officer before trials commenced to provide judges with the

³ Barbara Brookes, ‘Aves, Isabel Annie 1887 – 1938’, *Dictionary of New Zealand Biography*, updated 22 June 2007, URL: <http://www.dnzb.govt.nz/>.

⁴ Emma Jones, ‘Abortion in England, 1861–1967’, PhD Thesis, Royal Holloway, University of London, 2007, pp. 39–40.

⁵ Barbara Baird, ‘The Incompetent, Barbarous Old Lady Round the Corner’, *Hecate*, 22, 1, 1996, p. 18.

relevant background information they needed to facilitate sentencing, in the event of a conviction. Probation officers followed a set format, reporting on histories of mental illness in the accused or his or her family, and covered their marital and financial histories, whether they had dependents, and whether they were suspected of criminal activity in the past or had any convictions. These reports provided a wealth of information about accused abortionists that was not otherwise presented in court.

‘a most successful abortionist and reasonable in charge’:
The Professional Abortionist

In New Zealand there were a number of professional abortionists operating during the interwar period. The trade of the professional abortionist was not limited to a particular gender, although there were distinctive differences in abortionists’ social status according to their gender. In spite of these differences, however, there existed remarkable continuities in both the location and performance of their professional services.

Well known abortionists operated out of the larger cities, drawing their clientele from within the city and its surrounding districts. In the 1920s, Dunedin’s Maureen Carlson provided abortions to women from as far away as Oamaru and Christchurch.⁶ John Hayward, another Dunedin abortionist, serviced locals and clients from Waimate, a small town 150 kilometres from Dunedin.⁷ In Wellington, Dr James Henderson, drew some of his clients from country towns in the wider Wellington district.⁸ Auckland’s Mary O’Donogue’s local clients were supplemented by women from Whangarei in the north.⁹ Adele Parker of Grey Lynn, Auckland, received at least one client from Waihi in the

⁶ See for example J 46 1928/102, ANZW; Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No. 2, ANZD.

⁷ Trial of G.B., 6 May 1920, DAAC/D256/326 No. 3 May 1920, ANZD.

⁸ *NZ Truth*, 26 April 1928, pp. 5.

⁹ J 46 1922/1051; See also J 46 1929/819; 1935/397, ANZW.

Coromandel region, south east of Auckland City.¹⁰ In the cities, abortionists serviced both local women and those who travelled to them from far afield.

It did not necessarily follow that small towns lacked their own abortionists. In 1926 Amelia Gill performed abortions from her home in Thames, on the Coromandel Peninsula.¹¹ In 1935 Ada Parkes, who lived in Dargaville, north of Auckland, travelled to take her services to women 140 kilometres to the north in Kaikohe.¹² City abortionists travelled to outlying areas from the cities also, visiting their clients in their own homes to perform abortions. When Mrs Toyne from Middlemarch, a small rural Otago settlement 85 kilometres inland from Dunedin, requested Rita Cooper's services on behalf of a friend, she offered a choice of venues in which to meet: 'will you come up [to Middlemarch] as soon as possible or if you can't come will you meet her at Caversham station [in Dunedin]'.¹³ Abortionists sometimes took their services to their clients within the city boundaries. Mrs Davidson of North Dunedin invited Maureen Carlson, who lived in the central city's McLaggan St, over to her home perform an abortion on her daughter Mildred in 1929.¹⁴ A few abortionists went so far as to operate in cars although this was not common.¹⁵ Abortionists were reasonably flexible and able to transport their practices with ease.

Abortionists and their clients took advantage of the privacy cities provided. Pregnant women could hide their journey to the abortionist under the guise of a holiday, ensuring their stay with the abortionist would not attract comment at home.¹⁶ For abortionists, the city screened their activities from overt public scrutiny. Indeed even the police believed that in a small community an abortionist 'would have less facilities for carrying on [their]

¹⁰ J 46 1929/1017, ANZW.

¹¹ *NZ Truth*, 11 November 1928, p. 8.

¹² *NZ Truth*, 20 February 1935, p. 6.

¹³ R.T. to R.C., undated c. 1923, Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD.

¹⁴ Trial of M.D., 10 May 1929, DAAC/D256/333 No. 5 April/May 1929, ANZW.

¹⁵ Trial of W.M., undated c. mid to late August 1927, CH239/Box 13 T3/August 1927, ANZC.

¹⁶ See for example J 46 1920/774; 1922/1051; 1928/1039, ANZW.

practices without detection'.¹⁷ The privacy and anonymity afforded by the larger cities suited the practices of abortionists.

Abortionists could be men or women, and there were few outwardly identifying features indicating they were any different from their peers. Andree Levesque argued that mainly men were charged with crimes related to the procurement of abortions between 1897 and 1937. However the cases studied for this thesis suggest that during the 1920s and 1930s the profession was in no way gender specific.¹⁸ Male abortionists were often middle-class professionals or businessmen. Most men tended to build abortions into their businesses. This was particularly the case for healthcare professionals: registered medical practitioners were not precluded from the practices of illegal abortion. The occupations of male abortionists included doctors, electrotherapists, chemists, pharmacists, as well as trades-related manufacturing jeweller and boot-maker.¹⁹ The intrinsic privacy of healthcare and the practice of screening off the patient body from public view meant illegal abortions could be performed in consulting rooms without drawing unwanted attention.

In recent years historians have reinstated a role for doctors in the performance of illegal abortions in western democratic countries. Australian historian Judith Allen argued that by the 1930s doctors controlled the abortion trade in parts of that country.²⁰ North American historians have established the existence of doctor-abortionists. Leslie Reagan's research into court records during the interwar period uncovered clinics run by doctors in Chicago

¹⁷ 'Probation Office Report', 25 January 1928, Trial of M.C., 7 March 1928, DAAC/D256/397 March 1928 No. 3, ANZD.

¹⁸ Levesque, 'Grandmother Took Ergot, Part One', pp. 19–20.

¹⁹ See for example, Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No.3; Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD; Trial of L.D., 5 & 6 May 1937, CH24/Box 219 T3/1937, ANZC.

²⁰ Judith Allen, *Sex and Secrets: Crimes Involving Australian Women Since 1880*, Melbourne, 1990, pp. 200–17.

specifically set up to meet patient demand for abortions.²¹ Barbara Brookes and Jones, in their respective studies of abortion in England, uncovered information about doctors who performed illegal abortions also. These doctor-abortionists differed from those described by Reagan in that they performed illegal abortions as a sideline to their medical practices instead of their mainstay.²² Jones suggested professional and social marginalisation pushed some doctors, particularly immigrants and elderly practitioners, into performing illegal abortions. She added professional isolation was ultimately the reason why these doctors, particularly those with working-class practices, were prosecuted for their activities while others, like Harley Street specialists, were not.²³

New Zealand doctors who performed abortions were closer in practice to those of England than the United States. All the doctors who were revealed as potential abortionists during research for this thesis were men, but their motivations varied enormously.²⁴ Some were motivated by personal pecuniary needs. Dr William Carter, who was implicated in the deaths of two women during the interwar years and other illegal abortions in 1952, may have been a morphine addict; a very expensive habit.²⁵ Alcohol, illicit drugs, and a flamboyant lifestyle may have been reasons why Dr James Henderson performed abortions in the mid 1920s. Thirty-two year old Henderson was a relatively young medical practitioner who made a name for himself in the tabloid press, *NZ Truth*, as a result of his convictions for driving while under the influence of alcohol.²⁶ In 1927 he fled to Australia

²¹ Leslie Reagan, *When Abortion was a Crime: Women, Medicine, and Law in the United States, 1867–1973*, Berkeley, 1997, pp. 147–59.

²² Barbara Brookes, *Abortion in England, 1900–1967*, London, 1988, pp. 34–8; Jones, ‘Abortion in England’, pp. 52–5, 75–7. Jones identified that doctors brought before the courts pre and post WWII were frequently immigrants who found it difficult to establish themselves in the British system.

²³ Jones, ‘Abortion in England’, pp. 75–7.

²⁴ The dearth of female doctor-abortionists perhaps reflects the fact that the profession was dominated by men during the 1920s and 1930s.

²⁵ In 1946 Carter was disciplined by the New Zealand Branch of the British Medical Association after it had been found that he had falsified morphine prescriptions for many years. After his death from apparent suicide in 1952 an autopsy revealed he was a long term morphine user. See NZMJ, 1946, 45, p. 240; *NZ Truth*, 25 February 1953, p. 11.

²⁶ See for example *NZ Truth*, 8 December 1927, p. 11; 5 July 1928, p. 5.

in the wake of these convictions and an acquittal on abortion charges, when Annie Stein named him as her abortionist shortly before her death.²⁷ But other doctors were far less flamboyant. Wellington's Dr Allan Cooper and Auckland's Dr Joseph Howard seem to have incorporated performing illegal abortions into otherwise legitimate medical practices.²⁸ While some doctors might have been motivated by personal need or greed, others were seemingly ordinary medical professionals with ordinary practices.

Like doctor-abortionists, other male abortionists were generally middle-class professionals or skilled workers. John Hayward was a Dunedin Chemist who ran his chemist shop in Moray Place. At 70 years of age in 1920 he was one of the oldest abortionists in Dunedin at that time.²⁹ Henry Yizak, also of Dunedin, was a boot-maker by trade and ran his own shop in 1923 where he met women seeking abortions after business hours.³⁰ Some were clearly considered rogues. In 1937 the Christchurch probation officer described Lionel Drysdale, a jeweller, as a 'reputed bookmaker' and 'the type who is no good to the community; he has lived ... off his wits and the practice of illegal callings'.³¹ On the whole, however, most male abortionists were outwardly upstanding members of their communities.

Female abortionists were an entirely different social group to their male counterparts. During the 1920s female abortionists were most commonly middle-aged women who had a long history in the related profession of nursing. Philippa Mein Smith has shown that despite nursing registration being introduced into New Zealand in 1901 and midwifery registration in 1904, unregistered 'handywomen' who had little or no formal qualifications

²⁷ Henderson's lifestyle continued to bring him trouble in Australia; *Truth* followed his ups and downs in Sydney's illicit drug scene. See *NZ Truth*, 23 August 1928, p. 1; 29 May 1930, p. 3.

²⁸ J 46 1930/1334; 1933/683, ANZW.

²⁹ Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No.3, ANZD.

³⁰ Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD.

³¹ Trial of L.D., 5 & 6 May 1937, CH24/Box 219 T3/1937, ANZC.

and varying degrees of experience continued to provide private nursing and maternity care in their own homes well into the interwar period.³² The most well-known of New Zealand's female abortionists in the 1920s were drawn from the ranks of these 'handywomen'. Auckland abortionists Mary O'Donoghue of Epsom and Nurse Cullen of Grey Lynn had a long history of providing private nursing services to patients. Abortion was one of the services on offer.³³ Dunedin abortionist Maureen Carlson had been a domestic servant and a maternity nurse before her marriage and subsequent divorce. The Dunedin police believed she had provided abortions for many years, eschewing her original occupation in the process and, in the words of a Dunedin police officer, 'she is well known from the Bluff to Christchurch as a most successful abortionist and reasonable in charge [price]'.³⁴ It seems likely skills learned in midwifery and as handywomen were easily turned to abortion.

Female abortionists' choice of instruments reflected their experience in midwifery. Most female abortionists during the 1920s used catheters to induce abortions by starting premature labour, which reinforced the links between their practice and midwifery.³⁵ These women belonged to an older tradition that had its roots in the turn of the century model of home confinement and private nursing care. But by the end of the 1920s older handywomen and unregistered midwives like Carlson and O'Donoghue were no longer in the abortion trade. Carlson disappeared from any news about abortions after 1929, and

³² Philippa Mein Smith, *Maternity in Dispute, New Zealand 1920–1939*, Wellington, 1986, pp. 1, 17.

³³ J 46 1929/819, ANZW. *NZ Truth*, 11 February 1926, p. 7; For information on Mary O'Donoghue's past convictions see NZLR, 1912, 'Rex v. M.O.', p. 933.

³⁴ 'Police Probation Report', 2 March 1923, Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No.2; 'Police Probation Report', 14 March 1929, Trial of M.C., 1 May 1929, DAAC/D256/333 No.4 April/May 1929, ANZD. Maternity nurses were women qualified to work in midwifery under the supervision of a doctor, see Mein Smith, *Maternity in Dispute*, p. 37.

³⁵ See for example J 46 1920/774; 1928/102, ANZW. Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No. 2; Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No.5, ANZD. Trial of M.A.G, 11 February 1926, CH239/Box 9 T3/1926, ANZC. *NZ Truth*, 11 February 1926, p. 7.

O'Donoghue was imprisoned for ten years in 1926.³⁶ A new group of women took their place as the 1920s gave way to the 1930s.

Demand for abortion may well have increased during this period. The Great Depression affected New Zealand as it did many other western democratic countries from mid 1929 to 1935. As Chapter Three has shown, those people with income to protect may well have cut back on family building as well, utilising abortion to stop adding to their number of children. To meet this demand younger women began to take the places of the older generation of abortionists. These new abortionists were closer in identity to Annie Aves than the likes of Carlson and O'Donoghue. According to Brookes, Aves began performing abortions to support her children after she separated from her husband.³⁷ Like Aves, the new abortionists of the 1930s tended to be housewives rather than nurses or handywomen, and they often took up abortion to ameliorate financial distress. Edith Frank was abandoned by her husband prior to her arrest for performing abortions and struggled to extract maintenance from him. In his report on Edith for the court in 1937, the local probation officer commented on this betrayal by her husband, noting she 'does not appear to have had a very happy life'.³⁸ In other cases married women took up abortion to supplement the meagre income their husbands received from government unemployment relief. In 1936 Rhodda Stevens told a number of people that she took up the trade 'in order to keep her home together'. Stevens' husband had been on government relief work for the unemployed for three years by the time she came before the court in 1936.³⁹ The same can be said for Judith Campbell, whose husband was on relief when she came before the courts

³⁶ *NZ Truth*, 11 February 1926, p. 7.

³⁷ Brookes, 'Aves, Isabel Annie'.

³⁸ 'Probation Office Report', 10 February 1937, Trial of E.F., 10 May 1937, DAAC/D256/341 May 1937 No.1, ANZD.

³⁹ Evidence of Dr Stringer; 'Probation Office Report', 15 March 1936, Trial of R.S., 18 May 1936 CH273/Box 5 T4/1936, ANZC.

in 1935. The couple had five children to care for.⁴⁰ In 1937 Adelaide Ball made money to supplement her husband's pension by providing rooms and instruments for an abortionist in return for a commission.⁴¹ Whilst all the abortionists examined in this thesis charged for their services, it appears the financial exigencies of the Depression motivated the new wave of younger abortionists in the 1930s rather than experience in the field of nursing or midwifery.

The methods of abortion used by these new female lay abortionists, along with the few male lay abortionists like Yizak, were the point of difference between their practices and those of older female abortionists. Stevens and Campbell used syringes to flush their clients' uteri with fluids to induce abortions, although Campbell also made use of a catheter and a crochet hook.⁴² Ball supplied both a syringe and catheters to her friend who performed the abortions.⁴³ Lay male abortionist Yizak used a syringe in the 1920s also.⁴⁴ Unsurprisingly all of these individuals either were or had been married. The use of a syringe indicated methods similar to menstrual regulation strategies. In the past, syringes were more commonly used by married individuals for self-induced abortions rather than by professionals for the induction of labour.

In contrast, the methods used by male chemists, and doctors were similar to those of female abortionists who had midwifery training. Historian Tanfer Emin-Tunc argued of doctors in the United States that by the late nineteenth century the profession had failed 'therapeutically and technologically' to gain control over abortion and would not do so

⁴⁰ J.C. to Registrar of the Supreme Court, 5 July 1935, Trial of J.C., 14 August 1935, DAFG/D504/121 August 1935 No.1, ANZD.

⁴¹ Trial of A.B., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

⁴² J 46 1936/641, ANZW; Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No.6, ANZD. Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

⁴³ Trial of A.B., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

⁴⁴ Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD.

until the mid to late twentieth century.⁴⁵ In New Zealand this was certainly the case.

Medically trained abortionists sometimes used methods that were more commonly associated with induction of premature labour than menstrual regulation. In 1927 Dr James Henderson used a catheter on his clients.⁴⁶ But doctors did have the advantage over lay abortionists in being able to disguise abortions as gynaecological operations. In 1931 Dr William Carter performed an operation to stretch a ‘constricted cervix’, which ultimately resulted in his patient’s miscarriage.⁴⁷ The performance of abortions by surgery was not limited to doctors: Dunedin Chemist John Hayward, whose father was a medical professional, used dilatation and curettage (D&C). Two of his clients told the court that he performed the procedure on them without any anaesthetic in 1920 and 1923 respectively.⁴⁸ These New Zealand examples show medical training may have broadened the options available to those who performed abortions, but did not necessarily imbue any special or superior technique specific to the task.

Historian of abortion in Weimar Germany Cornelia Osborne argued that medical professionals’ claims about the risks of abortions performed by non-medical personnel were a construct rather than a reality.⁴⁹ Certainly it seems that doctors’ use of surgery to perform abortions carried inherent risks. Dr Carter’s operation on Melva McKellar resulted in a large hole in the side of her vaginal wall and bladder and brought about her death.⁵⁰ Dr Cooper performed a D&C on Eileen Herbert and caused a large perforation of her uterus that resulted in haemorrhage and death.⁵¹ Chemist John Hayward inflicted injuries on Gertrude Bayfield also. Her doctor noted the uterus was flexed backwards out of its normal

⁴⁵ Tanfer Emin-Tunc, ‘Technologies of Choice: A History of Abortion Techniques in the United States, 1850–1980’, PhD Thesis, Stony Brook University, 2005, p. 34.

⁴⁶ J 46 1928/1039, ANZW. See also *NZ Truth*, 26 April 1928, p. 5.

⁴⁷ J 46 1931/241, ANZW.

⁴⁸ Trial of G.B., 26 May 1920, DAAC/D256/326 No.3 May 1920; Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No. 3, ANZD.

⁴⁹ Cornelia Osborne, *Cultures of Abortion in Weimar Germany*, New York, 2007, p. 66.

⁵⁰ J 46 1931/241, ANZW.

⁵¹ J 46 1930/1334, ANZW.

position and there was substantial swelling of the ligaments that held it in place.⁵² Dr Henderson told one of his abortion patients the risks of abortion were ‘no greater than that attendant upon childbirth’ adding ‘if effected[sic] by a qualified medical practitioner’.⁵³ But in spite of his apparent certainty, even Henderson could not avoid being associated with abortion-related death: Annie Stein named him as her abortionist on her deathbed.⁵⁴ Abortion by surgical intervention was not necessarily any safer than slow methods and could result in catastrophic injuries to women in spite of the medical training of their abortionists.

The methods used by abortionists did not in any way indicate the likelihood of success or safety. Abortionists’ activities often came to light when a client died or became seriously ill.⁵⁵ Yet the ensuing court cases frequently showed that the event which called judicial attention to the abortionist’s practices was an anomaly rather than a regular occurrence. Six of Mary O’Donoghue’s clients testified at her trial in 1926 they visited her and successfully miscarried without any perception of ongoing ill effects as a result of her ministrations.⁵⁶ In 1937, it was alleged Annie Aves performed 183 abortions over an 18 month period, without any apparent loss of life.⁵⁷ One of Rhodda Stevens’ referrers stated he sent around 50 women to her each year.⁵⁸ The sheer volume of successful abortions compared with those few that ended in disaster suggests that for the majority of women the procedure was not life-threatening.

People who made use of an abortionist’s services were probably more concerned with the cost and availability than they were with the methods used. The cost of these abortionists’

⁵² Evidence of Dr P., Trial of G.B., 26 May 1920, DAAC/D256/326 No.3 May 1920, ANZD.

⁵³ *NZ Truth*, 17 May 1928, p. 7.

⁵⁴ J 46 1928/1039, ANZW. See also *NZ Truth*, 17 May 1928, ANZW.

⁵⁵ See for example J 46 1920/774, ANZW; Trial of H.G., 5 August 1920, DAAC/D256/326 6/1920, ANZD.

⁵⁶ *NZ Truth*, 11 February 1926, p. 7.

⁵⁷ Brookes, ‘Aves, Isabel Annie’.

⁵⁸ Dr D.C. Gordon to Dr M.H. Watt, 30 May 1936, H1 131/139 B.100 Diseases – Septic Abortion 1922–1937, ANZW.

services varied according to the gender of the abortionist and the extent of the care provided along with the abortion itself. Female abortionists tended to offer the cheaper service.

Mary O'Donoghue was the cheapest by far, in 1926 she charged married women just £2 if they supplied the catheter themselves.⁵⁹ In 1923 Rita Cooper accepted £5 from a domestic servant whom she told to 'pay what you can'.⁶⁰ Most other female abortionists who used catheters during the interwar period charged more than this. Fees in the range of £10 were not uncommon for an abortionist who supplied a catheter but no post operative care.⁶¹

Female syringe users in the 1930s tended to charge higher fees, usually around £15, but this also commonly included the cost of post operative care and, if needed, the attendances of a doctor.⁶²

The price of female abortionists' services did not appear to have been greatly influenced by inflation over the period from the 1920s to the mid 1930s. Variation of the price was more commonly directed by the circumstances of the customer than the time in which the abortion took place. Some abortionists had a tiered pricing system, charging more for abortions perceived to have a higher risk of detection. Mary O'Donoghue charged the boyfriend of a single woman £5 for her services as opposed to the £2 she charged married women.⁶³ Rhodda Stevens told one of her clients her fee increased with the gestation of the pregnancy. Late term abortions cost more than those in early gestation.⁶⁴ Although charges might be weighted according to the perceived risks of detection, female abortionists' charges were relatively constant across the interwar period.

⁵⁹ *NZ Truth*, 11 February 1926, p. 7.

⁶⁰ Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD

⁶¹ Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No.2; 1 May 1929, DAAC/D256/333 No.4 April/May 1929; Trial of J.C., 14 August 1935, DAFG/D504/121 August 1935 No.1; Trial of E.F., 10 May 1937, DAAC/D256/341 May 1937 No. 1, ANZD.

⁶² Trial of R.S. 18 May 1936 CH273/Box 5 T4/1936; Trial of G.T., 19&26 October 1937, CH273/Box 6 T2/1937, ANZC.

⁶³ *NZ Truth*, 11 February 1926, p. 7. See Chapter Five for comment on the increased likelihood of single women's abortions being detected.

⁶⁴ Trial of R.S., 18 May 1936 CH273/Box 5 T4/1936; Trial of G.T., 19&26 October 1937, CH273/Box 6 T2/1937, ANZC. Late term abortions made disposal of the foetus difficult, for example foetal remains buried in Annie Aves' garden formed part of the evidence against her in 1937. See Brookes, 'Aves, Isabel Annie'.

Male abortionists, on the other hand, often charged significantly more than their female counterparts. Hayward charged £30 for his service and post operative care in 1923. He told one young man the high cost of his services reflected the thousands of pounds he spent in defence of abortion charges brought against him by the police over the years.⁶⁵ But even before this increase his fees were already well above those of the local female abortionists: in 1919 he charged £25.⁶⁶ Likewise Cyril Burton, a former chemist's assistant, charged £25 in 1928.⁶⁷ Henderson, a registered medical practitioner, charged £50 for abortions in 1927 and 1928.⁶⁸ These high prices for male abortionists were not necessarily consistent throughout the interwar period. By the mid to late 1930s there is some evidence to suggest male abortionists' prices may have been on the decline. 'Dr' Hewson, an Auckland electrotherapist, charged between ten and fifteen guineas in 1935.⁶⁹ A year later Lionel Drysdale, a Christchurch jeweller, charged only £5 to abort Maud Henry's pregnancy. In Maud's case it was the economic consequences of her husband's unemployment that triggered the decision to terminate the pregnancy.⁷⁰ It is possible the effect of the Depression on disposable incomes and savings drove male abortionists' prices closer to those of their female counterparts.

The tendency of male abortionists to be middle-class professionals may also have been a factor in their ability to command higher fees. But that is not to say their clientele was necessarily always middle class. Married men, business owners, and middle class professionals contracted abortionists to terminate their young lovers' pregnancies, but the women themselves were not necessarily these men's social equals. In 1926 the licensee of

⁶⁵ Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923, ANZD.

⁶⁶ Trial of G.B., 26 May 1920, DAAC/D256/326 No. 3 May 1920, ANZD.

⁶⁷ *NZ Truth*, 8 March 1928, p. 8.

⁶⁸ *NZ Truth*, 26 April 1928, p. 5; 17 May 1928, p. 7.

⁶⁹ *NZ Truth*, 6 November 1935, p. 15.

⁷⁰ J 46 1937/740, ANZW; Trial of L.D., 5 & 6 May 1937, CH24/Box 219 T3/1937, ANZC.

a public house in a central North Island city contacted Edith Newcombe asking her to attend to his younger lover, who was one of his employees.⁷¹ Fisher argued that in England the abortion practices of the middle class were fairly similar to those of the working class.⁷² In New Zealand this appears to have also been the case. In spite of his high prices, Hayward's clientele included working-class men and women like Gertrude Bayfield and Neville Nelson whose occupations were domestic servant and butcher's assistant respectively. Likewise Mary O'Donoghue operated on working-class and middle-class women alike — for the same price.⁷³ When it came to engaging an abortionist, continuity existed across social classes suggesting that individuals' selection of abortionist was not determined by rigid observance of class differences.

‘Would you kindly do something for the bearer of this note’:
Social Networks and Introductions to Abortionists

To find abortionists, women and men drew upon the experience, knowledge, and connections of their friends, family, workmates, and acquaintances. People in search of an abortion and those who helped them wrote of their efforts in letters, notes, and telegrams. The survival in the present day of some of this very intimate written correspondence sheds new light on the ways in which women and men accessed information about abortion during the interwar period. Likewise women and men who supported others seeking abortions relayed remarkably candid accounts in criminal court trials and at coroners' inquests of their efforts to help. These communications have left an invaluable record of the complex web of interactions that supported access to abortion.

⁷¹ *NZ Truth*, 9 December 1926, p. 7.

⁷² Fisher, *Birth Control*, pp. 125–6.

⁷³ *NZ Truth*, 11 February 1926, p. 7.

Abortionists' trades drew on introductions from their wider social and professional networks. Existing clients referred their friends, sometimes making appointments for women and implicitly validating their requests for assistance. In 1923 Mrs Toyne from Middlemarch wrote to Dunedin abortionist Rita Cooper saying, 'I have a great friend of mine up here would like to see you she is just on two months gone she has seven kiddies and she does not want anymore'.⁷⁴ Other women sent their friends to abortionists with introductory letters. Mrs Humber from Port Chalmers wrote one such letter to Cooper asking her, 'Would you kindly do something for the bearer of this note ... make an appointment for her as early as possible.'⁷⁵ Friends not only shared information. They facilitating meetings with abortionists and assured them of the veracity of their new clients.

Abortionists received referrals from people who occupied a more formal relationship with the pregnant woman or her partner also. Employers sometimes saw value in helping out their employees. For young women who lived at their workplace, female employers might take on the maternal role ensuring that missed periods were attended to. In 1923 Mrs Ryan, who ran a well-known hotel in Dunedin, referred two of her domestic staff, Mary Burt and Elsie Merton, to Cooper.⁷⁶ Men made use of the knowledge of their employers too. Neville Nelson's boss gave him John Hayward's name and address in 1920.⁷⁷ Workplace peers helped women and men find abortionists. In 1927 Selma Biddle and Noeline Beal's lovers had asked around for information at their workplace, the Addington Workshops. From these inquiries they contracted a workmate, who claimed that he could terminate the

⁷⁴ R.T. to R.C., undated c. 1923, Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD.

⁷⁵ O.H. to R.C., undated c. 1923, Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD.

⁷⁶ Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD.

⁷⁷ Trial of G.B., 26 May 1920, DAAC/D256/326 No.3 May 1920, ANZD. See also *NZ Truth*, 7 February 1920, p. 3.

pregnancies for them.⁷⁸ In spite of abortion being such a private matter, social and employment networks were often integral to finding an abortionist.

Third parties acted as referrers to abortionists also. If friends or other contacts did not know the name of an abortionist, chances were they might know someone who did. When Ida Travis asked a friend about abortionists, she was referred to Edna Taylor's fancy goods shop in the Royal Arcade. Although not an abortionist herself, Taylor was well known in Dunedin as an old friend of abortionist Maureen Carlson. The pair was often seen drinking tea in the shop together. Ida made an appointment with Taylor to see Carlson the next day and the abortion was performed in the back room of the shop.⁷⁹ Thus the business of abortion intersected with a variety of social and business networks.

Taylor acted as a go-between for her friend Carlson, and it seems other people fulfilled this role too. In 1928, Amelia Thomas, a work colleague of Jean Souther's, passed on Carlson's name to Jean and other young women from the factory where they worked.⁸⁰ People in search of an abortionist sometimes sought information from professional sources. Wellington medical practitioner, Dr Oswald Jennings, sold his patients the name and address of a local abortionist for one guinea in 1925.⁸¹ In the mid 1930s at least two chemists in Christchurch and Timaru referred individuals to Rhodda Stevens for abortions. In return, Stevens paid one of them a £5 commission, one third of the client's fee. To the other, she offered the right to sell her the requisite supplies for her business.⁸² These referral networks served a dual purpose. Networks were vital for the maintenance of

⁷⁸ Trial of H.F. & R.B., 1 August 1927, CH239/Box 13 T3/August 1927; Trial of W.M., 1st & 22nd August 1927, CH239/Box 13 T3/August 1927, ANZC.

⁷⁹ Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No. 2, ANZW.

⁸⁰ J 46 1928/102, ANZW.

⁸¹ *NZ Truth*, 16 September 1926, p. 5; 23 September 1926, p. 5; 14 April 1927, p. 7.

⁸² Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

abortionists' businesses and helped healthcare professionals to meet customer or patient demands for abortion without actually having to perform the procedure themselves.

Codes played an important role in shielding communications from prying eyes, although at times this was less than successful. One woman wrote to Hilda Dallie requesting, 'Can you do a repeat order for me same as before? Arriving next Tuesday'.⁸³ Mrs Humber coded her letter of introduction to Cooper in terms of dressmaking, which if read with abortion in mind explained the woman's circumstances very succinctly: 'Would you kindly do something for the bearer of this note. Her friend [her period] should have called last Wednesday. She has not pattern [meaning instrument probably a catheter], so if you have not one to hand would [you] make an appointment for her as early as possible.'⁸⁴ Like the 'pattern' mentioned above, allusions to instruments were often coded as rather more mundane items. An unsigned note from a frustrated client to Cooper stated she 'waited all day' and 'had parcel too', signalling she was ready with her instrument for Cooper's attendances. Cooper was not at home that day, however.⁸⁵ Doctors too might employ their own codes. Dr Jennings wrote a secret code on prescriptions for women in early pregnancy. They were instructed to take the scripts to one of two chemists in Wellington city. The strategy only came to light when one chemist was away from work and his replacement could not fathom the script.⁸⁶

Social networks passed around information about medical professionals who might be receptive to requests for abortion. Jennings' referrals were found to be people who were not regular patients. They sought him out because they heard he would be sympathetic.⁸⁷

⁸³ *NZ Truth*, 7 April 1927, p. 7.

⁸⁴ O.H. to R.C., undated c. 1923, Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD.

⁸⁵ Unsigned to R.C., undated, Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD.

⁸⁶ C.J. Drake, Secretary, Medical Board of New Zealand to Sir Lindo Ferguson, Chairman, New Zealand Medical Council, 6 August 1926, H1 1306 184/7 10198 Medical Council [G.O.J.] 1916–1926, ANZW.

⁸⁷ *NZ Truth*, 16 September 1926, p. 5; 23 September 1926, p. 5; 14 April 1927, p. 7.

In 1927 Dr James Henderson's clients travelled a considerable distance from the country to avail themselves of his abortion services.⁸⁸ Not all those who knew of doctors who performed abortions necessarily approved. In 1935 Mrs Ruby Watson wrote to the Minister of Health to complain about a local doctor who she heard performed illegal abortions at a local rental property.⁸⁹ For some people it was apparently common knowledge which doctors would oblige requests for abortion.

The social nature of their profession meant abortionists' contact with their clients sometimes extended beyond their initial services. In 1929 Adele Parker corresponded with one of her clients after the young woman left Parker's Auckland home for Waihi. Their letters show Parker's concern about the young woman's wellbeing continued even after she left Auckland.⁹⁰ Rhodda Stevens apparently took a maternal interest in some of her clients. One young woman recalled visiting her socially and exchanging letters well after her abortion had been completed.⁹¹ A number of female abortionists were very popular individuals with a strong group of supporters. In 1926 *NZ Truth* reported on the preliminary hearing of charges against Edith Newcombe that '[p]ublic interest in the trial was so intense' filling the small courtroom with people who 'clamoured for admission to the gallery' to view the proceedings.⁹² In 1929 Maureen Carlson, Newcombe's sister, was acquitted of abortion charges which elicited '[a] cry of "Hurray!" from the public gallery'.⁹³ Brookes noted a large crowd gathered at Annie Aves' funeral in 1938, reflecting her popularity in the community.⁹⁴ In spite of the illegality of abortionists' practices, at times they did receive the support of many people in their local communities.

⁸⁸ *NZ Truth*, 26 April 1928, p. 5.

⁸⁹ Mrs R.E. Watson to Sir Alexander Young, Minister of Health, 23 August 1935, H1 131/139 B.100, ANZW. J 46 1929/1017, ANZW.

⁹¹ Trial of R.S., 18 May 1936 CH273/Box 5 T4/1936; Trial of G.T., 19&26 October 1937, CH273/Box 6 T2/1937, ANZC.

⁹² *NZ Truth*, 2 September 1926, p. 5.

⁹³ *NZ Truth*, 9 May 1929, p. 4.

⁹⁴ Brookes, 'Aves, Isabel Annie'.

Abortionists' popularity was perhaps influenced by an unspoken social contract with their clients and the broader community. This contract is best illustrated by the customs most abortionists shared in relation to women who became sick while in their care. It was common practice to ensure these women received medical care. Rhodda Stevens, like other abortionists who provided board to their clients, arranged and paid for a doctor's visit when it was required.⁹⁵ John Hayward sent his clients who became unwell back to their families for treatment in their own homes or as an intermediary stage before being transferred to hospital by a local doctor he knew.⁹⁶ The services of an abortionist often went beyond simply interference with the pregnancy. They endeavoured to ensure the broader well-being of their clients.

On rare occasions women died while in the care of their abortionist. As a general rule abortionists called in a doctor to certify the death, both in an attempt to avoid an inquest and also to allow the family to make arrangements for the funeral.⁹⁷ Some sought to mislead doctors into certifying other causes of death. Henrietta Gow called in a doctor after May Pickles had died, telling him May must have died from heart failure as a result of rheumatic fever.⁹⁸ Some abortionists may have returned part or all of their fee to the woman's family to cover the costs of the funeral.⁹⁹ Women's deaths did not absolve abortionists of responsibility. It was in their interests to facilitate the return of women's bodies to their families in a dignified and discrete manner.

⁹⁵ Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC; see also Trial of H.G., 5 August 1920, DAAC/D256/326 6/1920, ANZD; Trial of G.T., 19 & 26 October 1937, CH273/Box 6 T2/1937, ANZC.

⁹⁶ Trial of G.B., 6 May 1920, DAAC/D256/326 No.3 May 1920, ANZD; J 46 1921/1330, ANZW; Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No.3, ANZD.

⁹⁷ Bodies could not be legally buried without a death certificate, see Births and Deaths Registration Act, 1924, ss 32, 40, 41. Lynette Finch has noted a similar situation existed for Australian abortionists see Lynette Finch, *The Classing Gaze: Sexuality, Class and Surveillance*, St Leonards NSW, 1993, pp. 120–1.

⁹⁸ J 46 1920/774, ANZW. See also J 46 1922/1051, ANZW; *NZ Truth*, 21 October 1922, p. 5; J 46 1929/819, ANZW.

⁹⁹ See comment by Annie Stein's mother that her son had paid for Annie's funeral in response to police questions about the payment for the funeral. J 46 1928/1039, ANZW.

Nonetheless, occasionally abortionists' clients expressed disappointment with their services. Attempts at abortion were not always successful. In 1929 Pauline Hindmarsh abandoned her newborn daughter outside the back gate of Maureen Carlson's residence in protest at the failure of Carlson's services.¹⁰⁰ In 1928 a man wrote to *NZ Truth's* 'Inquirers' Corner' for legal advice on whether he could take legal action to recover 30 shillings from the nurse who attempted an unsuccessful abortion on his wife. *Truth's* advisor replied such action would probably bring more trouble for his wife and himself than the 30 shillings was worth. In his favour, the advisor assured him the nurse's counter-claim for the balance of her fee, £13 and 10 shillings, would be unenforceable in court also.¹⁰¹ In 1937 Martha Newton complained her abortionist hurt her during the second attempt to insert a catheter through her cervix, and she would not let her try again for some days.¹⁰² Jack Fowler of Invercargill refused to pay the final bill of over £16 presented to him by abortionist Judith Campbell in 1931. The bill was charged for board and attendances on his girlfriend for the five weeks she resided with the Campbell family. Fowler was upset it took so long to terminate the pregnancy, whereas Campbell felt she was out of pocket because he had not paid up front.¹⁰³ Just like the vagaries of menstrual regulation, the services of abortionists did not always fulfil their clients' expectations.

The entry of lay people into the profession of abortionist sometimes caused concern for their clients. Some clients expressed consternation that their expectations of abortionists' qualifications had not been met. In 1927 Selma Biddle told the police she thought her lover had arranged to take her to a doctor. Instead he contracted a workmate to use a syringe on her in the backseat of a car.¹⁰⁴ Hesketh's testimony in court against Stevens in 1936 implied he too expected to be referred to a professional. That Stevens was little more than

¹⁰⁰ Trial of M.C., 1 May 1929, DAAC/D256/333 No. 4 April/May 1929, ANZD.

¹⁰¹ *NZ Truth*, 2 February 1928, p. 16.

¹⁰² Trial of G.T., 19 & 26 October 1937, CH273/Box 6 T2/1937, ANZC.

¹⁰³ Trial of J.C., 21 August 1931, DAFG/D504/119 August 1931 No. 6, ANZD.

¹⁰⁴ Trial of H.F., 1 August 1927, CH239/Box 13 T3/August 1927, ANZC.

a housewife caused Hesketh great concern, particularly after she told him that water pumped by a syringe into his wife's uterus would 'drown the baby'. Unfortunately, his efforts to gain medical care for his wife, undertaken whilst trying to avoid exposing his own illegal behaviour, ultimately may have contributed also to her death.¹⁰⁵ In these cases there seemed to have been an expectation that abortions were performed by skilled healthcare professionals rather than experienced lay people.

These incidences of protest by abortionists' clients were isolated, however. On the whole most clients appeared to have been satisfied with the service they received. Leslie Reagan has described abortion as an 'open secret' and this assessment seems to adequately describe New Zealanders' experiences of finding an abortionist.¹⁰⁶ In spite of abortion being a very personal and intimate experience, a surprising number of people took part in women and men's quest to find an abortionist. Despite the illegality of their practices, abortionists' conducted their trade within established ethical boundaries. They were paid to provide care for their clients and even in the event of a death, most continued to meet their responsibilities to clients' families. In return, clients only occasionally expressed dissatisfaction with the service they received.

¹⁰⁵ J 46 1936/641, ANZW.

¹⁰⁶ Reagan, *When Abortion was a Crime*, pp. 19–45.

‘I didn't want to be called to any more cases’: Doctors, Nurses, Patients, and Privacy

Most doctors probably did not perform abortions directly but many were peripherally involved in the procurement of abortions in their capacity as medical professionals. The role of doctors as auxiliaries to abortionists has not been discussed in any depth in New Zealand historiography. This section outlines the complex links existing between doctors and abortionists and their clients. Doctors frequently played a supporting role in the performance of abortions, sometimes knowingly entering into contractual arrangements to support abortionists’ practices. But many more did so unwittingly.

Professional abortionists had an interest in having access to a pool of doctors whom they could call on to visit clients should an emergency arise. Abortionists who provided women with board and care during the miscarriage would call in a doctor if the woman became ill. Dr Lisle acted for at least two of Dunedin’s most well known abortionists, Carlson and Hayward, during the early 1920s.¹⁰⁷ Later that decade, Nurse Cullen used Dr Howard to minister to her patients. He would go on to become one of Auckland’s doctor-abortionists during the 1930s.¹⁰⁸ The regularity with which these doctors appeared in cases related to abortions procured by these individuals suggests they probably knew about the abortionists’ trade.

But not all doctors were willing to be complicit with abortionists’ businesses. Dr Stringer was one of the doctors whom Rhodda Stevens called on during 1935. As he later told the court, when he realised the nature of her business he protested saying, ‘I didn’t want to be

¹⁰⁷ Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD; Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No.3, ANZD.

¹⁰⁸ J 46 1929/819, ANZW.

called to any more cases'.¹⁰⁹ Abortionists might call upon doctors to certify the deaths of their clients, hoping the doctor would allow them to define the cause of death. Mary O'Donoghue's daughter-in-law Kitty called on Dr Arnott to certify the death of Ellen Foster in 1922, telling him that she was 'anxious to avoid the worry and upset of an inquest'.¹¹⁰ In this case the doctor did not capitulate to the request, however.

More commonly doctors provided abortionists with vital access to public hospitals for their patients. Abortionists who were able to foster a close working relationship with a doctor benefited enormously from the association. Christchurch abortionist Mrs Bell was able to purchase a note to admit clients to the local public hospital, if required.¹¹¹ Alternatively abortionists could call in a doctor to examine their clients hoping to gain a referral to hospital without any awkward questions. Rhodda Stevens attempted to disguise her clients' symptoms as influenza or appendicitis in order to get the admission slip to the hospital.¹¹² Although subject to varying degrees of complicity, doctors provided abortionists with vital access to medical and surgical care for their clients.

For the women who had abortions, medical treatment was expensive. If women were nursed by their abortionist then he or she usually paid for the cost of the doctor's visit. This was the arrangement Mrs Stevens had with her clients.¹¹³ But medical care could be very expensive for women who used abortionists who did not provide board and nursing, and for those women who self-induced their abortions. Auckland Public Hospital charged patients six shillings and six pence per day for the term of their stay. Average stays in hospital for the treatment of incomplete abortions, which were not necessarily induced abortions, were

¹⁰⁹ Evidence of Dr S., Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

¹¹⁰ J 46 1922/1051, ANZW; *NZ Truth*, 21 October 1922, p. 5. See also J 46 1920/774; 1929/819, ANZW.

¹¹¹ Trial of G.T., 19 & 26 October 1937, CH273/Box 6 T2/1937, ANZC.

¹¹² See evidence of Dr S., Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

¹¹³ Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

around two weeks in length costing women and their families just under £5 for their stay.¹¹⁴

Abortions requiring medical treatment could be very expensive for their users.

North American historians of illegal abortion suggested doctors might refuse to treat women they thought had illegal abortions or withhold treatment to force women to make statements about the cause of their illness.¹¹⁵ This does not appear to have been the case in New Zealand. Stevens' doctor's refusal to see any more of her clients took place after he treated the woman she called him to see.¹¹⁶ Although some might refuse to attend future calls from an abortionist, there is no evidence to suggest once a call was answered by a doctor he or she would refuse to treat the patient.

In part this was because doctors' ethical priorities lay with the patient rather than the person who called on their services. The New Zealand Branch of the British Medical Association (NZBMA) followed the guidelines laid out by the Royal College of Physicians in Britain which were first published in 1916. These guidelines stated doctors had a moral obligation to respect the confidence of the patient and should not act on or disclose information received during the course of attendances without the patient's permission. If the doctor thought an illegal abortion had taken place he or she was expected to urge their patient to make a statement, especially if it appeared her death was likely.¹¹⁷ But their primary duty was to ensure the patient received the necessary medical care and attention they needed to recover.

Apart from their duty to protect patients' confidences, there was little consensus among medical professionals over where treatment should be carried out. As the story of Dr

¹¹⁴ YCAB 15266 4a–11a Auckland Public Hospital Patient Admission Registers 1920–1929.

¹¹⁵ Angus McLaren, 'Illegal Operations: Women, Doctors, and Abortion, 1886–1939', *Journal of Social History*, 26, 4, 1993, pp. 805–8; Reagan, *When Abortion was a Crime*, pp. 122–3.

¹¹⁶ Evidence of Dr S., Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

¹¹⁷ *Lancet*, 5 February 1916, p. 313.

Stringer and Mrs Stevens indicates, doctors were quite willing to attend to patients who were boarding or being nursed in private homes.¹¹⁸ During the 1920s medical attendances also stretched to performing surgery in private homes. In 1921 Dr Alfred Tait admitted Audrey Clark to an unregistered nursing home under a false name and performed a D&C operation on her to remove retained products of conception from her uterus.¹¹⁹ In 1926 Enid Masters' doctor performed a D&C operation on her in her parents' home after he had diagnosed an incomplete abortion.¹²⁰ Surgery was not limited to hospitals during the early to mid 1920s.

Enid's and Audrey's doctors protected their privacy by operating in private homes. These young women were single and, as Tait told the inquest into Audrey's death, he felt his role as the doctor extended to protecting her reputation.¹²¹ Doctors' concerns to protect their patients' privacy and reputations were common themes in the treatment of single women for post-abortal complications. Anaesthetists also respected women's privacy. They generally took the attending doctor's word the operation was medically warranted, and did not disrupt the confidentiality between the doctor and his patient by independently examining the woman.¹²² The relationship between doctor and patient afforded considerable privacy to both parties.

Doctors' actions to protect their patients' privacy also obscured illegal abortions from outside scrutiny. At criminal court trials and coroners' inquests the doctors' own notes and recollections of his or her encounter with the patient formed the official narrative of the doctor-patient encounter. Doctors' recollections of their interactions with patients did not

¹¹⁸ Evidence of Dr S., Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC. See also Evidence of Dr B., Trial of M.D., 10 May 1929, DAAC/D256/333 No.5 April/May 1929, ANZD; Trial of H.G., 5 August 1920, DAAC/D256/326 6/1920, ANZD.

¹¹⁹ J 46 1921/1209, ANZW; *NZ Truth*, 29 October 1921, p. 5; 5 November 1921, p. 5.

¹²⁰ J 46 1926/826, ANZW. Some of the products of conception had been retained in her uterus.

¹²¹ J 46 1921/1209, ANZW

¹²² J 46 1921/1209; 1926/826; 1931/241 ANZW.

always ring true to their peers. During the inquest into Audrey's death, Tait told the court he diagnosed vomiting and haemorrhage as 'usual symptoms of pregnancy', which he treated by advising rest, and later admitted her to an unregistered nursing home for a D&C. The local Medical Officer of Health disputed Tait's diagnosis, arguing that if Audrey suffered heavy bleeding Tait should have sent her to the public hospital immediately.¹²³ Although he was absolved of any blame with regard to the cause of Audrey's abortion, Tait's decision to prioritise her privacy by concealing her illness behind the doors of a private home left lingering doubts as to the veracity of his testimony.

At times doctors' use of private nursing homes shielded their own illegal practices from view. In 1930 Dr Cooper performed abortions at the premises of Nurse Berry and left the subsequent nursing and transfer to hospitals up to her to arrange.¹²⁴ Dr Carter admitted Melva McKellar to a private nursing home for an operation to 'stretch' her constricted cervix in 1931, which resulted in her miscarriage a few days later.¹²⁵ Dr Henderson placed a catheter in the uteri of his patients while in his surgery and then directed them to stay at the home of a local woman where they were nursed through the subsequent miscarriage.¹²⁶ In these cases, private nurses were ancillary to the doctor-abortionist rather than the main provider of abortions.

These few doctors who acted in an illegal manner were not representative of the most common medical interactions with aborting women. Doctors played the greatest role in the procurement of abortions indirectly, as part of their daily interaction with patients. As the records of coroners' inquests and criminal court trials show, most women whose abortions

¹²³ J 46 1921/1209, ANZW. The NZBMA was very concerned about the lack of regulation of unregistered nursing homes and about its own members' complicity in keeping these running. See NZMJ, 20, 1921, pp. 255–6, 304–5; NZMJ, 22, 1923, p. 117.

¹²⁴ J 46 1930/1334, ANZW.

¹²⁵ J 46 1931/241, ANZW.

¹²⁶ *NZ Truth*, 17 May 1928, p. 7; J 46 1928/1039, ANZW.

came to the attention of the judiciary consulted a doctor at some stage during their pregnancy or subsequent miscarriage. Some requested treatment for amenorrhea from their doctors.¹²⁷ Some clearly did receive abortions from doctors.¹²⁸ Most were attended by one or more doctors when they failed to recover quickly after a miscarriage.¹²⁹

The medical profession played the greatest role in the procurement of illegal abortions in the treatment of what was medically termed ‘incomplete abortion’, albeit for the large part without any illegal intentions. When a woman began to bleed from her uterus there was a legitimate reason for her to visit a doctor or hospital to have her uterus cleared of its contents.¹³⁰ A survey of Auckland Hospital Patient Admissions during the 1920s shows it was particularly common for married women with bleeding during pregnancy to enter hospital. Treatment was usually a D&C and hot intrauterine douche. Between 12 and 17 women were treated for this complication every month.¹³¹ Not all these abortions were necessarily illegally induced, however. Many were probably spontaneous abortions.

Some doctors were concerned their profession’s focus on the patient’s illness and recovery meant doctors were in tacit collusion with illegal abortionists. As members of a delegation from the NZBMA told the Ministers of Justice and Health in 1922, when doctors treated women for abortion related complications this made illegal abortion ‘so safe that [abortionists] should be able to do it on all occasions and do it with safety.’¹³² The deputation perhaps overstated the abilities of their profession to mitigate what they argued was the damage wrought by abortionists, and overlooked their own members’ illegal practices. Nonetheless, their argument had some validity. Certainly during the interwar

¹²⁷ See for example J 46 1930/1334, ANZW.

¹²⁸ See for example J 46 1928/1039; 1930/1334; 1931/241, ANZW.

¹²⁹ See for example J 46 1922/1049; 1926/826; 1927/808; 1928/102; 1931/1166; 1937/192, ANZW.

¹³⁰ See for example J 46 1928/1135, ANZW.

¹³¹ YCAB 15266 4a–11a Auckland Public Hospital Patient Admission Registers 1921–1929, ANZA.

¹³² ‘Transcript of the Meeting’, 24 March 1922, J1 1922/473 Medical Assessors for Coronial Inquiries, ANZW, p. 8.

period the medical profession, willingly or unwillingly, was a functional part of a wider web of illegal abortion practices.

Conclusions

Historian Emma Jones described the professional abortionist as ‘a particularly liminal figure’ in research into the history of abortion.¹³³ This chapter addresses this issue by examining the identities of abortionists and situating their practices in the broader context of their relationships with clients and their wider social or professional networks. In doing so, this chapter reveals there was a shift in the identities of abortionists who came before the courts and their methods during the interwar period.

The abortionists whose activities were investigated for this chapter were divided by gender, with marked differences in social standing. Male abortionists tended to be urban middle-class professionals (including some doctors), skilled tradesmen or small business owners. In contrast female abortionists were more commonly unregistered nurses or handywomen, or housewives. For all of these people performing abortions was a commercial practice. Their skills were traded for a price, which was more substantial for male abortionists than female.

A visible change in the circumstances of female abortionists and their methods suggests the effect of the Depression extended beyond increasing ordinary couples’ desire to limit their families.¹³⁴ Older nurses and handywomen appeared to have retired from the abortion trade by the end of the 1920s. They were replaced by a new generation who were not trained in

¹³³ Jones, ‘Abortion in England’, p. 77.

¹³⁴ Historians have pointed to women’s desperate need to control their fertility as a key motive for abortion during the Depression see Mary Dobbie, *A Matter for Women*, Auckland, 1984, p. 2; Brookes, ‘Reproductive Rights’, pp. 120–1.

midwifery. Most of these people were women, who were believed to have been inspired to sell their skills at abortion because of financial hardship during the Depression. Their particular skills were in menstrual regulation strategies — the use of douches or syringes and drugs to bring on periods — rather than induction of premature labour by invasion of the cervix and uterus.

The entry of lay women into the profession of abortionist and the predominance of marriage as a feature of male and female lay abortionists' social experience implies there was no fixed boundary between abortion users and providers. Jones argued that historians should recognise the skills of 'middle-aged women, ... mothers and even grandmothers' were 'perfectly adequate for the purposes of procuring abortions'.¹³⁵ Here I concur with her assessment, adding that such a statement could equally apply to men. It appears to have been relatively easy for individuals to make the shift from management of their own or their wives' periods to the provision of abortion services to the public. The impetus for making this transition was not solely knowledge or experience but also financial distress and familial need. This finding disrupts earlier histories of abortion that have implied these conditions were commonly associated with women who had abortions rather than their abortionists. The entry of lay people into the profession of abortionist was not always met with approval from their clients, however. Clients' expressed preferences for abortionists with midwifery or medical training, and the preponderance of those characteristics among earlier abortionists suggests that the landscape of abortion services may not have included many lay people prior to the 1930s.

¹³⁵ Jones, 'Abortion in England', p. 79.

Themes of poverty have been revealed in new ways here. This chapter suggests use of abortion was not limited to the poor or working classes. Indeed there are good reasons to argue that abortion may have been somewhat of a luxury item. Abortions performed by abortionists or those requiring medical aid or nursing, were very expensive. This finding suggests we should be careful in attributing too much weight to political claims given at the McMillan Inquiry that women used abortion as a response to poverty. There is evidence to suggest for the very poorest of New Zealanders abortion may well have represented an untenable expense.

Nonetheless it is clear working-class people did use the practice. This chapter has found that social class did not determine the relationship between abortionists and their clients so much as shared social or professional networks. Whilst social class undoubtedly influenced the membership of those networks, class was not the sole determinant of whom a woman would find to help her. Middle-class women visited working-class abortionists. Working-class couples paid for expensive middle-class professionals to terminate their pregnancies. This finding is consistent with Fisher's argument that English abortion practices were basically the same across class divisions, the difference being in England at least, working-class women's lives came under greater scrutiny than those of the middle class.¹³⁶

In contrast to the remarkably public and social arena of the abortionist, doctors occupied a rather more private space. Their ethical priorities to preserve the privacy of their patient preserved their own privacy also. Doctor-patient confidentiality obscured the boundaries between performing illegal abortions and ordinary medical treatment of women. But confidentiality was not absolute. The next chapter examines how doctors and others

¹³⁶ Fisher, *Birth Control*, pp. 125–6.

contributed to the detection of abortions and examines the ways criminal court trials reconstructed stories of abortion experiences.

Chapter Five

‘yours is a very serious crime’: Illegal Abortion and the Law, 1919–1937

Edna Taylor’s involvement in Amy’s abortion in 1923 only came to light because Edna’s home and shop were searched by the police after allegations she allowed Maureen Carlson to perform abortions on the premises. The police found Amy’s letter, ripped up but not disposed of, in a drawer at Edna’s home. Although Amy’s identity remained a mystery, the prosecution presented her letter to the courts as evidence of Edna’s role in introducing women to Carlson for the purpose of securing abortions.¹ The social nature of abortionists’ businesses meant secrets were hard to keep, and sometimes there was sufficient evidence to support criminal proceedings against abortionists, their referrers, and their clients.

Court records have provided historians with a ready source of information about the practices of illegal abortion in the past. English historian Emma Jones pointed out that most historians have used these records as a source of information about private abortion

¹ Unsigned letter to E.T., 21 February 1923, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD. Both Taylor and Carlson were acquitted of the charges brought against them as a result of these searches. See Trial of E.T.; Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No.2, ANZD.

practices but have not used these records to scrutinise the workings of the law itself.² There are some notable exceptions, however. Andree Levesque argued that in New Zealand the gender of accused abortionists may have been a factor in criminalising their practices.

Most of the criminal court trials she located in newspapers between 1897 and 1937 related to male abortionists.³ Leslie Reagan offered a rigorous assessment of abortion trials in the Chicago and Cook County areas of the United States. She suggested women's social class and ethnic origins influenced the state's efforts to police and punish the users and providers of illegal abortion.⁴ Reagan in particular offers a compelling argument that criminal court trials give valuable historical insight into the broad trends in law enforcement.

Historian of sexual crimes in the United States Stephen Robertson argued criminal court files are of value to historians for more than just the insights they offer into private behaviour and experience. In a trenchant critique of historical method Robertson argued that historians have placed too much emphasis on uncovering personal experience and behaviour from court records. He suggested inadequate attention has been paid to the way these records were constructed by court processes, and the impact of societal norms and values on the performance of criminal court trials.⁵

This chapter picks up one element of Robertson's critique — the impact of legal rules on the construction and performance of criminal court trials — and uses this method to convey the representations of abortion that law enforcement projected to the public. The first section gives a brief overview of the development of the legislation prohibiting abortion in

² Emma Jones, 'Abortion in England, 1861–1967', PhD Thesis, Royal Holloway, University of London, 2007, pp. 39–40. Jones argues that historians have tended to use political campaigns for abortion law reform as the lens through which to review the way that the law was enforced.

³ Levesque, 'Grandmother took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937) Part One: The Abortionists', *Broadsheet*, 43, October 1976, pp. 18–20.

⁴ Leslie Reagan, *When Abortion was a Crime: Women, Medicine and the Law in the United States, 1867–1973*, Berkeley, 1997, pp. 113–31.

⁵ Stephen Robertson, 'What's Law Got to Do with It?: Legal Records and Sexual Histories', *Journal of the History of Sexuality*, 14, 1/2, 2005, pp. 164–70.

New Zealand and discusses the various ways the police encountered evidence of abortions and investigated these. Not all people criminalised by the Crimes Act were subject to legal consequences and the second section explores the rationale behind the courts' allocation of roles to parties in abortion transactions. The third section outlines the impediments to successful prosecutions, shifting the emphasis for failure to convict off juries and on to the wider legal environment that governed how criminal court trials proceeded. The fourth section explores the changing sentence length for those found guilty of the charges against them, and uncovers occasional resistance by jury members to the way the rules of the court required them to administer justice.

‘with intent to procure miscarriage’: Legislation and Policing Abortions

Historically the induction of miscarriages, with few exceptions, has been a crime in New Zealand for as long as British law has been observed here. By 1840, when the Treaty of Waitangi established British sovereignty in New Zealand, abortion was already the subject of statutory prohibitions in Britain. Lord Ellenborough's 1803 Act and a subsequent amendment in 1837 prohibited abortions performed after the quickening by parties other than the pregnant woman herself. The Act imposed a penalty of life imprisonment on those found guilty of the crime.⁶ Women who attempted to abort themselves were not specifically included in the legislation.⁷ The British 1861 Offences Against the Person Act made it illegal for anyone to attempt to induce a miscarriage at any stage of gestation and regardless of whether the woman actually was pregnant or not. These prohibitions were extended to pregnant women themselves unless they were found to have not been pregnant at the time of the attempt. It was an offence for anyone to conspire with or aid someone

⁶ For discussion on ‘the quickening’ see Chapter Two.

⁷ Barbara Brookes, *Abortion in England, 1900–1967*, London, 1988, pp. 24–6. The extent to which abortion was illegal under common law prior to 1803 in Britain and North America has most recently been explored by Joseph Dellapenna see Joseph Dellapenna, *Dispelling the Myths of Abortion History*, Durham, North Carolina, 2006, Ch. 4.

attempting to induce a miscarriage, and to supply anyone with instruments or substances knowing they would be used in an attempt at abortion.⁸

The New Zealand government passed its own version of the Act in 1867, which was essentially the same as the British legislation. In 1893 New Zealand's Offences Against the Person Act, 1867 was repealed and replaced by the Criminal Code Act. Section 201 of the Criminal Code maintained the penalty of life imprisonment for those who acted to procure someone else's miscarriage. Section 202 reduced the penalty for women who attempted self-induced abortion to a maximum of seven years' imprisonment. Section 203 allowed for imprisonment of up to three years for those individuals who were found guilty of supplying or procuring the means to perform abortions.⁹

The Crimes Act, 1908, superseded the Criminal Code Act and remained in force until 1961.¹⁰ Section 220 allowed for the killing of an unborn child if undertaken 'in good faith for the preservation of the life of the mother'.¹¹ Sections 221 to 223 of the Act continued to criminalise everyone who participated in efforts to procure miscarriages outside the scenario of saving women's lives, albeit subject to a hierarchy of penalties. Section 221 imposed the highest maximum penalty of life imprisonment on people who induced the miscarriages of others: the abortionists.¹² Section 222 imposed as sentence of up to seven years on women who submitted to abortion attempts or who attempted to self-induce abortions.¹³ Section 223 imposed a sentence of up to three years' imprisonment on anyone who supported or helped women knowing they wished to procure a miscarriage, albeit

⁸ Brookes, *Abortion in England*, pp. 25–6; Lisa Carbines, 'Abortion in New Zealand – Oppressive Law or Just an Inefficient System', LLB (Hons) Dissertation, University of Auckland, Auckland, 1996, pp. 7–9; Arran McCowatt, 'New Zealand Abortion Law: History and Development', LLB (Hons) Dissertation, University of Auckland, Auckland, 1993, pp. 23–4.

⁹ Criminal Code Act, 1893, ss 201–3.

¹⁰ Appendix D.

¹¹ Crimes Act, s. 220.

¹² Crimes Act, 1908, s. 221(1).

¹³ Crimes Act, 1908, s. 222.

rising to life imprisonment if they had previous convictions for the same offence.¹⁴ In principle the law prohibiting abortion was severe. Categorised as a serious crime, a conviction in relation to illegal abortion attracted some of the longest penalties available during the interwar period, apart from the death penalty which was still in use for those convicted of murder and infanticide.¹⁵ The law, in theory at least, was all encompassing and allowed for legal performance of abortions only in the most extreme of circumstances.

The Crimes Act, sections 221 to 223 broadly reflected the popular methods of abortion in use during much of the interwar period. The Act criminalised all efforts at menstrual regulation or to induce premature labour if these were undertaken ‘with intent to procure miscarriage’.¹⁶ The Act’s wording acknowledged implicitly the lack of a clear distinction in practice between menstrual regulation and instrumental abortion. The legislation placed particular emphasis on the use of medicines and instruments as methods of abortion but included a catchall ‘or other means whatsoever’ to cover other methods like hot baths, physical exertion, and violence against the female body. Section 90 of the Act criminalised people who aided others to perform a crime also.¹⁷ There were no exceptions to the coverage of the Act. All parties who participated in the procurement of abortions, or facilitated efforts to perform abortions, were criminalised under the law, regardless of whether their efforts were perceived to have been successful.

The law defined abortion as a serious crime by virtue of its maximum penalty of life imprisonment. Yet at the same time, the seriousness of these penalties limited the powers of the police to investigate potentially illegal activity. Levesque argued the police did not

¹⁴ Crimes Act, 1908, s. 223.

¹⁵ See for example the case taken against Daniel Cooper in 1923 for infanticide, which resulted in his execution. Charles Treadwell, *Notable New Zealand Trials*, New Plymouth, 1936, pp. 275–85.

¹⁶ This statement is central to every section see Crimes Act, 1908, Ss 221–3.

¹⁷ Crimes Act, 1908, s. 90.

‘raid’ the homes of abortionists.¹⁸ The lack of police raids on abortionists was the result of the rules governing search warrants set out by Section 365 of the Crimes Act. All police incursions onto private property required a warrant, which for serious crimes required substantial evidence. The evidential requirements were so substantial the police could not get a warrant based solely on a suspicion, complaint, or tip-off. Thus, as Superintendent Norwood of the Wellington District complained in 1922, Section 365 made surprise raids nearly impossible, hampering the police in their efforts to secure arrests in cases of abortion.¹⁹ When abortions took place on private property, the Crimes Act both criminalised such acts and yet afforded some protection from police scrutiny for the perpetrators also.

The police had access to many other avenues for detecting illegal abortions. A number of high profile criminal court cases eventuated as a result of police surveillance of known abortionists during the 1920s. Henry Yizak, a Dunedin boot maker and reputed abortionist, was subjected to numerous ‘casual’ police visits at his workplace where he was ‘warned about having young girls about his shop’. In 1923, when Yizak stayed at his shop after hours and gave entry to a young woman, two policemen were quickly at his door having watched her arrival from a nearby vantage point.²⁰ Maureen Carlson, another well known Dunedin abortionist, was subjected to surveillance by police during the 1920s. Her clients reported being stopped in the street by detectives, or visited in their homes with requests for

¹⁸ Leveseque, ‘Grandmother took Ergot, Part One’, p. 19.

¹⁹ Crimes Act, 1908, s. 365; AJHR, 1922, H-16, p. 16. One complaint was made in Parliament that the serious nature of abortion crimes impeded police investigations and prosecutions but no further action was taken. See C.E. Statham, MP Dunedin, to Minister of Justice, 25 June 1921; Department of Justice to Minister of Justice, 5 July 1921, J1 1921/830 Amendment to Section 365 of the Crimes Amendment Act, 1908, to provide for search without Warrant in suspected cases of abortion, ANZW. A similar suggestion had been sent to the Ministry of Justice by the Society for the Protection of Women and Children in 1914, which also argued that the maximum sentences and failure to indict all parties to abortions reduced the likelihood of criminal convictions. Canon Curzon-Siggers, President, Society for Protection of Women and Children to Minister of Justice, 23 May 1914, J 1 1921/830 (formerly held in J 1 1914/973), ANZW.

²⁰ Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD.

statements implicating Carlson as an abortionist.²¹ In 1926 evidence from one woman intercepted by police after she visited Edith Newcombe in Wellington resulted in charges being laid against Newcombe.²² The same year, Auckland Mary O'Donoghue was arrested and charged after police intercepted outside her home two women who later consented to medical examinations during which catheters were found in their uteri.²³ In the main, surveillance worked to secure charges against well known and prolific abortionists who practised in the larger cities.

The police supplemented direct action against known abortionists with casual informants from the community. Some people did not keep the secrets entrusted to them and 'dobbed in' family members, friends, neighbours or associates. In 1920 Gerda Mellow wrote a letter to the police telling them she referred a young woman to Alice Alcott for an abortion four years before. The police tracked down the woman concerned and, on the basis of her statement, charged both Alice and Gerda.²⁴ People sometimes sent anonymous letters to the police, making accusations of illegal activities.²⁵ Complaints from members of the public to other government agencies, such as the Health Department, were passed on to the police for action.²⁶ Many within New Zealand society did not keep secret their knowledge of illegal abortions procured by others.

Just as word of mouth helped people find abortionists, so too might it lead to arrests. The arrest and charging of Auckland Hilda Dallie came after rumours began to circulate in a

²¹ Trials of M.C., 14 May 1923, DAAC/D256/328 May 1923 No. 2; 7 March 1928, DAAC/D256/397 March 1928 No. 3; 1 May 1929 DAAC/D256/333 No. 4 April/May 1929 ANZD.

²² *NZ Truth*, 9 September 1926, p. 7. The police were already investigating Newcombe's involvement in the death of Edna Dawson when this woman was observed visiting the Newcombe home.

²³ *NZ Truth*, 11 February 1926, p. 7; NZLR, 1912, 'King v. M.O.', pp. 928–49.

²⁴ *NZ Truth*, 14 February 1920, p. 5.

²⁵ Commissioner of Police to Director-General of Health (DGH), 18 September 1930, H1 131/139 B.100 Diseases – Septic Abortion 1922–1937, ANZW.

²⁶ Mrs R.E. Watson to Alexander Young, Minister of Health, 23 August 1935; Dr T.R. Ritchie, Acting DGH to Dr T.J. Hughes, MOH, Auckland, 14 September 1935; Dr T.J. Hughes, MOH, Auckland to DGH 16 November 1935, H1 131/139 B.100, ANZW.

small country district that a local woman had visited her for an abortion.²⁷ Sometimes evidence of illegal abortions came to the notice of the police by accident. In 1931 a police constable was called to attend an altercation at the home of Judith Campbell. His suspicions were raised when he heard the disagreement was over an account for £16 owed by Jack Fowler, a married taxi driver. The account was for the cost of confinement and board at the Campbell home, given to a young woman at Fowler's request. The constable later told the court he became suspicious about the nature of the disputed transaction when he realised the young woman was not Fowler's wife, and heard the pregnancy had ended at five months' gestation.²⁸

Concerned family members might also initiate investigations. In 1923 Rose Napier confided in her father while in she lay in hospital, that she and her boyfriend visited an abortionist. Mr Napier convinced Rose to let him call the police to interview her.²⁹ Years later in 1931, another father called the police when he learned his 18 year old daughter had gone to an unregistered nurse for an abortion. He later told the court the agreement he had with his wife was they could obtain an abortion only if it were to be done by a doctor.³⁰

Other formal and informal sources also contributed information about potential illegal abortions to the police. Local death registers might provide leads to follow up. For example, a Police Inspector queried the death of a woman recorded in the Westport register in 1925 with the Health Department. His suspicions were raised because the cause of death was noted as 'Abortion Myocarditis, shock', although in this case the abortion was believed by the woman's doctor to have been spontaneous.³¹ Doctors too might discuss patients with the local Medical Officer of Health (MOH) if they believed their illness was caused by

²⁷ *NZ Truth*, 7 April 1927, p. 7.

²⁸ Trial of J.C., 21 August 1931, DAFG/D504/119 Aug 1931 No. 6, ANZD.

²⁹ J 46 1923/501, ANZW.

³⁰ *NZ Truth*, 12 November 1931, p. 7.

³¹ Dr J.F. Telford, MOH, Christchurch to DGH, 7 July 1925, H1 131/139 B.100, ANZW.

illegal abortion.³² MOHs were authorised by the Health Department to alert the police if there was sufficient evidence to suggest a patient may have had an illegal abortion.³³ Bureaucratic registers and professional networks contributed to the wider policing network.

Doctors had the potential to be intermediaries between the police and events which occurred on private property. Doctors' interest in women's illegal activities was primarily motivated by their need to diagnose and treat women's illnesses. But as doctors queried the circumstances leading to their patients' illnesses some women admitted to having an illegal abortion. Freda Boyle's doctor told the inquest into her death that eventually 'she [admitted] she had interfered with herself'.³⁴ Others like Vivian Anderson revealed to their doctors explicit details of their abortions and the names of their abortionists and supporters.³⁵ Doctors' efforts to take women's medical histories could result in confessions of illegal acts.

Reagan suggested doctors were the mainstay of state efforts to police abortions in the United States.³⁶ But in New Zealand there were considerable obstacles to the transference of information about patients from their doctors to the police. Women's doctors occupied an unusual position in relation to the detection of illegal abortions. As healers and caregivers they were charged with a moral obligation to protect their patients' confidences. But at the same time they were expected to press upon these same patients the importance of giving a statement to the police.³⁷ It is difficult to assess the extent to which doctors observed these ideals but certainly in the early years of the 1920s doctors did on occasion facilitate interviews between patients and the police. Rose Napier gave a statement to the

³² Dr W.B. Mercer to Deputy DGH, 24 October 1922, H1 131/139 B.100, ANZW.

³³ Acting Director, Division of Public Hygiene to all Medical Officers of Health, 9 August 1924, H1 131/139 B.100, ANZW.

³⁴ J 46 1924/172; 1931/822, ANZW.

³⁵ J 46 1921/1330; See also J 46 1925/1198, ANZW

³⁶ Reagan, *When Abortion was a Crime*, p. 120–2.

³⁷ See Chapter Four; See also Royal College of Physicians guidelines for doctors in the *Lancet*, 1916, p. 313.

police while in hospital in 1923, as did Mildred Tennyson in 1925. Both women subsequently died.³⁸ Hospital notes presented at the inquest into Janet Dawson's death in 1921 stated that on admission she was too delirious to give any information about what had caused her miscarriage. The evidence given by her doctor at the inquest was she never recovered sufficiently to be interviewed by the police.³⁹ Nonetheless the notes implied the hospital staff at least considered the possibility of a police interview.

As in the case of Janet Dawson, many doctors chose not to inform on their patients while they were still alive. At Jane Eddleson's inquest her doctor defended his decision not to inform the police immediately after she admitted she had been to an abortionist, because the disclosure was made in confidence.⁴⁰ Some doctors continued to protect the information given to them by patients even after they were given permission to contact the police. Dr Foster, for example, took a 'statement' from Ida Wilson but did not give it to the police until after she died.⁴¹ The journey from doctors' provision of healthcare to police investigation varied enormously and was neither smooth nor inevitable.

Policing abortion was a difficult task. Whilst the law imposed severe penalties on those who took part in the performance of abortions, it also constrained the extent to which the police could investigate complaints. The legislation outlawing abortion protected the privacy of those whom it criminalised, in some circumstances at least. The object was not to obfuscate justice but rather to set reasonable limits on the powers of the police. These constraints meant the police often relied on informants from within the circle of those who sought to access abortion. Thus, the social and professional networks facilitating abortions might expose these events to the authorities also.

³⁸ J 46 1923/501; 1926/54, ANZW. See also J 46 1926/489, ANZW.

³⁹ J 46 1921/701, ANZW.

⁴⁰ J 46 1929/1517, ANZW.

⁴¹ J 46 1937/192, ANZW.

‘no charge could succeed against the witnesses’:
Charges, Roles, and Evidence in Criminal Court Trials

The police referred the results of their investigations to the Crown Prosecutor, whose role was to determine whether there was sufficient evidence for charges to be laid. If the Prosecutor determined the evidence gathered by police investigations was sufficient then arrests and the laying of charges began the long process of a criminal court trial. Not all investigations resulted in criminal charges. Some were the subject of coroners’ inquests instead or as well, which is the subject of the next chapter. This section explores the trends revealed in 94 criminal court trials relating to abortion against 70 individuals between 1919 and 1937.⁴² It describes the rules constraining the presentation of evidence in court and traces changes to the way actors in the performance of abortions were assigned roles in court across the same period.

According to the statistics presented by the police in their annual reports contained in the *Appendices to the Journal of the House of Representatives*, the 94 criminal court cases researched for this thesis represent slightly less than half of all the cases brought before the courts during this period.⁴³ Sixty-two of the 94 trials related to charges of ‘unlawful use of an instrument with intent to procure a miscarriage’. Most of these people were accused of acting as an abortionist. Some like John Hayward and Maureen Carlson appeared before the courts on numerous occasions.⁴⁴ Some were the men who had paid for abortionists’ services. Only two of these men were accused of performing their own lovers’ abortions, suggesting either this was very uncommon or uncommonly detected.⁴⁵ Seventeen trials

⁴² See Appendix A. Some individuals were tried more than once on the same charges, and others appeared before the courts a number of times during the period on different charges related to abortions.

⁴³ See Appendix E. Summary of H-16 Annual Reports

⁴⁴ See *NZ Truth*, 7 February 1920, p 3; 27 May 1922, p 6, Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No.3, ANZD; Trial of M.C., 14 May 1923, DAAC/D256/328 May 1923 No.2; 7 March 1928, DAAC/D256/397 March 1928 No.3; 10 May 1929, DAAC/D256/333 No.5 April/May 1929, ANZD.

⁴⁵ Trial of D.C., 4 May 1935, CH273/Box 5 T7/1935, ANZC; *NZ Truth*, 9 April 1931, p. 3; 14 May 1931, p. 7.

related to the purchase and/or supply of instruments or noxious substances with the knowledge these were intended to be used to attempt abortions. Six trials were initiated against people accused of having supported others to perform abortions. Four trials were taken against women accused of permitting the use of an instrument on their bodies. Two were initiated against women for failing to obtain medical treatment for a client who was haemorrhaging; one doctor went to trial for unprofessional conduct in referring patients to an abortionist; one trial was taken against a man for attempting to influence jury members; and one appeal against a conviction was lodged.⁴⁶ Although the range of charges was broad, the vast majority of cases that went to trial in this cohort sought to enforce the law against abortionists.

On the surface, Reagan's argument that social status influenced law enforcement appears to have been evident in New Zealand. The marital status of the women whose abortions were the subject of charges made against others, or on occasion themselves, show a definite trend in law enforcement. The combined court cases related to abortions attempted or performed on 109 women. Eighty-one percent of these women, 88 in total, were single at the time of the abortion attempt. The majority of these women had never married but four were separated from their husbands and three were widowed. The remaining 21 women, 19 percent, were married and lived with their husbands at the time of their abortion attempt.⁴⁷ In these cases, abortions performed on illegitimate pregnancies were more likely to be the subject of criminal court trials.

Bald statistics do not convey the very real difficulties in bringing criminal charges in relation to abortions. The burden of proof on the prosecution was extremely high. If charges related to the use of an instrument then the prosecution had to provide corroborated

⁴⁶ Appendix A.

⁴⁷ Appendix A.

evidence the accused had actually inserted it into the woman's uterus. The same conditions existed for charges related to noxious substances. There had to be corroborated testimony showing the accused purchased or supplied such products.⁴⁸ The private nature of illegal abortions often meant the only witnesses to the crime were criminalised by the Crimes Act. Yet without witnesses' testimony, charges could not succeed at trial. Furthermore, the legal rights of individuals to privacy continued to impede prosecutors' access to testimony from those who had been party to illegal abortions. All individuals had a common law privilege against self-incrimination. People could refuse to testify on the basis that they would be incriminated by their own testimony.⁴⁹ Likewise the prosecution had to show evidence the accused acted with the *intent* of causing a miscarriage, regardless of the method used.⁵⁰ Given the serious penalties attached to illegal abortion, and the fact the law criminalised its main witnesses, bringing charges to court proved difficult.

To gain witness testimony and the necessary corroboration of that testimony, the Crown waived charges against some of the accomplices to the abortion in return for their testimony against others. These so-called 'accomplice-witnesses' were vital to prove charges of illegal abortion. Most commonly these witnesses were the women who had abortions, which explains the dearth of charges levelled at women for their role in abortion attempts. These women were the primary witnesses to the illegal acts, such as the use of an instrument. As a consequence they most commonly occupied the role of accomplice-witness. As Richmond Fell, the Crown Prosecutor at Nelson, wrote to the Minister of Justice in 1919, a free pardon and an official promise that no charges would be laid was the

⁴⁸ NZLR, 1937, 'The King v. B.', p. 283.

⁴⁹ New Zealand Law Commission, *The Privilege Against Self-Incrimination: A Discussion Paper*, Wellington, 1996, pp. 11–8. for discussion about the origins of this privilege see John H. Langbein, 'The Historical Origins of the Privilege Against Self-Incrimination at Common Law', *Michigan Law Review*, 92, 5, 1994, pp. 1047–85.

⁵⁰ NZLR, 1937, 'The King v. B.', p. 287.

price the Crown had to pay to obtain witness testimony.⁵¹ It was not always the case that accomplice-witnesses avoided legal consequences for their actions by giving evidence against other parties. After Ada Bell pleaded guilty to charges of aiding an abortionist, she then gave evidence against her co-defendant in 1937.⁵² But in most cases, as Fell argued 18 years earlier, there was little possibility the Crown could pursue charges against the parties to abortions because ‘no charge could succeed’ without an accomplice’s evidence.⁵³

Some accomplice-witnesses gave evidence posthumously via depositions taken on their deathbed. Death was an important feature of criminal court trials during the 1920s. One quarter of the 55 trials (14 in total) examined here that took place during the 1920s included charges related to women’s deaths, albeit three of those trials related to one charge against John Hayward.⁵⁴ After 1930 a woman’s death was a slightly less common feature of criminal court trials with seven trials out of 39 (18 percent) relating to a woman’s death between 1930 and 1937.⁵⁵

If a woman died as a result of her abortion, her testimony could be admitted to the court in the form of a ‘deathbed deposition’, known as a ‘dying declaration’ also.⁵⁶ Such statements were made by women who were believed unlikely to recover from their illnesses. The admissibility of these depositions at criminal court trials was subject to fairly rigorous conditions, which protected the rights of the accused person to cross-examine the dying

⁵¹ Richmond Fell to Minister of Justice, 18 June 1919, J1 1919/762, Rex v. F. – Indemnifying Witnesses for the Crown, 1919, ANZW.

⁵² Trial of A.B. & G.T., 19 & 26 October 1937, CH273/Box 6 T2/1937, ANZC.

⁵³ Richmond Fell to Minister of Justice, 18 June 1919, J1 1919/762, Rex v. F. – Indemnifying Witnesses for the Crown, 1919, ANZW.

⁵⁴ Appendix A.

⁵⁵ Appendix A.

⁵⁶ See Leslie Reagan, ‘“About to Meet her Maker”: Women, Doctors, Dying Declarations, and the State’s Investigation of Abortion, Chicago, 1867–1940’, *Journal of American History*, 77, 4, 1991, pp. 1249–50. Note that Reagan suggests that dying declarations were exempted under hearsay rules in the United States, but in New Zealand after 1908 this was not the case, see below.

woman.⁵⁷ The accused needed to be given the opportunity to confer with his or her own legal representative before the deposition began. He or she had a right to attend the deposition and have counsel present. The woman giving the statement had to be available for cross-examination during the deposition.⁵⁸ Depositions taken without notice to the accused were not admissible in court. Consequently, as Superintendent McGrath of the Dunedin Police District stated in 1922, if the accused was forewarned of the intention to take a deposition, they could deliberately try to avoid being arrested or served notice of the intention to take a dying woman's statement. In these cases attempts to record a deathbed deposition were futile, because it would not be admissible to any subsequent trial.⁵⁹

Notwithstanding these difficulties, at least ten trials did proceed during the early to mid 1920s, hearing evidence from deathbed depositions.⁶⁰ In 1921 and 1922, charges against John Hayward proceeded on the basis of Vivian Anderson's deposition. The court admitted the deposition because the police had arrested Hayward and taken him to the hospital with his counsel.⁶¹ In 1923 Rose Napier's deathbed deposition resulted in the conviction of her abortionist Albert Hall and her boyfriend Terry Vincent.⁶² But the use of deathbed depositions in court appeared to have been on the wane by 1926. That year Margaret Gaines' lawyer challenged the admissibility of Mildred Tennyson's deathbed deposition at Gaines' trial. He argued he was not able to adequately consult with his client beforehand, because the deposition started before he arrived at the hospital. This omission hampered his ability to cross-examine Mildred, which was made more difficult because she was clearly at death's door, her voice was so faint those in the room had difficulty hearing her, and the lawyer himself felt she was too ill for him to cross-examine her. Justice Adams

⁵⁷ NZLR, 1926, King v. G., p. 388

⁵⁸ See Justices of the Peace Act, 1908, s. 166. See also NZLR, 1926, King v. G., pp. 385–8.

⁵⁹ AJHR, 1922, H-16, p. 14

⁶⁰ Appendix A.

⁶¹ *NZ Truth*, 25 February 1922, p. 5.

⁶² *Christchurch Press*, 7 June 1923, p. 5. See also J 46 1923/501, ANZW.

agreed inadequate attention was paid to Gaines' right to consult with her counsel before the deposition began and ruled it inadmissible.⁶³ Although this particular case was very specific, from that time onwards depositions by women like Mildred who were described as *in extremis* were unlikely to be admitted as evidence to the courts.⁶⁴

Because most charges related to single women's abortions, their supporters might be charged also. Most commonly, women's supporters brought before the courts were women's lovers. Between 1919 and 1937, 18 men were charged with either procuring abortionists or procuring noxious substances for their lovers with intent to cause a miscarriage. Charges against women's lovers were often a feature of criminal court trials during the 1920s. Most of these men were held to be complicit with the abortionist and charged on the basis of their lovers' testimony or deathbed deposition.⁶⁵ Other supporters, people from abortionists' extended referral networks, and those who provided rooms or nursing services might be charged also.⁶⁶ But the hierarchy of charges directed enforcement of the law very clearly at abortionists first, then women's lovers, then other supporting actors.

Women who had abortions were rarely charged with a criminal offence. When this did happen, it was usually in the absence of charges against other parties to the abortion. In 1934 Geraldine Pendalton admitted to the police she visited a man in Stratford for an abortion. When the police began their inquiries the accused abortionist committed suicide. Only then did Geraldine become the accused.⁶⁷ On occasion young women were charged over their abortions when they withdrew their testimony against others. In 1920 the Crown

⁶³ NZLR, 1926, King v. G., pp. 385–8; see also *Christchurch Press*, 11 February 1926, p. 12.

⁶⁴ There was one exception in 1931. See Appendix A.

⁶⁵ See for example *Christchurch Press*, 14 May 1923, p. 4; 7 June 1923, p. 5; *NZ Truth*, 18 March 1926, p. 7; 8 April 1926, p. 7. See also Trial of HF & RB, 1 August 1927, CH239/Box 13 T3/August 1927, ANZC.

⁶⁶ See for example *NZ Truth*, 16 September 1926, p. 8; 16 December 1926, p. 7; Trial of A.B., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

⁶⁷ *Taranaki Herald*, 12 February 1934, p. 2; 13 February 1934, p. 10.

charged Gertrude Bayfield with having permitted the illegal use of an instrument on her body after she refused to speak at the retrial of Hayward and her lover, Neville Nelson.⁶⁸ In 1929 Mildred Davidson was charged with the same offence when she failed to identify Maureen Carlson as her abortionist in court.⁶⁹ Although women who had abortions were protected by their potential to act as accomplice-witnesses, it only applied where charges were able to be brought against others.

The emphasis on charging abortionists and single women's lovers limited the methods of abortion that were described in the courts. During the 1920s, the focus on well-known abortionists like Maureen Carlson and Mary O'Donoghue meant criminal court trials reflected older methods of abortion with catheters, methods similar to the induction of childbirth.⁷⁰ During this period, only a few individuals in the trials were charged with using a syringe as an instrument to terminate someone else's pregnancy.⁷¹ Likewise only a few individuals were charged with procuring noxious substances for themselves or others.⁷² During the 1920s it could be argued the dominant representation of abortion in the courts was of instruments and abortionists rather than menstrual regulation strategies.

By the mid 1920s, single men became more likely to be used as accomplice-witnesses by the courts. The prosecution often used men's evidence to support or replace women's deathbed depositions. In 1926, when Gaines was charged with unlawful use of an instrument and the manslaughter of Mildred Tennyson, the main witness against her was David Barrett, Mildred's lover who paid for the abortion. Barrett's testimony was intended

⁶⁸ Trial of G.B., 26 May 1920, DAAC/D256/326 No.3 May 1920, ANZD; See also trial of M.D., 10 May 1929, DAAC/D256/333 No.5 April/May 1929, ANZD.

⁶⁹ Trial of M.C., 1 May 1929, DAAC/D256/333 No.4 April/May 1929; Trial of M.D., 10 May 1929, DAAC/D256/333 No.5 April/May 1929, ANZD.

⁷⁰ See for example M.C., 1 May 1929, DAAC/D256/333 No.4 April/May 1929, ANZD.

⁷¹ See for example Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD; Trial of W.M., c. August 1927, CH239/Box 13 T3/August 1927, ANZC.

⁷² See for example Trial of C.B., 11 November 1927, CH239/Box 13 T3/1927, ANZC. See also *NZ Truth*, 11 April 1929, p. 3.

to corroborate Mildred's deathbed deposition.⁷³ Multiple accomplices might be used to corroborate each others' their testimony. When Maureen Carlson went to trial in 1928 over the death of Jean Souther, both Mrs Thomas and Jean's lover acted as accomplice-witnesses and thereby avoided charges.⁷⁴ Prosecutors' greater use of men's testimony against abortionists occurred also in cases where the women had not died. In 1928 two different sets of lovers gave evidence against Dr James Henderson about their transactions with him to terminate the women's pregnancies.⁷⁵

The prosecution sometimes introduced evidence of illegal actions by the defendant, unrelated to the charges laid, to establish evidence of habits and behaviour. Four married women gave evidence at Mary O'Donoghue's trial, recalling their visits to her for abortions. The Prosecutor's intention was 'to prove system' — to show Mary was a popular abortionist with a large clientele. Although these witnesses admitted their actions, there was no corroborating evidence to support charges in relation to their abortions, so they remained witnesses but not accomplices in the trial.⁷⁶ Other kinds of evidence could establish evidence the person sold their services as an abortionist also. Letters and other written communications were found by the police on the premises of Edna Taylor and Rita Cooper in 1923, and Hilda Dallie in 1927.⁷⁷ These documents formed part of the evidence at these women's trials, painting a vivid picture of the women's involvement in providing abortions and bolstering the Crown's claims that the charges levelled against them were true.

⁷³ Trial of M.G., 11 February 1926, CH239/Box 9 T3/1926, ANZC. See also 'King v. G.', NZLR, 1926, pp. 385–8.

⁷⁴ Trial of M.C., 7 March 1928, DAAC/D256/397 March 1928 No.3, ANZD.

⁷⁵ *NZ Truth*, 26 April 1928, p. 5. See also P1 1928/498 Case of Dr [H] Charged with Abortion 1928, ANZW.

⁷⁶ *NZ Truth*, 11 February 1926, p. 7.

⁷⁷ Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No.2; Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No. 5, ANZD. *NZ Truth*, 7 April 1927, p. 7.

During and after the Great Depression (1929–1935), the Crown increasingly prosecuted men for their support of abortions where there was no abortionist involved. These abortions were more likely to be undertaken using menstrual regulation strategies such as patent medicines. Fred Poole was charged with procuring noxious substances for a 15 year old girl in 1929.⁷⁸ The Crown targeted men who supported women to self-induce their abortions also. In 1929 Matthew Mason was charged with purchasing a catheter for his lover knowing she wanted to use it to attempt to self-induce her own miscarriage.⁷⁹ In 1931 Albert West was charged on the basis of his former lover's testimony he attempted to abort her pregnancy with a catheter.⁸⁰ In 1935 there were a large number of these cases, at least seven individuals were charged with having purchased patent medicines with intent to induce abortions or to pass these on to women for this purpose.⁸¹ These charges reflected the Crown's growing interest in the less expensive and more personal, intimate attempts at abortion than had been the norm during the 1920s.

There was a rare departure from the usual dearth of charges over married women's abortions also. In 1935 two married men were charged for their part in the deaths of their wives. Harry Falconer was charged with purchasing a syringe knowing his wife intended to use it to terminate her pregnancy, to which he pleaded guilty.⁸² Allan Talbott was charged with having purchased quinine knowing his wife intended to use it as an abortifacient, but the jury found him not guilty.⁸³ These cases appeared to have been highly unusual. I found only one other case where charges were laid against a husband for his part in his wife's abortion in the preceding 15 years.⁸⁴

⁷⁸ *NZ Truth*, 11 April 1929, p. 3.

⁷⁹ Trial of M.M., 30 July 1929, CH24/Box 217 T3/1929, ANZC.

⁸⁰ *NZ Truth*, 9 April 1931, p. 3; 14 May 1931, p. 7.

⁸¹ See *NZ Truth*, 20 March 1935, p. 6; 27 March 1935, p. 10; 3 April 1935, p. 13; 5 June 1935, p. 13; 26 June 1935, p. 9; 6 November 1935, p. 15.

⁸² *NZ Truth*, 26 June 1935, p. 9.

⁸³ *NZ Truth*, 15 May 1935, p. 8.

⁸⁴ *Dominion*, 5 December 1921, p. 9.

Prosecutors' increasing focus on do-it-yourself abortions supplemented their continuing actions against abortionists. The case taken against Nurse Daines in 1931 and Jane Randal in 1934 reflected the Crown's continued attempts to enforce the law against long-term professional abortionists.⁸⁵ As the 1930s wore on, prosecutors broadened the scope of evidence in cases against accused abortionists, attempting to overcome the limitations of accomplice-witness testimony. The case against Rhodda Stevens, a Christchurch housewife, in 1936 was one such example. The charges against Stevens related to abortions procured by one single woman and two married women, one of whom subsequently died. At the trial, the prosecution produced a substantial amount of evidence including testimony from the two surviving women and their partners, the husband of the deceased woman, two doctors whom Stevens had called to treat patients in her home, two chemists who had referred people to Stevens, along with other evidence in the form of personal letters and supplies of catheters and disinfectants.⁸⁶ A similar situation was seen in the case against Annie Aves, who was tried four times on the same charges in 1936 and 1937. At each trial, the prosecution presented foetal remains and financial records as representative of her services to some 183 persons over the previous 18 months.⁸⁷ In these cases, the prosecution marshalled substantial evidence to show the defendant worked as a professional abortionist.

This section has shown that evidence of illegal abortions was filtered through the rules of evidence and made subject to the legal rights of individuals. These rules and rights limited the power of the Crown to take allegations of illegal abortion to the courts. As the primary witnesses to the act of interference, women who had abortions were least likely to be charged and most likely to be allocated the role of accomplice-witness to testify against

⁸⁵ *NZ Truth*, 26 February 1931, p. 5; *Taranaki Herald*, 9 February 1934, p. 8.

⁸⁶ Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

⁸⁷ Barbara Brookes, 'Aves, Isabel Annie', *Dictionary of New Zealand Biography*, updated 22 June 2007, URL: <http://www.dnzb.govt.nz/>.

others. Their abortionists were most likely to be charged. The role of women's lovers in criminal court trials were subject to the most significant change over the period. From the mid 1920s, these men were more likely to act as accomplice-witnesses against abortionists. But where there was no abortionist, men continued to be charged for their part in supporting the performance of abortions.

Because of these limitations, the Crown was most likely to bring charges in relation to abortions performed as a result of social networking. The dominant representations of abortion in the courts during the 1920s were those of abortionists' practices associated with illegitimate pregnancies — because social networks were most usually associated with single women's visits to abortionists. Although the focus of the courts expanded during the 1930s to include menstrual regulation strategies of pills and syringes, illegitimate pregnancies were still the largest focus of charges brought before the courts.

‘any element of doubt must go to the accused’: Jurors, Judges, and the Defence

Bringing charges against individuals began the long process of a criminal court trial, which drew in other actors in the roles of judges, defence lawyers, and juries. Men dominated these roles in the courts during the 1920s and 1930s. All the judges, prosecution and defence lawyers in the cases examined for this thesis were male, as were the jurors.⁸⁸

New Zealand prosecutors found it difficult to gain convictions on illegal abortion charges, as was the case in other western democratic countries. The statistical representation of criminal trial verdicts related to abortion contained in the AJHR suggests around 46 percent

⁸⁸ Legislation that enabled women to be empanelled as jurors was enacted in the Women Jurors Act, 1942. Dame Augusta Wallace was the first female judge, appointed in 1975. For more on the history of women in the legal profession in New Zealand see Gill Gatfield, *Without Prejudice: Women in the Law*, Wellington, 1996.

of individuals who came to court on abortion charges were found guilty, but does not specify a result for the other trials.⁸⁹ The conviction rate in the sample examined for this thesis is lower, at 36 percent. Of the 94 separate trials examined, 34 (36 percent) returned verdicts of guilty on one or more charge. Twenty-seven (29 percent) ended with acquittals on all charges, in 18 cases the jury disagreed (19 percent), and in seven the trial was abandoned before the jury was asked to consider a verdict (seven percent). One appeal resulted in a quashed conviction, and the outcome for the remaining seven trials remains unknown (seven percent).⁹⁰ These statistics suggest the criminal court cases examined for this thesis may under-represent guilty verdicts to some extent.

Historians of abortion in New Zealand, England, and the United States have offered various arguments for why convictions were difficult to obtain in abortion cases. Sandra Coney argued the failure of New Zealand juries to bring guilty verdicts represented ‘remarkable public sympathy for both the abortionist and the pregnant woman’.⁹¹ Overseas historians’ interpretations of why such sympathies existed vary. Barbara Brookes argued English juries were reluctant to convict abortionists where they perceived that the people who had requested their services ‘went scot-free’.⁹² Reagan suggested of United States juries’ that their failure to convict in abortion cases indicated ‘a popular morality’ at play in American communities. She stated this morality reflected ‘a long history of accepting abortion in certain situations as a necessity and as a decision that, implicitly, belongs to women to make’.⁹³ Whether the difficulties in obtaining guilty verdicts were interpreted as a matter of jurors’ perceptions of justice or their personal morality, these historians interpreted trial

⁸⁹ Appendix E.

⁹⁰ Appendix A.

⁹¹ Sandra Coney, *Standing in the Sunshine: A History of New Zealand Women Since They Won the Vote*, Auckland, 1993, p. 73.

⁹² Brookes, *Abortion in England*, pp. 28, 141.

⁹³ Reagan, *When Abortion was a Crime*, p. 6.

verdicts as if they reflected jurors' personal beliefs and morality independent of the wider judicial system and its rules.

But whilst jurors were ultimately responsible for the verdict, close reading of criminal court records and transcripts of proceedings reported in newspapers show jury members were still subject to the legal rules of the courts. This section explores the legal rules governing how juries were instructed to interpret the evidence presented to them and shows how these rules influenced the outcomes of some trials.

Almost all the abortion trials examined for this thesis proceeded on the basis of accomplice-witness evidence.⁹⁴ But accomplice-witness testimony was not given the same weight as other witness testimony. Judges directed jurors on how to interpret the evidence presented to them. As Mr Justice Chapman told the jury at Hayward's trial for the manslaughter of Vivian Anderson, quoting *Archbold's Pleading, Evidence, & Practice in Criminal Cases*, 'while it was competent for juries to accept the uncorroborated evidence of an accomplice or accomplices, judges usually referred to the desirableness for some independent testimony which [connected the accused] to the crime'.⁹⁵ Jurors needed to be convinced the evidence implicating the defendant in illegal acts was 'beyond reasonable doubt'.

For a safe conviction accomplice-witnesses' testimony needed to be corroborated by other evidence. When Maureen Carlson came before the court in 1928 charged with the manslaughter of Jean Souther, the accomplice-witnesses Mrs Thomas and James Caldwell gave to the court the only evidence Carlson and Jean had ever met. The prosecution presented evidence Caldwell made a phone call to Carlson's home, but was unable to

⁹⁴ The only exception was the trial of Edgar Allen who was unsuccessfully tried on charges of having caused the death of his young lover with a syringe, there were no witnesses to the actual event. Trial of E.A., 12 May 1926, CH239/Box 10 T10/1926, ANZC.

⁹⁵ *Christchurch Press*, 13 May 1922, p. 4. See also John Jervis, *Archbold's Pleading, Evidence and Practice in Criminal Cases*, London, 1922.

confirm Maureen was the person to answer the phone. In the absence of any other testimony corroborating the allegation Carlson had met Jean, the judge cautioned the jury that it was ‘unsafe for [them] to rely [solely] on the evidence of accomplices’.⁹⁶ Judges were occasionally more directive with juries when prosecutors took charges to court based solely on the evidence of the woman who had had the abortion. When Justice Adams ruled that Mildred Tennyson’s deathbed deposition was inadmissible at Margaret Gaines’ trial in 1926, he directed the jury to find Gaines not guilty because without the deposition there was no case against her.⁹⁷ Jurors’ were instructed by the judge on how to interpret accomplice-witnesses’ evidence safely, and sometimes on the appropriate verdict also.

But not all cases were so straightforward for jurors. Jury members often found themselves in the unenviable position of having to determine the reliability of accomplices who were most commonly the very people who had instigated the crime in the first place. The test of beyond reasonable doubt was a difficult one to meet. In the words of one judge to a jury sitting in 1926, ‘if [the jury] honestly believed the statements made [by accomplices] to be true, their duty was perfectly plain’, but ‘any element of doubt must go to the accused’.⁹⁸

In some cases jurors clearly believed accomplice-witnesses’ evidence to be true. In 1923 a jury found Albert Hall and Terry Vincent guilty of charges related to Vincent’s procurement of Hall to perform an abortion on 18 year old Rose Napier. Their verdicts were based upon Rose’s deathbed deposition and supporting evidence.⁹⁹ That same year abortionist Florence Quail and married man Arthur Hensley were convicted for their part in the abortion that resulted in the death of another young, single woman, Morag Halliwell.

⁹⁶ *NZ Truth*, 15 March 1928, p. 10. See also *NZ Truth*, 16 December 1926, p. 7; 8 March 1928, p. 8.

⁹⁷ *Christchurch Press*, 11 February 1926, p. 12; 12 February 1926, p. 7; NZLR, 1926, ‘King v G.’, pp. 385–8.

⁹⁸ *NZ Truth*, 9 December 1926, p. 7.

⁹⁹ *Christchurch Press*, 14 May 1923, p.4; 7 June 1923, p. 5. A similar case occurred that same year see *Christchurch Press*, 20 February 1923, p. 7; *Dominion*, 14 March 1923, p. 8; *Otago Daily Times*, 21 March 1923, p. 5.

Again, the case was based on a deathbed deposition and letters to Morag from Hensley, which were used by the prosecution to establish they had been having an affair.¹⁰⁰ Rose and Morag were single and still in their teens, inexperienced young women on the verge of adulthood who were easily identified as the victims of their seducers and abortionists. The jurors in these cases appear to have viewed the young women's deathbed statements as compelling evidence that the accused were guilty.

Jury deliberations remain private and unpublicised so we can never really know what factors jurors took account of when deciding the veracity of accomplice-witness testimony. Nonetheless it is clear from many court cases jurors approached accomplice-witnesses' evidence with scepticism, even with a reasonable amount of corroborating evidence. When Hayward came before the courts charged with having performed an abortion on Vivian Anderson in 1922, juries on three trials could not agree on a verdict. The Crown's case was based upon Vivian's deathbed deposition and supporting evidence to show that Vivian visited Hayward for an abortion and stayed in accommodation behind his shop.¹⁰¹ It could be argued this situation represented the considerable public standing 70 year old Hayward garnered during the many years he provided abortions to the people of Dunedin and the surrounding districts. But the trials were conducted in Christchurch some 370 kilometres north of Dunedin, rendering such a conclusion unlikely.

A more likely scenario was some members of each jury found Vivian to be an unreliable witness. Vivian was a married woman who lived separated from her husband. Before her death, she acknowledged the man responsible for her pregnancy paid for her abortion, but refused to name him other than to say he was not her husband.¹⁰² As a result of Vivian's secrecy, her lover was never identified and his role in the abortion was not examined in

¹⁰⁰ *Otago Daily Times*, 21 March 1923, p. 5.

¹⁰¹ *Christchurch Press*, 13 May 1922, p. 4.

¹⁰² *NZ Truth*, 25 February 1922, p. 5.

court. Only the abortionist, Hayward, was charged in relation to her death. The fact that they were not being asked to adjudicate on the actions of all of the parties to the abortion may have been one reason why none of the three juries were able to come to a consensus.

In court, defence counsel highlighted evidence of accomplice-witnesses' secrecy, apparent duplicity, or even deviancy to raise doubts about their testimony among the jurors. As was the case in Hayward's trials, the issue of accomplice-witnesses offering only a partial account of their actions to incriminate one party whilst protecting another was one defence against charges of abortion. In 1926, the deathbed deposition of Mrs Edna Dawson led the Crown to charge Edith Newcombe with manslaughter. Police investigations into Edna's death resulted also in charges against Newcombe for performing abortions on three other women who were able to testify. To rebut the allegations in Edna's deathbed deposition, Newcombe's defence lawyer focused on the circumstances surrounding her arrival at Newcombe's home. This tactic brought into question whether Edna's husband was responsible for the pregnancy, and whether another man should have been charged with having helped Edna obtain an abortion. In consequence, the first jury could not reach agreement on the charge.¹⁰³ When the second trial began, the Crown dropped the charges related to Edna's abortion and focused instead on the charges related to living women.¹⁰⁴ By raising questions about Edna's marriage and drawing out that she may have shielded the man responsible for her pregnancy from criminal charges, the defence secured the removal of the charge against Newcombe.

Defence lawyers' focus on female sexuality in court cases also hints that jurors' perceptions of the credibility of female witnesses hinged on women's ability to portray themselves as innocent victims. Selma Biddle and Noeline Beal's lovers', Richard and Burt, came before

¹⁰³ *NZ Truth*, 9 December 1926, p. 7.

¹⁰⁴ *NZ Truth*, 16 December 1926, p. 7.

the court on charges of having paid another man to induce the two women's miscarriages in 1927. The men's defence was that Selma and Noeline were promiscuous with their affections, evidenced by their numerous boyfriends and the fact that Selma was rumoured to be the mother of an illegitimate child. Richard and Burt's lawyer did not dispute the facts of the case: the young men had indeed organised and paid an abortionist. His argument centred on the women's actions instead. He suggested that Selma and Noeline were not victims of their lovers but rather calculating temptresses who misled foolish young men into believing they were responsible for finding an abortionist.¹⁰⁵ Richard and Burt were acquitted, despite having all but admitted the charges were true.

Female deviance provided another potential defence against abortion charges for the men involved. In 1931 Albert West was charged with having inserted a catheter into the uterus of his former girlfriend, Eleanor Beasley. In court, West's lawyer questioned a very distressed Eleanor about an incident that had occurred when she was a young teen in England. She was admitted to an unspecified Home for 'playing with a boy of four'.¹⁰⁶ In this case, however, the defence was not successful and the jury found West guilty.

At times it appeared the young women at the centre of such allegations were themselves supportive of the defence efforts to discredit their testimony. Noeline, for example, freely admitted on the stand her lover had acted on her suggestion to find an abortionist.¹⁰⁷ When defence lawyers raised the question of how they came to offer testimony, most accomplice-witnesses openly admitted they traded their testimony for their own benefit.¹⁰⁸ Once agreement to testify had been secured that did not mean it could not be undone in words or

¹⁰⁵ *NZ Truth*, 25 August 1927, p. 7.

¹⁰⁶ *NZ Truth*, 9 April 1931, p. 3.

¹⁰⁷ Trial of H.F. & R.B., 1 August 1927, CH239/Box 13 T3/August 1927, ANZC. *NZ Truth*, 25 August 1927, p. 7.

¹⁰⁸ See for example *Ibid.*; Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No.5, ANZD; *NZ Truth*, 9 December 1926, p. 7; 26 April 1928, p. 5; Trial of M.C., 7 March 1928, DAAC/D256/397 March 1928, No.3, ANZD; *NZ Truth*, 13 February 1930, p. 7.

actions. One young woman reportedly laughed at the policemen sitting in court when questioned over her immunity from prosecution.¹⁰⁹ In 1920 Gerda Mellow retracted her earlier statement in court, calling her letter to the police accusing Alice Alcott of being an abortionist a ‘piece of dirty spite’.¹¹⁰ Later that same year, Gertrude Bayfield simply refused to speak at the retrial of John Hayward and her lover, Neville Nelson.¹¹¹ These women’s resistance to being cast by the prosecution as witnesses against their co-conspirators undermined the credibility of any evidence they did place before the jury.

Accomplice-witnesses sometimes offered less overt support to the defence. By making a mistake in court, they might undermine their own credibility and still preserve their immunity from prosecution. The best way to do this was to fail to identify the accused as the abortionist. In 1929, one accused abortionist’s supporter gave this advice to a Northland man, writing to tell him that if his wife ‘makes up her mind not to recognise [the accused], that will squash the whole business, and end it as far as [your wife] is concerned’.¹¹² Mildred Davidson acted similarly the same year, telling the court she was unable to identify her abortionist from among those present.¹¹³ Mistaken identifications served a similar purpose. When asked to indicate her abortionist for the court, the main witness against Cyril Budd pointed first to a man in the press gallery.¹¹⁴ Accomplice-witnesses’ initial willingness to make a statement did not necessarily translate into reliable or effective witness statements in court.

The actions of the police during their investigations might cast doubt upon the veracity of accomplice-witness testimony also. Alcott and Mellow’s defence focused on the way the

¹⁰⁹ *NZ Truth*, 16 December 1926, p. 7.

¹¹⁰ *NZ Truth*, 14 February 1920, p. 5.

¹¹¹ Trial of G.B., 26 May 1920, DAAC/D256/326 No.3 May 1920, ANZD.

¹¹² *NZ Truth*, 30 October 1929, p. 10; 7 November 1929, p. 3.

¹¹³ Trial of M.C., 1 May 1929, DAAC/D256/333 No.4 April/May 1929, ANZD.

¹¹⁴ *NZ Truth*, 8 March 1928, p. 8.

police had obtained a statement from the young woman whose abortion was the subject of the charges against the two women. The police had lured the young woman to the local station on the pretext of her receiving an inheritance. She told the court, once there she was detained and questioned until she ‘dithered’ and agreed to sign a statement.¹¹⁵ Defence counsel highlighted inadequate attention to fairness by police during investigations. In 1923, two young women who gave evidence against Rita Cooper agreed with her lawyer they identified Rita in a police yard because she was the only ‘stout woman’ present.¹¹⁶ Defence counsel highlighted apparent undue pressure by the police to gain witness statements also. Davidson told the court the police forced her to make a statement implicating Carlson by inferring they would charge her mother if she did not comply.¹¹⁷ Men also described similar tactics. One young man who admitted he arranged his girlfriend’s visit to Henry Yizak told the court the police coerced him to make a statement with threats, ‘if I didn’t give a statement then I’d be worse off’.¹¹⁸ By highlighting police pressure on witnesses the defence counsel cast doubt on whether the witnesses were telling the truth or had been pressured to tell their story in such a way that would implicate the accused.

Legal rules continued to govern and direct the processes of criminal court trials once jurors became involved. This section has highlighted that the outcomes of trials cannot be solely attributed to jurors’ personal or moral beliefs about abortion. In the cases examined here it is clear that occasionally there was inadequate evidence presented to the court for a safe conviction, leading judges to direct the jury to acquit the accused. In most cases, however, jurors were directed by the judge to treat accomplice-witness testimony with scepticism and look for corroborating evidence. The fact that nearly one in every five juries was unable to

¹¹⁵ *NZ Truth*, 14 February 1920, p. 5.

¹¹⁶ Trial of R.C., 20 May 1923, DAAC/D256/328 May 1923 No.5, ANZD.

¹¹⁷ Trial of M.D., 10 May 1929, DAAC/D256/333 No.5 April/May 1929, ANZD.

¹¹⁸ Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD.

reach a verdict gives some indication of the difficulties jurors faced in coming to a consensus. Because accomplice-witnesses were co-conspirators with the accused, the defence lawyers easily highlighted the flaws in witnesses' characters. These flaws supported defence arguments challenging the credibility of accomplice-witnesses and raising reasonable doubt about their testimony. As defence counsel often pointed out, accomplice-witnesses had plenty of reasons to lie or at least provide statements erring on the side of the prosecution's case against the accused.

‘I must send you to gaol as a warning to other men’: Judges, Sentences, and Juror Resistance

Just under half of all criminal court cases related to abortion resulted in a conviction on one or more charges during the period from 1919 to 1937.¹¹⁹ In bringing a guilty verdict, jurors passed the responsibility for delivering the sentence back to the judge. In their summing up and sentencing judges overlaid societal expectations onto guilty verdicts and delved into the past of the accused that had remained hidden during the trial. But at this point of transfer, juries occasionally asked judges to consider their opinions about the case. Sometimes jurors sought to influence the sentence, and other times they protested the way the case had been constructed and the allocation of roles to accused and accomplice-witnesses.

During the 1920s, men who were found guilty of having organised or paid for abortions could pay a high price for their actions. In the two examples of such convictions examined for this thesis, the sentences were severe albeit subject to significant variation. Arthur Hensley was jailed for five years for his part in the death of his young lover in 1923.¹²⁰ Sentences could be harsh for single men too. The sentencing of Terry Vincent was a classic

¹¹⁹ Appendix E.

¹²⁰ Unnamed Gisborne newspaper clipping, c. 21 March 1923, H1 131/139 B.100, ANZW. See also *Otago Daily Times*, 21 March 1923, p. 5; *NZ Truth*, 4 March 1926, p. 4.

example of this, sent to prison for 18 months for his part in arranging the abortion that led to his girlfriend Rose's death.¹²¹

During the 1920s, sentences were long for those found guilty of performing abortions also, particularly where women died as a result. A sentence of seven years imprisonment appears to have been the norm in these cases. In 1923 Albert Hall received seven years' imprisonment for the manslaughter of Rose Napier.¹²² The same year John Hayward received seven years as well.¹²³ Florence Quail received seven years' reformatory detention for her part in the death of Hensley's lover Morag.¹²⁴ Sentences for those convicted of unlawful use of an instrument, which did not result in a woman's death exhibited greater variation: ranging from 12 months to ten years and averaging 39 months imprisonment. In 1921 Harold Harvey was sentenced to 12 months imprisonment for performing an abortion on his wife.¹²⁵ But experienced abortionist Mary O'Donoghue was sentenced to ten years in prison in 1926, which according to Justice Stringer would 'put you beyond reach of mischief for a very considerable time'.¹²⁶ Less than the maximum of life imprisonment, these were still very long sentences.

In their comments, judges reinforced the criminality and immorality of the actions of the guilty party. The Judge's comments when he sentenced Vincent were particularly trenchant, 'You made love to a girl, seduced her and got her into trouble, and instead of taking her to a clergyman, like an honourable man, you took her to an abortionist, and she

¹²¹ *Christchurch Press*, 14 May 1923, p. 4; 7 June 1923, p. 5. See also other cases recorded in *Otago Daily Times*, 21 March 1923, p. 5; *NZ Truth*, 4 March 1926, p. 4; 8 April 1926, p. 7.

¹²² *Christchurch Press*, 7 June 1923, p. 5; 11 August 1923, p. 8.

¹²³ Trial of J.H., 10 August 1923, DAAC/D256/329 August 1923 No. 3, ANZD.

¹²⁴ *Otago Daily Times*, 21 March 1923, p. 5.

¹²⁵ *Dominion*, 5 December 1921, p. 9.

¹²⁶ *NZ Truth*, 11 February 1926, p. 7.

now lies in a dishonoured grave in consequence of your action.’¹²⁷ Vincent’s actions had been not only criminal but were also morally reprehensible and dishonourable.

Men who demonstrated a commitment to marriage and family might mitigate the extent of their punishment. At Robert Hooper’s trial in 1926, he pleaded guilty to paying O’Donoghue to perform an abortion and not guilty to unlawful carnal knowledge. His defence lawyer argued for a reduced sentence given that Hooper’s estranged wife had returned to the marriage with their children since learning of his plight. Justice Stringer, who sent O’Donoghue to jail for ten years the previous month, was apparently swayed by this development. He sentenced Hooper to a maximum of 12 months’ reformatory detention, telling Hooper ‘it would depend on his own behaviour how soon he got out of custody’.¹²⁸ Given that only three years earlier, Hensley received five years’ imprisonment for a similar crime, albeit the woman concerned died, Hooper’s punishment was mild in comparison.¹²⁹ In another case in 1930, George Burgess married his girlfriend of three years, Judith, while she lay dying from a post-abortal infection in Auckland Public Hospital. After her death, at the trial of the alleged abortionist, the judge refused to allow the defence lawyer to cross-examine Burgess over why he had organised an abortionist instead of marrying Judith when they first found out about her pregnancy.¹³⁰ These examples suggest by demonstrating to the court their commitment to marriage men could perhaps mitigate the extent of its intrusion into their private lives or the severity of their punishment.

The long sentences of the early 1920s faded as the Depression took hold of the country in the late 1920s. The trend towards greater use of men as accomplice-witnesses who

¹²⁷ *Christchurch Press*, 7 June 1923, p. 5.

¹²⁸ *NZ Truth*, 4 March 1926, p. 4.

¹²⁹ *Otago Daily Times*, 21 March 1923, p. 5.

¹³⁰ *NZ Herald*, 11 February 1930, p. 14; *NZ Truth*, 30 January 1930, p. 6.

contracted abortionists' services and the reduction in cases taken in relation to women's deaths coincided with this apparent reduction in sentence length. Those convicted of unlawful use of an instrument in the 1930s could expect sentences in the range of eight to 24 months, with the average sentence being 18 months imprisonment.¹³¹ In 1931 Jerry Vandermere was imprisoned for two years for performing an abortion on a woman introduced to him by one of his other clients.¹³² Judith Campbell was sentenced to eight months' imprisonment for her performance of an abortion in 1935.¹³³

These sentences may have been a reflection of judicial awareness of the privations of the Depression. Probation office reports presented to judges helped guide their sentencing decisions. These reports indicated that both Vandermere, who had four children of his own, and Campbell, who had five children, had taken up performing abortions to alleviate the financial difficulties associated with unemployment.¹³⁴ But lighter sentences were not always the case, however. Where women had died from their abortions, abortionists like Marion Harris, who was sentenced to seven years' imprisonment in relation to the death of Judith Burgess in 1930, did not receive leniency.¹³⁵ Judges were themselves aware that the financial burdens placed upon families by the Depression may have inspired the accused to offer their services for cash. But whilst the intense social concerns of the era may have reduced sentences in some cases, where women had died sentences remained long.

The reduction in sentence lengths was not necessarily fixed or unchangeable. When 'Dr' Godfrey Hewson was found guilty of supplying a noxious substance in 1935, the sentence spoke more of the circumstances leading to his arrest than the crime on which he was

¹³¹ See for example Trial of R.S., 18 May 1923, CH273/Box 5 T4/1936; Trial of D.C., 14 May 1935, CH273/Box 5 T7/1935, ANZC; Trial of E.F., 10 May 1937, DAAC/D256/341 May 1937 No.1, ANZD.

¹³² *NZ Truth*, 26 February 1931, p. 2.

¹³³ Trial of J.C., 14 August 1935, DAFG/D504/121 August 1935 No.1, ANZD.

¹³⁴ *NZ Truth*, 26 February 1931, p. 2; J.C. to Registrar of the Supreme Court, 5 July 1935, Trial of J.C., 14 August 1935, DAFG/D504/121 August 1935 No.1, ANZD.

¹³⁵ *NZ Truth*, 20 February 1930, p. 7.

convicted. Hewson had been implicated in the death of Moira Ralston a young, single, half-Maori woman whose body had been dumped in the Tamaki Estuary sometime in May 1935. Witnesses testified at the inquest into Moira's death that she came to Auckland to meet Hewson for an abortion, and had not been seen since. The case was highly unusual. Such disrespectful treatment of the body was completely out of character with the usual practices of abortionists at that time.¹³⁶ Although the police had insufficient evidence to bring charges against Hewson, as a result of their investigation they began to watch Hewson's business premises and later intercepted a young woman and her sister there. The information these women provided resulted in charges of unlawful use of an instrument and supplying a noxious substance against Hewson and his nurse.¹³⁷ In an unusual move, magistrates denied four successive applications for bail and Hewson spent three months remanded in custody before his trial began.¹³⁸ He was found guilty of supplying a noxious substance and sentenced to two and a half years' imprisonment.¹³⁹ All up, Hewson spent nearly three years in prison for a crime that had merely attracted a fine for another man earlier the same year.¹⁴⁰ It is difficult to see Hewson's story as anything other than formal and informal punishment for his role Moira's death.

In delivering their verdicts, some juries took the opportunity to direct judges regarding sentencing. When a jury found John Hayward guilty of unlawful use of an instrument in 1923, they added a rider requesting mercy from the judge on account of Hayward's age. He was in his early 70s at the time and suffered from rheumatism.¹⁴¹ Another jury made similar recommendation in 1926 for Mary O'Donoghue, who was 65 years old at the time. The jury in Edith Newcombe's case recommended mercy given they found her guilty of

¹³⁶ J 46 1935/896. For more discussion on the actions of abortionists where women died see Chapter Four.

¹³⁷ See *NZ Truth*, 31 July 1935, p. 12.

¹³⁸ *NZ Truth*, 31 July 1935, p. 12; 7 August 1935, p. 15; 11 September 1935, p. 17; 9 October 1935, p. 11.

¹³⁹ *NZ Truth*, 6 November 1935, p. 15.

¹⁴⁰ *NZ Truth*, 27 March 1935, p. 10.

¹⁴¹ *Christchurch Press*, 11 August 1923, p. 8.

only one of three charges, and she had a small child dependent upon her care.¹⁴² In 1930, the jury that found Jerry Vandermere guilty also convicted Ellen Bream for facilitating the meeting between her brother's lover and Vandermere. In Ellen's case the jury argued for mercy because she acted to support her brother's interests and had not received any payment for her activities.¹⁴³ The jury at Donald Cowperthwaite's trial argued for leniency in sentencing because he 'did not take a leading part in the performing' of the abortion that led to his girlfriend Agnes' death.¹⁴⁴ In these cases jurors' sought to soften sentences by pointing out to the judge mitigating factors or humanitarian issues.

One mitigating factor for juries was that they were not asked to uphold the law to its fullest extent. As Brookes argued of English trials, jury members were sensitive to the fact that accomplice-witnesses' participation in illegal acts went unpunished.¹⁴⁵ In 1936 police witnesses to the McMillan Committee suggested this was the case in New Zealand also. Police Sergeant Gallagher told the Committee that sometimes juries would not convict abortionists because they believed the person(s) who sought their services should be held accountable as well.¹⁴⁶ The Police Commissioner agreed, stating that he believed some juries preferred to see the woman who sought an abortion as the principal offender under the law.¹⁴⁷ If these officials spoke about jurors' beliefs accurately, then acquittals and hung juries may have reflected a public desire to punish all those who used abortion as well as abortionists.

Some jurors' preferred to see the sexual transgressions that led to abortions punished also.

After one trial in 1919 the jury delivered a rider with their verdict requesting the judge

¹⁴² *NZ Truth*, 11 February 1926, p. 7; 16 December 1926, p. 7.

¹⁴³ *NZ Truth*, 26 February 1931, p. 2.

¹⁴⁴ *NZ Truth*, 22 May 1935, p. 13.

¹⁴⁵ Brookes, *Abortion in England*, pp. 28, 141.

¹⁴⁶ Evidence of Police Sergeant Gallagher, 3 December 1936, H1 131/139/15, ANZW.

¹⁴⁷ Commissioner of Police to Committee of Inquiry into the Problem of Abortion in New Zealand, 17 November 1936, H1 131/139/12 4049 Diseases – Septic Abortion – Evidence 1922–1937, ANZW.

investigate the possibility of legislation to make it illegal for men not to marry women they impregnated, arguing such a law should be strictly prosecuted.¹⁴⁸ Jurors were at times keen to have the opportunity to extend the legal prohibitions on personal behaviour towards promiscuous sexual activity generally.

In 1936 other sectors of the legal profession and society in general began to comment on the difficulties experienced by the Crown in gaining convictions for abortion cases. Mr Cornish of the Crown Law Office told the McMillan Committee the inability of the courts to gain convictions of alleged abortionists in their own home towns was because some of the jurors might have been past clients. In Cornish's view, a jury's failure to convict on what he called 'a clear case' was evidence of wrongdoing among their own number.¹⁴⁹

But this view was not necessarily representative of public opinion as a whole. In 1936 the Avondale Branch of the New Zealand Labour Party complained to the Minister of Justice, Henry Mason, about the immunity given to accomplice-witnesses. They demanded 'all parties to illegal operations should be punished accordingly'.¹⁵⁰ The four unsuccessful trials taken against Annie Aves on abortion charges during 1936 and early 1937 added fuel to public demands for legal change. In response to the stay of proceedings issued in February 1937, the Secretary of the Women's Service Guild wrote to Mason expressing support for the jury members who sat through the Aves trials and demanding all parties to

¹⁴⁸ Mr Justice Hosking to Minister of Justice, 25 June 1919, J 1 1919/788 Amendment to the Criminal Law Regarding Male Offenders, ANZW. See also Canon Curzon-Siggers to Minister of Justice, 23 May 1914, J 1 1921/830, ANZW.

¹⁴⁹ Evidence of Mr Cornish, 3 December 1936, H1 131/139/15 Diseases – Septic Abortion – Evidence, ANZW.

¹⁵⁰ A.E. Weir, Secretary, Avondale Branch, New Zealand Labour Party to Mr H.G.R. Mason, Minister of Justice, 10 August 1936, J1 W1190 1936/42/24 Legislation to Provide that all Contracting Parties to Illegal Operations be Liable to Prosecution, ANZW.

the crime should be tried.¹⁵¹ Concerns that justice should be meted out to all the parties to abortions, not just the abortionists, had become an issue of public concern.

Conclusions

This chapter has explored the difficulties in the detection of abortions and enforcement of the law against the practice. The discussion here centres on the impact of common law, legislation, and the rules of evidence on the outcomes of criminal court trials. In the process this chapter has shown the law and the rules governing police investigations and criminal court trials were major contributors to the courts' failure to enforce the law against abortion. By situating juries' verdicts in the context of a larger whole, this chapter has argued we should be cautious about attributing the difficulties in gaining convictions for abortion charges solely to jurors' personal beliefs about abortion.

Although the Crimes Act imposed severe penalties on the users and providers of abortions, it limited the extent to which the police could intrude upon individuals acting within the confines of private property. Consequently the police more commonly relied upon the very networks that facilitated abortions for information about abortions and for the necessary evidence to bring charges to court. In court legal rules continued to limit the ability of the prosecution to make a solid case against people whose actions were criminalised under the provisions of the Crimes Act. To gain enough evidence to make a case, the prosecution needed to negotiate away any future chance of charges against some of the conspirators in the crime in return for their testimony as witnesses against others. This situation presented a catch-22 for the prosecution. On the one hand accomplice-witnesses gave vital evidence without which no case could be made. But on the other hand, their evidence had been

¹⁵¹ Mrs C.A. Henderson, Secretary, Women's Service Guild to Mr H.G.R. Mason, Minister of Justice, 8 March 1937, J1 W1190 1936/42/24, ANZW.

purchased and required a higher degree of corroboration than other, unrelated witness testimony. In short, accomplice-witnesses had a vested interest in leading the prosecution's focus away from their own behaviour.

Jurors had the difficult task of having to come to a consensus on whether accomplice-witnesses were credible witnesses and whether the evidence met the test of beyond reasonable doubt. In weighing up the evidence presented by the Crown, jurors had to follow the instructions of the judge. Their impression of the evidence was influenced by the arguments of the defence counsel also. Because accomplice-witnesses were co-conspirators to the crime, their evidence was somewhat tainted by their own illegal actions. For jurors, the task of assessing witness reliability was made all the more difficult by the fact that some accomplice-witnesses resisted their role as witnesses against their co-conspirators by subtly, and sometimes even overtly, undermining their own testimony.

Jurors' opinions about the cases they adjudicated were generally only revealed to the public in their verdicts. This chapter has shown we cannot assume that the low conviction rate and high rates of jury disagreement in abortion cases reflected jurors' popular or tacit approval of the use of abortion. When jurors reviewed the evidence given at abortion trials with scepticism, they acted according to the rules of the court conveyed to them by judges. On rare occasions jurors' opinions did emerge, but in these instances they appeared concerned they had not been asked to administer justice evenly across the range of actions prohibited by the Crimes Act.

The courts were one avenue through which some women's experiences of abortion were interpreted and presented to the public gaze. The rules of evidence observed by the courts meant the majority of the cases examined in this chapter represented abortions conducted as

a result of social networking — a key determinant of whether there would be sufficient evidence to bring charges to trial. But the courts were not the only avenue for the exposure of women's experiences of abortion to the public. The next chapter discusses the role of coroners' inquests in uncovering women's abortions stories during the interwar period, and the influence of medical opinions on changing understandings of the relationship between abortion and women's deaths.

Chapter Six

‘tell me if there is any great danger of losing ones life’: Interpretations of Death, 1919–1937

Occasionally abortion attempts resulted in the worst possible outcome: a woman’s death either from illness or accident. The possibility of death sometimes weighed heavily on women’s minds. As one of Edna Taylor’s correspondents wrote when inquiring about a referral to an abortionist: ‘could you tell me if there is any great danger of losing ones [sic] life’.¹ Whilst Edna’s experience may well have suggested that the danger was not great, nonetheless, as earlier chapters in this thesis have shown, some women died as a result of their efforts at abortion.

Death and, to a lesser extent, illness has been an ever present theme in historiography on abortion. As the previous chapter of this thesis has shown, women’s deaths might bring their behaviour out of the shadows, opening up their activities to the scrutiny of the penal system and the public.² But the police were not the only group who interpreted these

¹ M.W. to E.T., undated, Trial of E.T., 14 May 1923, DAAC/D256/328 May 1923 No. 2, ANZD.

² For discussion on this point see Chapter Five. This trend has mirrored the progress of abortions from private realities to public news in other countries; see for example Leslie Reagan, *When Abortion was a Crime: Women, Medicine and the Law in the United States, 1867–1973*, Berkeley, 1997, p. 116.

deaths as potential evidence of criminal activity. Nor were the courts the only legal forum that examined and adjudicated on the criminality of the actions that led to women's deaths.

Coroners' inquests played a role in shaping public perceptions of women's deaths from abortion-related complications also. Local coroners determined whether the circumstances of women's deaths merited an inquest if there was evidence to suggest the death had not 'occurred in the ordinary course of nature'.³ The coroners' inquest had its roots in the English tradition of inquiring into deaths viewed as potentially 'unnatural'.⁴ In New Zealand by the 1920s, coroners alone ruled on the evidence presented to them. Juries were no longer empanelled at inquests.⁵

Coroners were legal professionals, local Stipendiary Magistrates who often had many years of experience as both lawyers and magistrates.⁶ Inquests were not adversarial to the same extent as criminal court trials. Evidence was not argued from the viewpoint of prosecution and defence to a jury, but rather presented in the form of witness statements directly to the coroner.⁷ Sometimes inquests heard the same or similar evidence as had been presented to criminal court trials. But coroners could hear evidence that would not be admitted to criminal court trials, such as hearsay and deathbed statements that did not meet the evidentiary requirements of the 1908 Justices of the Peace Act. Despite their greater freedom to hear evidence, coroners were still constrained by other legal rules. They required evidence to be corroborated in order to bring a verdict attributing death to illegal activity, and they required evidence should establish an intention to act illegally.

³ C.E. Matthews, Department of Justice to Coroners, 1 February 1924, H1 131/139 B.100 Diseases – Septic Abortion 1922–1937, ANZW.

⁴ For a history of the English inquest tradition Ian Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926*, Baltimore, 2000, pp. 1–51.

⁵ Coroners Amendment Act, 1908, Ss.2, 4; See also Mr J.R. Bartholomew, S.M. to Undersecretary for Justice, 23 May 1922, J 1 1922/473 Meeting between the Deputation of the British Medical Association, New Zealand Branch, to the Honourable Ministers of Justice and Health, 'Appointment of Medical Assessors For Coronal Inquiries', ANZW.

⁶ Mr J.R. Bartholomew, S.M. to Undersecretary for Justice, 23 May 1922, J 1 1922/473, ANZW.

⁷ *Ibid.*

In most cases at least one medical professional contributed his or her opinion in witness evidence to inquests. During the interwar period, these medical professionals were a diverse group consisting of a number of different professional occupations. The role of doctors in primary healthcare as general practitioners and hospital doctors has already been described in Chapter Four. Many registered medical professionals were organised through the New Zealand Branch of the British Medical Association (NZBMA), which represented its members' views to the public and to government.⁸ The state employed medical professionals in the role of pathologists who conducted post-mortem examinations and produced medical reports for judicial forums.⁹ In addition the state employed doctors as Health Department officials to oversee the regulation of public and private hospitals in New Zealand, and the development and implementation of public policy in relation to the provision of healthcare, midwifery, and nursing services.¹⁰

This chapter explores two different sets of professional views about the correlation between death from post-abortal complications and illegal abortion: those of the medical profession and those of the coroners who presided over inquests. Whilst medical professionals based their opinions on the presence of symptoms and bodily signs, coroners as legal professionals were governed by legal rules requiring corroborated evidence and evidence of intent. This chapter places doctors and coroners in conversation with each other, with aborting women, and their supporters. It shows how the developments in one professional field were mirrored in the other to some extent, changing the way women's abortion-related deaths were interpreted and presented in the public forum of the coroners' inquest between 1919 and 1937.

⁸ For more information on the beginnings of the Association and its work during the interwar period see Rex Wright-St Clair, *A History of the New Zealand Medical Association: The First 100 Years*, Wellington, 1987.

⁹ For discussion about one New Zealand pathologist's experiences during the interwar period see Philip Patrick Lynch, *No Remedy for Death: The Memoires of a Pathologist*, London, 1970.

¹⁰ See Philippa Mein Smith, *Maternity in Dispute, New Zealand 1920–1939*, Wellington, 1986.

The first section outlines the main medical complications most commonly associated with efforts at illegal abortion. The next section outlines the changing nature of health care that made women with post-abortal complications more visible to others, disrupting the privacy of the doctor-patient relationship during the 1920s. The third section examines inquest procedures during the 1920s. It describes the processes by which complaints about women's deaths were investigated during the 1920s, the rules governing the performance of coroners' inquests, and the trends in coroners' verdicts. The fourth section describes the development of medical thought in the 1930s regarding married women's use of abortion. It explores the tendency among the profession to see septic abortion death notifications as 'proof' of the prevalence of abortion among married women. The final section explores the changes to medical evidence seen in coroners' inquests, and describes the challenges faced by coroners as they increasingly investigated married women's deaths from 1929 to 1937.

Illegal Abortion and Death in Women's Experience, 1919–1937

Illegally induced abortions were intimately associated with the spectre of death in both private conversations and in legal and media discourses, even though it appears most women who had abortions lived through their experience. Nonetheless, on occasion fatal consequences accompanied women's efforts at illegal abortion. There were four main abortion-related complications recognised as having resulted in women's deaths during the interwar period. The first three can be categorised as accidents, unfortunate unintended consequences of the methods used. These were overdose or poisoning, air or fluid embolisms, and haemorrhage. The last complication, and arguably the most common, was disease-related: infection of the tissues in the vagina, cervix, uterus, or pelvic cavity.

Overdoses were rare and were representative of the problems that could arise from incomplete or inaccurate information transmitted by word of mouth. In 1927 Marilyn Parsons died from ergot poisoning after she took all the pills in a bottle of Dr Bonjean's Pills. Marilyn told the hospital nurse she had taken the pills to make sure her period came.¹¹ In 1935 Ada Telford overdosed on quinine in an ill-fated abortion attempt during which she drank nearly 20 times the therapeutic dose with brandy, a remedy recommended by a friend.¹² Although such remedies often made women feel ill in the ordinary course of events, deaths like those of Marilyn and Ada were unusual.

Women who had abortions by using syringes on their uteri risked an air or fluid embolism. An embolism occurred when air or fluids were pumped into the uterus under pressure and forced a passage through the wall of the uterus or placental site into the bloodstream. An air embolism would be fatal within a few minutes. In 1935 Donald Cowperthwaite described his girlfriend Agnes' collapse and death after injecting air into her uterus. She began foaming at the mouth with her teeth clenched, he said, and his efforts to revive her were to no avail.¹³ Poisoning by a fluid embolism could be similarly swift. Also in 1935, Ellen Frazer's husband described watching his wife die, again within ten minutes, as she lay collapsed on the bed gasping and groaning as a result of an injection of kerosene into her uterus.¹⁴ Because of the proximity of women's death to the use of the syringe, often their efforts at abortion were easily recognised. In 1932 Elsie Hallett was found dead, lying in a dry bath with the syringe still between her legs.¹⁵ Women's deaths from embolisms were mercifully quick, but terrifying, as witnesses testified.

¹¹ J 46 1927/808, ANZW.

¹² *NZ Truth*, 5 May 1935, p. 8.

¹³ J 46 1935/441, ANZW; Trial of D.C., 14 May 1935, CH273/Box 5 T7/1935, ANZC.

¹⁴ J 46 1935/637, ANZW.

¹⁵ J 46 1932/782, ANZW.

Haemorrhage was also a relatively swift killer of those who were unfortunate enough to be unable to stop the bleeding. Miscarrying women in private care in their own homes or private nursing homes did not have access to blood transfusions and even with the ministrations of doctors might not survive a severe haemorrhage. Ellen Foster died in an unlicensed private nursing home in 1922, despite efforts by the abortionist and later by a doctor to stop her lifeblood from seeping away.¹⁶ Although it might take hours rather than minutes, haemorrhage could on occasion result in women's deaths.

Infections were by far the most common cause of women's deaths from abortion-related complications.¹⁷ A fever or chills, tachycardia, swollen or painful legs, severe abdominal pain, putrid discharge from the vagina, jaundice, and kidney failure were all signs of a potentially fatal infection.¹⁸ Some women succumbed within hours of first becoming ill from fulminating infections that caused sudden toxic shock syndrome.¹⁹ Other women lingered for days or weeks before succumbing to the ravages of an infection in their uterus or pelvic cavity. These women sometimes achieved a state of 'euphoria' during their last days, which bolstered hopes of recovery only to be dashed when women died shortly thereafter.²⁰ The medical profession termed post-abortal uterine infections 'septic abortion'. Such a diagnosis was not necessarily a death knell but the odds were poor. One out of four women diagnosed with septic abortion at Auckland Hospital during the 1920s would die as a result of their condition.²¹ Women's deaths from infections varied enormously but the condition was by far the most common killer of post-abortal women.

¹⁶ J 46 1922/1051, ANZW.

¹⁷ Appendix B., Figure 1.

¹⁸ See for example: J 46 1920/774; 1920/1305; 1921/1330; 1924/603; 1926/54; 1926/794; 1928/1039; 1929/1017; 1930/58; 1931/822; 1933/784; 1935/397; 1936/1296, ANZW.

¹⁹ See for example: J 46 1934/1004, ANZW.

²⁰ Henry Jellett, *A Short Practice of Midwifery Embodying the Treatment Adopted in the Rotunda Hospital, Dublin*, 8th ed., London, 1921, pp. 432–3.

²¹ YCAB 15266 4a–11a Auckland Public Hospital Patient Admission Registers 1921–1929, ANZA.

Although post-abortal infections were the leading cause of women's deaths from illegal abortions, infections were uncommon. Women diagnosed with infections accounted for only one in every 30 admissions to hospital for pregnancy loss. The most common complication related to pregnancy loss was incomplete abortion, which was generally treated with surgical evacuation of the uterus. In almost all cases patients recovered. Auckland Public Hospital admissions registers show admissions of women suffering from threatened or incomplete abortions (which did not differentiate spontaneous abortions from induced abortions) ranged from 12 to 17 admissions per month during the period from 1920 to 1929.²² Nonetheless, infection was a major feature of doctors' experience of patients' deaths from abortions and this no doubt contributed to medical perceptions of its danger.

The complications of poisoning and embolisms appear to have been easily traced back to efforts at illegal abortion. Marilyn Parson's medical records showed she had a blue hue to her hands and feet, classic signs of ergot poisoning, when she was admitted to the public hospital. At autopsy her intestines were irritated, inflamed, and congested, further adding to the diagnosis of irritant poisoning.²³ The autopsy on Agnes Bright was similarly conclusive. The pathologist found a large quantity of air in her veins and heart.²⁴ By contrast haemorrhage and infection were not necessarily specific to attempts at illegal abortion. In Ellen Foster's case, there were no wounds to her uterus to suggest the haemorrhage was caused by an illegal abortion. Her condition could as easily have been the unfortunate after-effect of a spontaneous abortion as an induced one.²⁵ Likewise, at times women suffering from infections showed no physical signs of having had any

²² *Ibid.*

²³ J 46 1927/808, ANZW.

²⁴ J 46 1935/441, ANZW.

²⁵ J 46 1922/1051, ANZW.

interference with their pregnancies.²⁶ By themselves, haemorrhage or infection were not necessarily indicative of induced abortion.

‘he would not be responsible for her’:
Doctors, Medical Care, and Patient Privacy, 1919–1930

Doctors were part of the broader network by which illegal abortions were detected and investigated. This section explores changes in the Health Department’s regulations governing the healthcare environment, which contributed to the shift in treatment of women with post-abortal complications from their homes or private care into public hospitals during the 1920s. These same environmental changes influenced doctors’ approach to patients whose pregnancies had terminated. Doctors began increasingly questioning patients about the cause of their abortions, leading to a reduction of the privacy associated with medical care.

As the previous chapter has shown, doctors were at times integral to the detection of illegal abortions. Doctors often contributed to police investigations and gave evidence during subsequent legal action, albeit subject to the constraints placed upon them by their ethic of confidentiality. Once a patient had died, her doctor’s moral obligation to protect her confidences was eroded. Often doctors used their role as the certifiers of deaths to inform the police of their concerns about women’s deaths. In 1920, when Henrietta Gow asked Dr Smith to certify May Pickles’ death as heart failure due to rheumatic fever he refused and called the police to investigate.²⁷ In 1922, when Ellen Foster died from haemorrhage despite a doctor’s efforts to plug the bleeding, he too called the police rather than issue a death certificate.²⁸ In these two cases it had been obvious to the doctor that the women’s

²⁶ See for example J 46 1922/922; 1924/603; 1926/794, ANZW.

²⁷ J 46 1920/774, ANZW.

²⁸ J 46 1922/1015, ANZW. See also J 46 1929/1517, ANZW.

deaths related to miscarriages while in the care of private unregistered nurses, which rendered them suspicious enough to withhold the death certificate. Although these doctors had been called upon to deal specifically with medical problems associated with abortion, their treatment of deaths as suspicious was influenced by the setting in which the abortion had taken place.

During the 1920s there were a number of far reaching developments in the structure of medical care for pregnant, aborting, and parturient women. These developments impacted on both the visibility of women with post-abortal complications and on doctors' interpretations of the symptoms of one particular condition: post-abortal infections. These developments were linked and came about because of Health Department officials' attempts to reduce maternal mortality — the deaths of women from pregnancy or childbirth-related illnesses and accidents.

Departmental officials were directed to focus on maternal mortality from infections by an inquiry undertaken by a Special Committee of the Board of Health in 1921. The Committee concluded post-partum and post-abortal infections were the major cause of preventable maternal deaths in New Zealand.²⁹ From 1924 Dr Henry Jellett, part time Consulting Obstetrician to the Health Department, and Dr Thomas Paget, the Department's Inspector of Private Hospitals, endeavoured to reduce the incidence of infections among parturient women in their 'Campaign for Safe Maternity'. Both doctors firmly believed New Zealand doctors' midwifery practises were the cause of the apparently high incidence of infection-related mortality.³⁰ But the Department did not have the power to direct medical professionals' behaviour. Instead Jellett and Paget instituted changes to the

²⁹ 'Maternal Mortality in New Zealand. Report of Special Committee', NZMJ, 20, 1921, p. 354. The review was instigated after Parr had read a report first published in 1919 by the Children's Bureau of the United States of America, Department of Labour. See Mein Smith, *Maternity in Dispute*, p. 7.

³⁰ Mein Smith, *Maternity in Dispute*, pp. 28–9.

environment that many doctors worked within: hospitals. These changes included bringing aseptic techniques into midwives' and nurses' training, and requiring hospital birthing and nursing practices were conducted in as sterile an environment as possible.³¹

Jellett and Paget's insistence that doctors were vectors for the spread of infections among maternity patients was highly unpopular among medical professionals. Dr James Sands Elliott, the editor of the *New Zealand Medical Journal* (NZMJ), protested in 1924 that maternal mortality statistics were unduly inflated by women's deaths from abortions, for which he argued 'the medical profession has no responsibility'.³² Elliott was correct in his assessment that maternal mortality statistics were misleading. The Health Department recorded infection-related maternal mortality during pregnancy, after premature pregnancy loss, after childbirth, and during the post-partum period in the same category. Jellett and Paget rectified the problem in 1924 by separating infection-related maternal mortality into two categories. From late 1924 notifications of 'puerperal fever' deaths, deaths which occurred after childbirth, were reported separately from notifications of 'septic abortion' deaths, which occurred after the loss of a pregnancy before the eighth month of gestation.³³ Their move dampened protests by members of the NZBMA about illegal abortion deaths, because in 1925 notified deaths in the category of 'septic abortion' accounted for only six deaths; less than 15 percent of the 42 recorded maternal deaths from infections.³⁴ The low numbers in the new category of septic abortion deaths validated Jellett and Paget's decision to pursue reforms to reduce the incidence of puerperal fever and suggested that women's deaths from post-abortal infections were not a major contributor to the overall total maternal mortality from infections.

³¹ *Ibid.*, pp. 23–40.

³² 'The Work of the British Medical Association on the Problem of Reducing Maternal Mortality', NZMJ, 23, 1924, pp. 411–4; 'Maternal Mortality — B.M.A. Reply to Recent Reports', *Kai Tiaki: The Journal of the Nurses of New Zealand*, 17, 3, 1924, p. 109. See also Mein Smith, *Maternity in Dispute*, Ch. 3.

³³ NZMJ, 23, 1924, p. 340; NZMJ, 23, 1924, pp. 422–3.

³⁴ AJHR, 1926, H–31, pp. 12, 15–17.

In 1927, Jellett and Paget turned their attention to limiting the potential for infections to spread among maternity patients in private hospitals. Again, they approached this task by limiting doctors' ability to act as vectors for the spread of infections within the hospital environment. In new Private Hospital Regulations, they insisted hospitals catering for maternity patients should not admit any patient believed to be infected, stating these patients should instead be immediately transferred to the nearest public hospital. Private hospitals could only admit infected patients in an emergency or when transfer might endanger the patient's life.³⁵ From 1927 post-abortal women, particularly those who were assessed as likely to have infections were more likely to be sent to public hospital than a registered private hospital.

Some medical professionals in general practice were keen to take advantage of the new regulations to protect themselves from association with patients they believed had illegal abortions. In 1928 Dr Orbell told Jean Souther's mother that she could not be treated in a private hospital because 'he would not be responsible for her'. Jean was sent to a public hospital instead.³⁶ Katie Bernard, another unmarried young woman, was refused entry to a private hospital later that year by its resident doctor, who invoked the new regulations even though she did not have an infection.³⁷ Doctors had good reason to distance themselves from patients suffering from apparently illegal abortions. The press during the 1920s had not been particularly kind to doctors when there was a hint of suspicious activity in relation to women's deaths from illegal abortion.³⁸ Furthermore two scandals related to criminal charges brought against doctors for their involvement in illegal abortions during 1926 and

³⁵ NZMJ, 26, 1927, p. 38. Mein Smith, *Maternity in Dispute*, pp. 103, 105.

³⁶ J 46 1928/102, ANZW.

³⁷ J 46 1928/1135, ANZW.

³⁸ This point is discussed further in Chapter Seven.

1927 appear to have made doctors approach aborting women defensively also.³⁹ Whilst the Health Department's reforms had intended to limit doctors' role as the vectors of infections, the flow-on effect for aborting women was to diminish their ability to access medical care in private or maternity hospitals.

Increasingly women suffering post-abortal complications were referred to public hospitals from 1927 onwards. Auckland Public Hospital admission records show that the average number of admissions for 1921 had been around 12 women per month. In 1927 that figure had risen to 15 per month and in 1928 was up to 17 per month.⁴⁰ At Dunedin Public Hospital the number of women admitted annually with post-abortal complications had doubled between 1926 and 1934.⁴¹ These changes coincided with a general increase in hospitalisation rates around the country: Health Department figures later revealed that between 1926 and 1936 the number of people attending public hospitals had jumped by 46 percent.⁴² The increased hospitalisation of post-abortal women probably reflected the impact of both the 1927 Private Hospital Regulations and the increasing use of general hospitals across the population.

In consequence, women suffering from post-abortal complications lost the privacy medical care had once provided. During the early 1920s, women's contact with medical staff while in private care tended to be limited to their own doctor and the nurse.⁴³ For those women who did obtain care for abortions in registered private hospitals, Jellett and Paget's reforms impacted on their visibility. The reforms required increased record keeping by doctors and licensees of registered private hospitals about patients' illnesses and treatment.

³⁹ For information on charges laid by the Medical Council against Dr Oswald Jennings see H1 1306 184/71 10198 Medical Council – [G.O.J.], 1916–1926, ANZW. The criminal court case against Dr James Henderson is recounted in *NZ Truth*, 17 May 1928, p. 7.

⁴⁰ YCAB 15266 4a–1 1a, ANZA.

⁴¹ Evidence of Prof. J.B. Dawson, 14 October 1936, H1 131/139/15 9402 Diseases – Septic Abortion – Evidence, ANZW.

⁴² *Dominion*, 16 March 1938, p. 10.

⁴³ See for example J 46 1929/309, ANZW.

Furthermore, hospitals were required to make these records available to local MOHs and nurse inspectors. This situation, and the practice of taking copies of registers, led some doctors to complain that patient confidentiality was being breached by Health Department officials.⁴⁴

Women who entered public hospitals experienced greater pressure on their privacy also. In these hospitals women's circle of contacts widened considerably, and their secrets became harder to keep. Women could be interviewed by house surgeons, nurses, hospital registrars, and MOHs. Whilst their doctors were unlikely to report patients without their permission, doctors did on occasion discuss concerns about patients with the local MOH.⁴⁵ In 1923 the Director-General of Health and Crown Solicitor agreed local MOHs should take responsibility for informing the police of medical concerns about particular patients, if the circumstances were deemed 'really suspicious'. They issued a statement on the matter to MOHs, because they felt doctors would probably avoid contacting the police directly.⁴⁶ All of these factors combined to reduce the privacy associated with medical care previously experienced by aborting women.

On the face of it, Jellett and Paget's reforms may well have made women suffering from the after-effects of illegal abortions more visible. Aborting women's presence in hospitals was highlighted by greater record keeping of private hospitals, by their being increasingly channelled into public hospitals, and by their deaths being isolated in septic abortion deaths within their own category of maternal mortality. But the question remains, did the

⁴⁴ *NZ Truth*, 22 July 1926, p. 7

⁴⁵ See for example Dr W.B. Mercer, MOH, Napier to Dr. J. Frengley, Deputy DGH, 24 October 1922, H1 131/139 B.100, ANZW.

⁴⁶ Quoted from Acting Director, Division of Public Hygiene to all Medical Officers of Health, 9 August 1924; see also E.Y. Redward, Crown Solicitor, Crown Law Office to Dr T. Valentine, Director-General of Health (DGH), 13 January 1923, H1 131/139 B.100, ANZW.

increased visibility of aborting women in New Zealand hospitals and communities directly reflect the prevalence of illegal abortion?

Jellett and Paget's initiatives were directed at separating pregnancy loss from full term births, both corporeally, in the hospital environment, and numerically in statistics. Their focus during the 1920s was on reducing the incidence of puerperal fever, and not specifically targeted at illegal abortion. Consequently their reforms did not address the specificities of septic abortion and treated the condition as if it were the same as puerperal fever.

When Jellett and Paget separated infection death notifications, they created a new regulation for septic abortion that required doctors notify 'septicaemia consequent upon abortion or miscarriage'.⁴⁷ The Department did not require bacteriological examination to determine if septicaemia existed for the purposes of notifications. Instead the regulation required notification of a particular diagnostic symptom: 'any febrile condition ... occurring in a woman within 21 days after childbirth or [abortion or] miscarriage in which a temperature of 100.4F [sic] or more has been sustained during a period of 24 hours or has recurred during that period.'⁴⁸ The regulation was specifically designed to detect 'pyogenic', pus-forming infections usually associated with *Staphylococcus aureus* and *Streptococcus pyogenes* bacilli, which were recognisable by the high fevers they induced in patients.⁴⁹ These were not the most common forms of post-abortal bacterial infections, however.

⁴⁷ Septicaemia, or blood poisoning, is the invasion of the bloodstream by pathogenic microorganisms from a site of infection. Dr T. Paget to Dr T. Hughes, 2 August 1934, H1 131/139 B.100, ANZW.

⁴⁸ Dr T. Paget, Inspector of Private Hospitals, to Medical Officer of Health Auckland 30 July 1934, H1 131/139 B.100, ANZW.

⁴⁹ Jellett, *A Short Practice*, 8th ed., pp. 425–7. 'Pyogenic' means pus-forming, see <http://wordnetweb.princeton.edu/perl/webwn?s=pyogenic>.

The medical profession called the most common post-abortion bacterial infection ‘sapraemia’, which was identified by symptoms other than fever and was therefore not notifiable under these regulations. Sapraemia referred to the colonisation of dead tissue by saprophytic putrefying bacteria more commonly associated with the gut, like *Escherichia coli* and *Clostridium welchii*. Such colonisation usually occurred in retained products of conception or tissues bruised or wounded by instrumental interference to the vagina, cervix, or uterine wall.⁵⁰ These bacteria were part of the normal bacterial flora in women’s vaginas. Bacterial transfer was not unusual because of the proximity of the vaginal opening to the anus. The use of animal fat-based or gelatine-based contraceptives may have transferred these bacteria or its spores into women’s vaginas also.⁵¹ Saprophytic bacteria generally did not cause a problem for the host because to flourish they required very specific conditions uncommon in most women’s bodies: the presence of dead tissue.

Jellett knew sapraemia was a common post-abortion bacterial infection. He did not include sapraemia in the definition of notifiable septic abortion because he did not believe the condition was life-threatening. He wrote in his 1921 textbook the symptoms of sapraemia were local rather than constitutional, and did not often result in a fever.⁵² He did acknowledge unattended sapraemic infections might eventually result in death from ‘ptomaine poisoning’.⁵³ But he did not include the condition in septic abortion notifications because he believed women’s deaths from apparent sapraemic infections were ‘in reality a “mixed” septic and saprophytic infection ... the saprophytes are quickly reinforced by

⁵⁰ The connection between retained, dead products of conception and sapraemia was first noted in 1930 see A.J. Wrigley, ‘Puerperal Infection by Pathogenic Anaerobic Bacteria’, *Proceedings of the Royal Society of Medicine*, 23, 1930, pp. 1645–54.

⁵¹ This is discussed in Chapter One.

⁵² Jellett, *A Short Practice*, 8th ed., p. 421; Later medical researchers also emphasised that the condition was indicated by a combination of symptoms including tachycardia, uterine tenderness and involution, and the presence of a foul smelling discharge rather than fever, see A.M. Ramsay, E.H. Brown, S.M. Manners, ‘Investigation and Treatment of Septic Abortion’, *British Medical Journal*, 19, 2, 1955, p. 1240.

⁵³ ‘Ptomaine poisoning’ is ‘a term for food poisoning that is no longer in scientific use; food poisoning was once thought to be caused by ingesting [amines called] ptomaines’ see <http://wordnetweb.princeton.edu/perl/webwn?s=ptomaine%20poisoning>

pyogenic organisms', which would then be recognised by the associated fever and notified.⁵⁴ By limiting the symptoms of notifiable septic abortion to those associated with pyogenic infections, Jellett's and Paget's reforms of the 1920s had missed out sapraemia as one possible contributor to maternal mortality.

In addition, their emphasis on fever as a diagnostic symptom of septic abortion incorrectly implied that many women presenting to hospitals may have illegally induced their abortions. A fever in a woman who had recently given birth was a matter for concern for medical professionals. But many doctors incorrectly interpreted fevers in post-abortal women as indicative of illegal interference with their pregnancies.⁵⁵ Post-WWII studies into the symptoms of septic abortion recognised a raised temperature could be a normal physiological response to abortion, whether spontaneous or induced. Fever was therefore not a reliable indicator of post-abortal bacterial infections.⁵⁶ However, during the 1920s and into the 1930s doctors generally interpreted raised body temperature in post-abortal women as indicative of illegal abortion. This interpretation further added to the tendency among doctors to send post-abortal patients to public hospitals. This phenomenon was not unique to New Zealand. Historian Janet McCalman argued of Melbourne's Royal Women's Hospital during the interwar period that hospital staff there identified symptoms of infection as a sign of illegal abortion also.⁵⁷

Consequently in public hospitals doctors, surgeons, and other hospital staff questioned post-abortal women over the cause of their abortions. They did this because they believed a raised temperature indicated induced abortion, and such abortions were highly likely to

⁵⁴ Jellett, *A Short Practice*, 8th ed., pp. 421–3.

⁵⁵ See for example Evidence of Dr Levy, 1 September 1936; Evidence of Dr Fisher, 22 October 1936, H1 131/139/15, ANZW.

⁵⁶ A.M. Ramsay, E.H. Brown, S.M. Manners, 'Investigation and Treatment of Septic Abortion', pp. 1239–40. See also C.W.F. Burnett, 'Treatment of Septic Abortion', *British Medical Journal*, 1, 4764, 1952, p. 886.

⁵⁷ Janet McCalman, *Sex and Suffering: Women's Health and a Women's Hospital: The Royal Women's Hospital, Melbourne, 1856–1996*, Carlton, Victoria, 1998, pp. 206–7.

result in a pus-forming feverish infection.⁵⁸ Dr Fisher, Gynaecologist at Auckland Public Hospital in 1936, described the imperative to question women who exhibited raised temperatures as, ‘you have to know ... because if ... there has been an instrument passed previously [the surgeon] won’t open up pus pores, [which will cause] the spread of sepsis and the occasional loss of life’.⁵⁹ Adding to doctors’ need to establish the aetiology of abortions was Jellett’s belief, published in 1929, that ‘any practitioner who “knowingly and unnecessarily” refused to practise an aseptic technique should ... have been “tried for manslaughter” if the patient died of sepsis’.⁶⁰ Although the comment was directed at doctors’ midwifery practices, there was only a fine distinction between midwifery and the treatment of post-abortal women. Doctors and surgeons pressured women to admit to instrumental efforts at abortion because they were keen to avoid the possibility of spreading bacteria beyond the uterus and equally keen to avoid being accused of doing so by the Health Department’s Consulting Obstetrician.

In the wake of doctors’ responses to Health Department reforms during the 1920s, aborting women were increasingly shepherded away from home and private care into public hospitals. There they were increasingly and sometimes vigorously questioned over how their abortions had come about. As a consequence, when women died their deaths were far more likely to be reported to the police if they had admitted an attempt at illegal abortion. But this was only the start of the journey from experience to inquest.

⁵⁸ See for example J 46 1928/102; 1928/1039, ANZW. See also Jellett, *A Short Practice*, 8th ed., p. 431.

⁵⁹ Evidence of Dr Fisher, 22 October 1936, H1 131/139/15, ANZW.

⁶⁰ Mein Smith, *Maternity in Dispute*, p. 29.

‘Illegal Operation’: Investigations and Inquests during the 1920s

Once doctors reported their concerns to the police, it was up to the police to investigate the death. Police drew together evidence from searches and witness interviews, which they presented to the local coroner. The coroner would then determine whether an inquest was warranted. During this process, the emphasis doctors placed upon physical signs as symptoms related to illegal abortion was superseded by legal factors. This section describes police investigations and coroners’ inquests as legal rather than purely medical proceedings. It explores the factors shared by those cases which did proceed to an inquest.

The scope and depth of police investigations into women’s deaths varied enormously during the 1920s. During the early years, it was not uncommon for police investigations into women’s deaths to be limited to the statements of the most immediate witnesses. For example, only three witnesses gave testimony at the inquest into the death of Maureen Watson in 1920: Nurse Moira Gerard, in whose care Maureen had been when she died, the doctor Nurse Gerard called after Maureen’s death, and the pathologist.⁶¹ The same is observed in the inquests into the deaths of Janet Dawson, Amelia Carlton, Freda Boyle and Melissa Wilson.⁶² These police investigations were only cursory and shed little light on the women’s activities prior to death.

Circumstances warranting deeper investigation most often coincided with the naming of a well known abortionist. The number of witness statements presented to the inquest into Vivian Anderson’s death in 1921 far outweighed those given at Maureen Watson’s the year before. This was in part because Vivian had admitted to her doctor she visited abortionist John Hayward, whom the police were keen to see prosecuted. But it also reflected the

⁶¹ J 46 1920/1305, ANZW. *NZ Truth*, 20 November 1920, p. 5.

⁶² J 46 1921/701; 1922/922; 1924/172; 1925/1198, ANZW.

social nature of abortionists' practices meaning police investigations often revealed multiple people's involvement in the woman's journey to the abortionist. In Vivian's case the police uncovered that she discussed her visit to Hayward with her brother, and that he visited Hayward's shop looking for her. The police located two men who gave Vivian directions from the train station also; and took evidence from another woman who stayed at Hayward's shop at the same time as Vivian.⁶³ When the police investigated Rose Napier's illness and subsequent death they gathered evidence from Rose's aunt, who nursed her and found the 'newly born child', a four month foetus, in her bed. Rose's father gave evidence that she told him of the visit to the abortionist.⁶⁴ The social nature of visits to abortionists allowed the police to gather a greater amount of evidence in the form of witness testimonies.

Investigations did not always implicate an abortionist and the police often gathered other evidence of attempts at abortion. After Janet Dawson's death the police found an extensive array of abortifacient remedies in the form of pills and individual components in her bedroom which contributed to the impression she may have induced her abortion herself.⁶⁵ Investigations into the deaths of other women revealed periods of time within which their movements were unable to be accounted for. Annie Stein told her mother she was holidaying in a guest house at Waikanae, a small town on the west coast north of Wellington, but the police found she was never there. They were unable to account for her whereabouts for a period of six days before she returned, very ill, to her mother's home.⁶⁶ Evidence of women's efforts to self-induce abortions or unexplained disappearances might lead to a determination their deaths were suspicious.

⁶³ J 46 1921/1330, ANZW.

⁶⁴ J 46 1923/501, ANZW. See also 1926/794, ANZW.

⁶⁵ J 46 1921/701, ANZW.

⁶⁶ J 46 1928/1039, ANZW. See also J 46 1920/774; 1922/1051, ANZW.

The police then referred their evidence to the local coroner. It was up to the coroner to decide if an inquest should take place. Section 5 of the 1908 Coroners' Act conferred on coroners the right to inquire into deaths but did not obligate them to investigate every referral. The coroner's discretion extended to circumstances when a doctor refused to certify a person's death. According the Undersecretary of Justice in 1924, if coroners 'are of the opinion that the death occurred in the natural course of events, however sudden, the fact that a doctor's certificate as to the cause ... cannot be obtained is in itself no reason for holding an inquest. The main object of all such inquiries is to ascertain whether the death has been caused by any violence or criminal act'.⁶⁷ Unfortunately there is no way of knowing the extent to which coroners declined to hold inquests into complaints of illegal abortion, either by the police or by doctors. However, we can glean considerable insight into what conditions coroners considered 'unnatural' enough to investigate from the inquests that did take place.

Three quarters of the inquests examined for this thesis and conducted during the 1920s investigated the deaths of women who did not cohabit with a husband: women who were unmarried, separated, divorced, or widowed. Twenty-two inquests related to women who had never married: 63 percent of the total number of inquests. Three inquests (nine percent) were conducted into the deaths of women separated from their husbands, and one woman was widowed (two percent). Nine inquests investigated married women's deaths (26 percent).⁶⁸ Few inquests recorded how deaths came to the attention of coroners and none recorded coroners' decision-making processes over whether or not to proceed with an inquest. But the statistical dominance of single women's deaths investigated by inquests during the 1920s suggests perhaps their marital status was one factor rendering their deaths suspicious enough to warrant investigation.

⁶⁷ Mr C.E. Matthews, Undersecretary for Justice to Coroners, 1 February 1924, H1 131/139 B.100, ANZW.

⁶⁸ Appendix B., Figure 2.

At inquests, testimonies were given by those who witnessed the woman's activities and by those who were present during and after her death. These witnesses painted a vivid picture of women's daily lives, their health and wellbeing, and any unusual activities. Invariably, at least one medical professional gave evidence: usually the local pathologist whose evidence consisted of their autopsy report along with an interpretation of its meaning for the coroner. In addition women's doctors, surgeons, and other hospital staff like nurses sometimes testified about their interactions with women as patients.⁶⁹ Other witnesses might come forward; local police officers occasionally offered testimony on the basis of their interactions with the woman before her death or in relation to knowledge of the woman or family concerned.⁷⁰ Those called upon to give evidence at inquests often did so freely. Only a few withheld their testimony on the basis that their evidence might incriminate them in a crime.⁷¹ For the most part, people appear to have cooperated fully with the inquest process.

During the 1920s it was unusual for an inquest to find no evidence of an illegal abortion. The stories told in witness statements might vary but the central question of whether the abortion was illegally induced remained visible. At times family members attempted to downplay the woman's symptoms as related to menstruation. Irene Mander's husband told the coroner in 1922 his wife had a history of 'heavy, incapacitating periods'.⁷² Melissa Wilson's brother made a similar statement to the coroner in 1925, stating her menstrual periods were often 'bad'.⁷³ But in these inquests and others, evidence from other sources made it clear these women intended to terminate their pregnancies. Irene Mander's friend told the court Irene told her she had an abortion because she 'wanted a decent home' before

⁶⁹ See for example J 46 1921/1330; 1925/1198; 1927/1318; 1929/1017, ANZW.

⁷⁰ See for example J 46 1927/808; 1929/913, ANZW.

⁷¹ J 46 1929/819, ANZW.

⁷² J 46 1922/1049, ANZW.

⁷³ J 46 1926/1198, ANZW.

starting a family.⁷⁴ Both Irene and Melissa had perforations in their uterine walls, suggesting an instrument had been passed into their uteri and corroborating the evidence they intended to have an abortion.⁷⁵ For the most part inquests conducted during this time reflected reasonably strong social and medical evidence establishing the woman intended to have an abortion and had acted accordingly.

At inquests doctors gave testimony as to their interactions with patients, and pathologists detailed the results of post-mortems. For most of the 1920s, medical professionals' testimonies concentrated on illuminating evidence of efforts at illegal abortion. Such evidence might come from their verbal interactions with the patient. For example, Freda Boyle's doctor told the coroner in 1924, 'after a good deal of persuasion she told me she had interfered with herself'. Other evidence might be physical signs, as shown by the pathologist's report on his post-mortem examination of Freda's body in which he described a perforation found in the wall of her uterus.⁷⁶ The two doctors' testimony confirmed both verbally and physically Freda's efforts to terminate her pregnancy.

By contrast, where there was no evidence of any interference with the pregnancy pathologists recorded that in their reports. The pathologist reported an absence of any injuries or signs of interference to the coroner at Wendy Crooke's inquest in 1924.⁷⁷ In 1927, the pathologist who examined Alice Carson's body noted no evidence of any interference with her pregnancy.⁷⁸ Neither pathologist offered an explanation linking the lack of physical evidence to the possibility of illegal abortion. During most of the 1920s, doctors and pathologists looked for and described at inquests either the physical signs or

⁷⁴ J 46 1922/1049, ANZW.

⁷⁵ *Ibid.*, J 46 1925/1198, ANZW.

⁷⁶ J 46 1924/172, ANZW.

⁷⁷ J 46 1924/603, ANZW.

⁷⁸ J 46 1927/869, ANZW; For similar findings in autopsy reports see also J 46 1925/912; 1926/53; 1926/794; 1926/826, ANZW.

verbal confirmation of illegal abortion. If they could not confirm finding any of these signs, they noted the deficit in their witness statements but did not comment further on the significance of the finding.

Coroners reached their verdicts slightly differently from juries in criminal trials. They took account of both the social evidence and the physical evidence, and could hear evidence that might not be admissible in the criminal court. Mildred Tennyson's deathbed deposition, which had been declared inadmissible in court, was presented to the inquest into her death. Mildred's boyfriend corroborated her statement, testifying he went with her to a woman's house where money changed hands, but he did not see what happened after that. These two pieces of evidence, which had been unable to be heard together in court, led the coroner to decide Mildred's death was caused by 'acute blood poisoning associated with acute inflammation of womb resultant from an illegal operation'.⁷⁹ Because charges were not laid against any person in a coroner's inquest, witness testimony was not subject to the stigma associated with accomplice-witnesses in court. Whereas in court, three juries failed to find Vivian Anderson's deathbed deposition reliable, at the inquest into her death the coroner validated Vivian's account of her abortion. He ruled her death had been caused by 'pyaemia as a result of [an] illegal operation'.⁸⁰ Coroners' inquests were unique in that they provided a forum where all testimony could be treated equally resulting in verdicts offering alternative interpretations of women's deaths to those given by corresponding criminal court trials.

Coroners' verdicts sometimes passed judgement on the alleged abortionist. The coroner examining Rose Napier's death in 1923, found her death was caused by 'septic pneumonia

⁷⁹ J 46 1926/54, ANZW. See also J 46 1925/1198; 1929/875; 1929/913, 1929/1517, ANZW.

⁸⁰ J 46 1921/1330, ANZW. Pyaemia is a type of septicaemia characterised by the presence of pus-forming bacteria in the bloodstream.

caused by septic condition caused by injury to uterus from a nonsurgical instrument unskilfully[sic] used'⁸¹: a scathing indictment on the abilities of her abortionist.

Coroners still observed the legal rules associated with criminal court trials. Uncorroborated evidence did not necessarily result in verdicts of 'illegal abortion'. The evidence of illegal abortion given at the inquest into the death of 20 year old wards maid May Pickles in 1920, consisted of a statement by her young lover who told the coroner May and her father convinced him to take her to an abortionist. May's father's statement did not mention him having any involvement with this young man or May's visit to the nurse's home where she later died, however. In the face of uncorroborated evidence suggesting May went to the nurse's house for an abortion, the coroner attributed cause of death to 'septic infection of the uterus': a literal description of the medical condition that had led to her death.⁸² In 1926 the coroner's verdict at the inquest into Enid Masters' death was also non-specific: 'septicaemia following recent miscarriage'. Enid's mother told the inquest she had taken Enid to the doctor for a tonic to cure anaemia and the miscarriage had been a complete surprise to the family.⁸³ In Enid's case, without any evidence the miscarriage was induced, and in May's case, without corroboration of her lover's evidence, the coroners were unwilling to attribute death to illegal abortion and found cause of death in terms of the medical diagnoses of the women's illnesses.

It was not always the case that coroners would avoid attributing deaths to illegal abortion based on uncorroborated evidence. In 1929 the coroner at the inquest into Eileen Henderson's death gave a concise verdict of 'Illegal Operation', although the evidence of this was limited to wounds to Eileen's cervix that a doctor had noticed in the course of treating her illness. Eileen was very young at the time of her death, only 16 years old. Her

⁸¹ J 46 1923/501, ANZW. See also J 46 1928/102; 1929/913, ANZW.

⁸² J 46 1920/774, ANZW. See also J 46 1921/701, ANZW.

⁸³ J 46 1926/826, ANZW.

mother died two years earlier and she lived in Gisborne with her twin sister and step-father, a middle-class businessman. Her step-father told the inquest he had consulted with family members after discovering Eileen's advanced pregnancy, and hearing she was 'interfered with' by a family friend when only 15 years old. He said he decided to send her away rather than take the allegation of statutory rape to the police 'for fear the family name would be disgraced'. Eileen travelled to Napier with her stepfather's sister and brother-in-law. What happened in Napier was never uncovered, but Eileen went into premature labour and gave birth to a foetus of seven months' gestation. She died alone in Napier Public Hospital, without any support from her step-father who apparently made no effort to be with her. The coroner interpreted her step-father's testimony as being more concerned about his own reputation than Eileen's welfare and roundly criticised him for his lack of support during Eileen's illness.⁸⁴ The coroner's verdict of illegal abortion reflected his expectation that parents would shelter and support their children, and spoke to Henderson's failure to protect and care for his step-daughter.

Inquests were not always about identifying criminal activities. Sometimes inquests settled wider moral and social problems in the wake of women's deaths. In 1927 the police investigated Marilyn Parsons' death from an overdose of Dr Bonjean's Pills in part because of her doctor's complaint about odd behaviour by her mother, Mrs Smith. He had given Smith a letter to admit Marilyn to hospital but she did not pass this on to Marilyn's husband or arrange the transfer herself. After Marilyn's death Smith then produced a letter, purportedly dictated by Marilyn, alleging her husband was an adulterer and requesting her mother take custody of their baby. The subsequent inquest, in addition to investigating Marilyn's death, weighed Smith's allegations against testimony from the local constable

⁸⁴ J 46 1929/875, ANZW. The coroner's criticisms of Eileen's stepfather were reported in *NZ Truth's* coverage of the inquest see *NZ Truth*, 25 July 1929, p. 8; 13 June 1929, p. 9.

who knew the Parsons well and testified to the happiness of their marriage.⁸⁵ Marilyn's husband's rights to custody of his child were supported by the coroner's findings that he played no part in her death, either morally or legally.

The few married women's deaths investigated by coroners during the 1920s had similarities with single women's deaths. Sometimes a known abortionist was implicated in the woman's death. When Mrs Ellen Foster died from haemorrhage in the home of the daughter-in-law of well-known Auckland abortionist, Mary O'Donoghue, the police investigated and the case went to inquest.⁸⁶ In 1926 Edna Dawson's husband told the police he found a note with the name and address of Wellington abortionist, Edith Newcombe, in his wife's handbag. His information led to police investigations, an inquest, and the Crown later laid charges against Newcombe.⁸⁷ Questions about the stability of women's marriages may have influenced decisions to investigate their deaths also. Edna was delivered to the abortionist's home by a male friend while her husband was out of town, leading to suspicions the pregnancy may have been illegitimate.⁸⁸ In 1928 Edith Bullock's neighbour had told the police that Edith admitted she and her husband did not get on, and he was only living in the house for one day each week.⁸⁹ In 1929 the police investigated Maureen Davies' death at a Christchurch nursing home after it was revealed her husband, who was 24 years her senior, was living and working in Ashburton, some 87 kilometres away and Maureen had taken in a male boarder.⁹⁰ The presence of an abortionist, or suggestions the pregnancy might not be legitimate, seemed to have spurred investigations into married women's deaths.

⁸⁵ J 46 1927/808, ANZW.

⁸⁶ J 46 1922/1051, ANZW.

⁸⁷ J 46 1926/794, ANZW.

⁸⁸ Ibid.

⁸⁹ J 46 1928/1400, ANZW.

⁹⁰ J 46 1929/309, ANZW.

Investigations into married women's deaths often failed however to find corroborated evidence of illegal abortion. The coroner at Ellen Foster's inquest found she died from 'haemorrhage from the uterus following miscarriage'. Although Ellen died at the home of O'Donoghue's daughter-in-law, there was no evidence to suggest her miscarriage was illegally induced.⁹¹ At the inquest into Edna Dawson's death, a family friend testified he had taken Edna to Edith Newcombe's home for a short visit and then driven her home afterwards. Once again, the evidence she had an illegal abortion was minimal. There were no wounds on her body, and her friend testified he was not party to any transaction occurring between Edna and Edith inside the house. Consequently the coroner found Edna's death had been caused by 'general peritonitis following a septic miscarriage'.⁹² The privacy associated with married women's abortions, and the fact abortion could be a natural consequence of pregnancy meant coroners appeared reticent in offering verdicts implicating these women in illegal acts.

One notable exception suggests coroners may have taken account of the status of women's marriages as evidence of illegal abortion. In a rare departure from the norm in 1928 the coroner did not allow Edith Bullock's death to be distanced from illegal abortion, citing her cause of death to be 'septicaemia: induced abortion'. Edith's husband had not given evidence but a neighbour testified Edith told her she was trying to terminate her pregnancy because her marriage was unhappy. She suggested Edith may have done this successfully up to three times in the past. The neighbour's testimony implied Edith terminated a number of pregnancies over the years to protect herself should the couple separate.⁹³ It seems in this case at least, the appearance of an unstable marriage corroborated the neighbour's testimony Edith intended to terminate her pregnancy.

⁹¹ J 46 1922/1051, ANZW. See also *NZ Truth*, 9 September 1922, p. 5. See also J 46 1924/172; 1926/489; 1926/794; 1927/1318, ANZW.

⁹² J 46 1926/794, ANZW.

⁹³ J 46 1928/1400, ANZW.

Edith's case highlighted the importance of husbands' testimony in the appearance of marital stability. In 1926 at Edna Dawson's inquest, the nature of her relationship with the man who had delivered her to the abortionist's home came under question. Edna's husband testified in her defence that it was not unusual for her to seek help from this man, however. He was an old family friend and often helped the family out with transport when Dawson was away.⁹⁴ Similar testimony was made by Maureen Davies' husband at the inquest into her death. Davies was adamant he and his wife were not separated. He was simply setting up a new home for the family in Ashburton while she packed up the old home in Christchurch. In an unusually frank statement, he told the coroner Maureen had visited him in Ashburton and during this visit conception probably took place. As was the case for Edna, the verdict at Maureen's inquest did not attribute her death to illegal abortion, but rather used the word 'abortion' in medical terms: 'acute septic infection of the uterus and general peritonitis following abortion'.⁹⁵ In the light of Edna and Maureen's inquests it seems likely the verdict of illegal activity placed upon Edith's death was in part motivated by the fact her husband had not concealed evidence the marriage was troubled.

Coroners' verdicts during the 1920s appear to have followed established patterns mirroring those of the courts at the same time. Coroners relied on corroborated evidence to determine whether women's deaths were caused by illegal activity. Corroborated evidence was usually associated with socially networked abortions and these were more commonly related to single women's abortions. Consequently, coroners' inquests were more likely to treat single women's deaths as suspicious and subject these to an inquest. Single women's

⁹⁴ J 46 1926/794, ANZW. Note that similar questions were raised at the subsequent criminal court trial of Edith Newcombe and the courts were far less forgiving of Edna's association with another man. This will be discussed later in this chapter.

⁹⁵ J 46 1929/309, ANZW. Davies' statement was unprecedented in that married couples were not asked for testimony about their sexual encounters with their spouse, or about contraceptive methods for that matter, in the course of interviews with legal or medical professionals. That Davies felt the need to volunteer this information, apparently in defence of his wife's reputation, was highly unusual.

deaths were more likely to be labelled ‘illegal’ in coroners’ verdicts also. In the case of married women’s deaths, inquests were less likely to find corroborated evidence of illegal abortion or intention to terminate pregnancy. Verdicts were far less likely to associate these women’s actions with illegal abortion. This trend may have been tempered by perceptions of the woman’s pregnancy as illegitimate or evidence her marriage was unstable, however. These trends do not imply that coroners tacitly approved of married women’s efforts at abortions. Rather they reflect the limitations on coroners’ verdicts imposed by the rules of corroboration and need to establish intent.

‘married women go to [abortionists]’:
Doctors, Septic Abortion Deaths, and Married Women’s Abortions, 1930–
1937

During the 1920s coroners used medical terminology as a default language when evidence of illegal activity was absent or uncorroborated. But doctors very often held different views about the significance of medical language. This section explores the growing view among medical professionals from 1930 that ‘there was no smoke without fire’. Doctors increasingly promulgated the view that septic abortion statistics provided evidence of married women’s increasing resort to illegal abortion during the 1930s.

Doctors’ concerns about married women’s resort to illegal abortion predated the 1930s. The notion that the use of abortion was on the rise among married women was first raised with the government in 1922. A deputation from the Executive Council of the NZBMA met with two Government Ministers: Chair of Council, Dr Herbert along with Dr H.E. Gibbs of Wellington and Dr Russell Tracy Inglis from Auckland met with the Ministers of Justice, Ernest Lee and Health, C. James Parr. Dr Gibbs told the Ministers ‘married women go to [abortionists] ... we know of married women that have asked to be removed of their trouble and have stated that since the retrenchment came on they could not afford [another

child]’.⁹⁶ Dr Russell Tracy Inglis concurred stating, ‘I have had more applications [for abortions] during the last few months than I had before the war.’⁹⁷ In their subsequent report on the meeting, the deputation further clarified their belief. They argued ‘numbers of married women now went to medical practitioners and asked to be relieved [of their pregnancies] ... When the doctor advised and warned them against anything of the kind they simply went to the abortionist, without needing to seek far, and often with disastrous results’.⁹⁸

The deputation’s solution to the problem of married women’s abortions was to request the Ministers sanction the appointment of ‘Medical Assessors’ to coroners’ inquests. These assessors would sit as an equal to the coroner to ‘elucidate the vital points in the [medical] evidence’ and ensure that medical evidence was not subject to interpretation or corruption by lay people.⁹⁹ In the doctors’ opinion, the medical assessor could direct the coroner (or judge in the case of criminal court trials) to prioritise medical opinions over all other evidence by telling them that ‘if such a thing took place that it was the cause of death.’¹⁰⁰ The deputation challenged coroners’ lapses into medical language when they could not find sufficient evidence of illegal abortion, by claiming if women’s symptoms were consistent with death from abortion then it was probably illegally induced.

The deputation did not directly challenge coroners’ powers to interpret the bulk of the evidence presented to them but implicit in their demand that an assessor should be equal to the coroner was an expectation the coroner would have no choice but to follow the opinion of the doctor or pathologist in his verdicts. The Undersecretary for Justice forwarded a

⁹⁶ ‘Transcript of the Meeting: Appointment of Medical Assessors for Coronial Inquiries’, 24 March 1922, J1 1922/473, ANZW, p. 8.

⁹⁷ *Ibid.*

⁹⁸ ‘Medical Assessors’, J1 1922/473, ANZW, p. 2.

⁹⁹ *Ibid.*, J1 1922/473, ANZW.

¹⁰⁰ ‘Transcript of the Meeting’, 24 March 1922, J1 1922/473, ANZW, p. 6.

transcript of the meeting to the coroners in the major cities around New Zealand for their comment.¹⁰¹ The coroners were less than impressed with the suggestion and disagreed with the deputation's assertion that only medical professionals had the capacity to fully understand the implications of medical evidence. Wyvern Wilson, Coroner for Christchurch, took offence and replied, 'I have never known of one single instance ... where there has been any suspicion of abortion and the cause of death has not been fully investigated for want of expert medical assistance'.¹⁰² Jonathon Bartholomew, Coroner for Dunedin, summed up the current position when he told the Undersecretary that the pathologist 'is the Coroner's own witness and the Coroner can consult and be advised by him before he gives his evidence'. He argued, 'it is difficult to see how an assessor could give a better explanation than a [pathologist]'. Bartholomew noted also that without legal training an assessor could well become more a hindrance than an asset to the performance of inquests.¹⁰³ In the light of these comments the Ministers duly declined the NZBMA deputation's request.¹⁰⁴ Coroners remained independent of the medical profession and throughout the 1920s continued to interpret the evidence presented to inquests as a whole, maintaining their insistence on corroboration and evidence of intent.

The members of the NZBMA did not pursue their idea for medical assessors because their attention was diverted to more pressing matters during the remainder of the 1920s. During this time Jellett and Paget implemented the Health Department's Campaign for Safe Maternity. Members of the NZBMA found themselves in the unenviable position of having to defend themselves against allegations that doctors' midwifery practices were responsible for maternal mortality during the 1920s. During the late 1920s the success of the campaign in relation to puerperal fever convinced departmental officials that septic abortion was a

¹⁰¹ C.E. Matthews to Coroners, 13 May 1922, J1 1922/473, ANZW.

¹⁰² W. Wilson to C.E. Matthews, 26 May 1922, J1 1922/473, ANZW.

¹⁰³ J.R. Bartholomew to C.E. Matthews, 23 May 1922, J1 1922/473, ANZW.

¹⁰⁴ C.J. Parr, Minister of Justice to Secretary, NZBMA, 30 October 1923, J1 1922/473, ANZW.

problem and inspired these officials to investigate ways of reducing this form of maternal mortality.

By 1930 departmental officials were concerned that legal authorities were not adequately policing abortions. Their concerns were inspired by rising numbers of notified septic abortion deaths. Notifications of deaths had risen from 14 deaths for 1927 and 1928, to 19 for 1929 and totalled 30 for 1930. In contrast maternal mortality from puerperal fever halved over the same period, down from 56 deaths in 1927 to 27 in 1930. In 1930, for the first time since infection statistics were separated, post-abortion infection deaths numerically exceeded post-partum deaths.¹⁰⁵

Jellett, it appears, believed septic abortion death statistics represented illegal abortion deaths, because he felt that spontaneous abortions were relatively benign. He wrote in the 1930 edition of his midwifery textbook: '[a] spontaneous abortion, even if it is incomplete, is very rarely septic. Consequently, unless it is grossly mismanaged, it is very seldom fatal'.¹⁰⁶ His opinion echoed an apparently long-standing belief among some medical professionals from as early as the turn of the century. North American medical educator, Dr J. Clifton-Edgar wrote in 1905, 'the prognosis from spontaneous [abortion] is good ... In criminal [abortion] ... the prognosis is bad, by reason of the unskilfulness[sic] of the procedure admitting air and septic matter into the uterus'.¹⁰⁷ Consequently medical professionals' beliefs that spontaneous abortions were benign validated claims linking post-abortion infections with induced abortions.

¹⁰⁵ AJHR, 1931, H-31, p. 34; 1933, H-31, p. 39.

¹⁰⁶ Jellett, *A Short Practice*, 10th ed., p. 366.

¹⁰⁷ J. Clifton-Edgar, *The Practice of Obstetrics: Designed for the Use of Students and Practitioners of Medicine*, 2nd edition revised, Philadelphia, 1905, p. 397.

In August 1930, Jellett drafted a letter for the Deputy Director-General, Dr Michael Watt, to the Commissioner of Police expressing concern about the rising numbers of septic abortion deaths reported in the Auckland region for 1929. Twelve out of the 19 deaths recorded nationwide had taken place in the Auckland region. In that letter, Jellett restated his belief that the cause of septic abortion deaths was ‘at once preventable and criminal’ implicitly linking septic abortion deaths with illegal abortion.¹⁰⁸ The Commissioner replied equally concerned the Health Department had been notified of many more deaths than the Auckland District Police Force. His officers in Auckland investigated eight complaints from January 1929 to August 1930, half of which had not produced any evidence of illegal activity.¹⁰⁹ The correspondence resulted in an agreement between the two Departments for greater cooperation to attempt to deter individuals from attempting abortion in the Auckland area.¹¹⁰

The discrepancy between accusations of illegal abortion made to the police and septic abortion deaths notified to the Health Department requires some explaining. It existed partly because many illegal abortions remained undetected. As the previous chapter has shown, the abortions most likely to be detected and be the subject of criminal court trials were those performed with the help of social networks. But the discrepancy also existed because septic abortion death notifications were not solely related to illegal abortion deaths. The form for notification of deaths sent to officials in the Health Department did not require any comment as to the suspected aetiology of pregnancy loss, such as natural or induced. Many medical professionals were aware that spontaneous abortions could result in fatal infections. In fact, Jellett’s views did not go uncontested. Dr Thomas Hughes, MOH for Auckland, queried Jellett’s letter to the Commissioner stating septic abortions were caused

¹⁰⁸ Dr M.H. Watt, Deputy Director-General of Health (DGH) to Commissioner of Police, 7 August 1930, H1 131/139 B. 100, ANZW.

¹⁰⁹ Commissioner of Police to Watt, Acting DGH, 18 September 1930, H1 131/139 B.100, ANZW.

¹¹⁰ *Ibid.*; Dr T.J.F. Hughes to Watt, 23 September 1930, H1 131/139 B.100, ANZW.

by criminal activity with the question: ‘is it not going too far to say that all septic abortions are provoked?’ Having said this, Hughes agreed there were times when he would appreciate the guidance of the police on whether to take any action over abortions.¹¹¹

Some doctors who dealt with patients on a daily basis contested Jellett’s views about septic abortion also. Professor J. Bernard Dawson, Chair of Obstetrics at Otago Medical School who attended patients at Dunedin Public Hospital, stated in 1936: ‘[i]f you are going to assume that every septic abortion is necessarily an induced abortion ... I’m quite sure we should get into trouble sooner or later with some innocent couple’.¹¹² Indeed this was exactly what happened when Mr Walpole, a young widower, gave evidence to the McMillan Committee in 1937. After telling the Committee his wife died from septic abortion a year earlier, Walpole complained he felt misled by a Health Department booklet (probably *The Expectant Mother and Baby’s First Month*), which firmly equated septic abortion with illegal abortion.¹¹³ The tragedy for Walpole and his wife was they had not treated her condition as serious enough to warrant a doctor’s visit until she was very ill, because they believed the abortion to be spontaneous and therefore not life-threatening. Mrs Walpole subsequently died, apparently as a consequence of this delay.¹¹⁴ Whilst Health Department officials might have made links at an ideological level between septic abortion deaths and illegal abortions, this did not necessarily reflect doctors’ views about the aetiology of infected abortions among their patients, or patients’ experiences for that matter.

¹¹¹ Hughes to Watt, Acting DGH, 23 September 1930, H1 131/139 B.100, ANZW.

¹¹² Evidence of Professor J. Bernard Dawson, Chair of Obstetrics, Otago Medical School, 14 October 1936, H1 131/139/15, ANZW.

¹¹³ Walpole did not name the booklet but he may have been referring to the 1934 edition of: Department of Health, *The Expectant Mother and Baby’s First Month*, 5th ed., Wellington, 1937, p. 25. (the 1934 edition is not available on any New Zealand library catalogues).

¹¹⁴ Evidence of Mr Walpole, 28 January 1937, H1 131/139/15, ANZW.

Rising septic abortion notifications were probably a better reflection of changes in the Health Department's definitions of septic abortion as a notifiable disease than changes in the prevalence of illegally induced abortion. Jellett wrote in his 1930 edition of *A Short Practice* that doctors should be concerned about the incidence and treatment of sapraemia in post-abortal women. His experience of medical practice in New Zealand led him to believe sapraemia was potentially septic and should be treated as if it were septic, adding a firm statement 'a provoked abortion ... is very frequently septic'.¹¹⁵ Jellett's concern suggested the incidence of life-threatening sapraemic infections may have been on the rise in New Zealand at this time, a phenomenon which was noted by doctors in Melbourne, Australia also.¹¹⁶ Paget responded to Jellett's change of mind on sapraemia by informing hospitals to remove the distinction between sapraemia and septicaemia, and to treat both as the same notifiable disease.¹¹⁷ Consequently septic abortion death notifications for 1930 rose by 58 percent, up from 19 in 1929 to 30 for 1930.¹¹⁸ Not surprisingly, as the Health Department expanded their definitions of septic abortion to include new categories of infection-related deaths the numbers of reported deaths increased accordingly.

In 1931 Jellett retired from the Department. Paget continued to implement reforms aimed at reducing maternal mortality. In his annual report for 1930, Paget expressed concern that septic abortion death notifications had exceeded puerperal fever notifications for the first time, making septic abortion the largest infection-related cause of maternal mortality in New Zealand. Paget wrote in his report, 'it is universally conceded that the great majority of deaths from [septic abortion] are due to induced abortion' and showed that 'of these thirty [deaths], twenty-six were married women'. In his view the predominance of married

¹¹⁵ Henry Jellett, *A Short Practice of Midwifery*, 10th ed., pp. 366, 503–4.

¹¹⁶ For discussion on the situation in Melbourne during the early 1930s, see Arthur Hill, 'Post-Abortal and Puerperal Gas Gangrene', *Journal of Obstetrics and Gynaecology of the British Empire*, 43, 2, 1936, pp. 201–3.

¹¹⁷ Paget to Hughes, 24 September 1934, H1 131/139 B.100, ANZW.

¹¹⁸ AJHR, 1931, H–31, p. 34; 1931–32, H–31, pp. 43–4.

women in septic abortion deaths notifications rendered the problem ‘undoubtedly social and economic as opposed to medical’.¹¹⁹ Paget believed rising maternal mortality from post-abortal infections was a consequence of the financial stress that many ordinary New Zealanders experienced during the Depression, rather than a consequence of the Department’s widening of the types of infections included in these statistics.

In 1934 the number of notifications jumped again, to reach an all time high of 42 deaths. Again this eventuality coincided with another of the Department’s changes to the range of regulations governing septic abortion as a notifiable disease. During 1934, Hughes, the MOH for Auckland, told Paget he had discovered general practitioners were not informed about the inclusion of deaths from sapraemia into the notifiable disease category of septic abortion.¹²⁰ When Paget changed the regulations in 1930, he notified hospitals and placed the requirement in Private Hospital Regulations. These changes, according to Hughes, did not apply to general practitioners in private practice, who remained unaware of Paget’s amendment to the regulation.¹²¹ Hughes wrote to Paget to say that he taken it upon himself to educate GPs in his area to notify deaths and incidences of sapraemia to the Health Department.¹²² Paget concurred with Hughes that general practitioners throughout the rest of the country had not received the same notice as hospitals, and should be notified to ensure that they knew the regulation had changed.¹²³ Their agreement resolved the largest omission from septic abortion notifications, women’s deaths from sapraemia while in the care of general practitioners, but again did not differentiate spontaneous abortions from induced abortions.

¹¹⁹ AJHR, 1931, H-31, p. 34.

¹²⁰ Hughes to Paget, 31 July 1934, H1 131/139 B.100, ANZW.

¹²¹ Ibid.

¹²² Hughes to DGH, 19 September 1934, H1 131/139 B.100, ANZW.

¹²³ Paget to Hughes, 24 September 1934, H1 131/139 B.100, ANZW.

Health Department officials' claims linking infection-related post-abortion deaths to illegal abortion were increasingly validated by the apparent success of the Campaign for Safe Maternity over puerperal fever and by medical anxieties that married women resorted to illegal abortion. Paget had produced 'proof' married women used illegal abortion in the rising numbers of septic abortion deaths during the early 1930s. In the process he overlooked the impact of his own reforms on the figures. By widening the scope of conditions deemed notifiable as septic abortion more women's deaths were being reported than in the past. These changes coincided with the Depression, allowing Paget to connect the hardships associated with the current financial climate with women's apparent resort to abortion and press the government to act in the social and economic arena to reduce maternal mortality from septic abortion.

**'I would not expect infection after natural abortion':
Doctors, Coroners and Pathologists, 1929–1937**

Increasing medical anxieties about married women's use of abortion may well have influenced coroners. By the 1930s more married women's deaths were the subject of inquests than had previously been the case. With the exception of 1933, from 1932 onwards at least half of all inquests were conducted into the deaths of married women, up from only 25 percent in the 1920s.¹²⁴ Unfortunately inquests rarely disclosed from where the referral to the police or coroner had originated. It is impossible to say whether more married women's deaths were referred to coroners during this period, or whether coroners became more willing to delve into the private lives of married women than previously.

Medical professionals also changed their approach to inquests. The earlier section in this chapter on coroners' inquests during the 1920s argued that during this period pathologists

¹²⁴ Appendix B., Figure 2.

and other medical witnesses directed their evidence to answer the question of whether there had been any admission of abortion by the woman to her doctor, or whether there were any physical signs of abortion found on her body.¹²⁵ By the late 1920s pathologists and doctors began to change their approach to giving evidence. Pathologists in particular shifted the focus of their testimony towards interpreting the significance of illness and away from describing the presence or absence of physical signs. This change was in keeping with medico-legal approaches developed elsewhere in the world. Historian Stephen Robertson argued of the United States, medical professionals were unable to express their opinions in judicial forums with the same degree of certainty they would have in public or to patients. He argued doctors tailored their responses to questions in judicial forums to show degrees of likelihood rather than producing opinions in absolute terms.¹²⁶

In New Zealand pathologists and other medical professionals began to employ a medico-legal approach from the late 1920s. Their changing behaviour was guided by Professor Eric D'Ath, who was appointed to the Chair of Pathology at Otago Medical School in 1929.¹²⁷ D'Ath was the first to give evidence in the new format. In 1929 he told the coroner at the inquest into the death of Jane Eddleson, a 30 year old spinster and pianist, 'from the examination [of Jane's body] I cannot say whether the abortion was a natural one or due to interference. The condition would be more consistent with interference since I would not expect infection after natural abortion'.¹²⁸ By framing his interpretation of the signs of infection on Jane's body as unlikely to be the consequence of a spontaneous abortion D'Ath was able to point to the likelihood, in his opinion, that her illness was caused by illegal abortion.

¹²⁵ See for example J 46 1920/1305; 1924/603; 1925/912; 1926/794; 1926/826; 1927/869; 1928/1400; 1929/819, ANZW.

¹²⁶ Stephen Robertson, 'Signs, Marks, and Private Parts: Doctors, Legal Discourses, and Evidence of Rape in the United States, 1823–1930', *Journal of the History of Sexuality*, 8, 3, 1998, pp. 345–88.

¹²⁷ Rex Wright–St Clair, 'D'Ath, Eric Frederick', *Medical Practitioners in New Zealand, 1840–1930*, Hamilton, 2003, p. 2.

¹²⁸ J 46 1929/1517, ANZW.

D'Ath's carefully structured evidence shifted the attention of the coroner from focusing solely on the presence of signs of illegal acts and on to long-standing medical opinions that perceived spontaneous abortions to be relatively harmless. At Jane's inquest, D'Ath brought the opinion that spontaneous abortions were relatively benign and uncomplicated into his statement as a contrast to the obviously traumatic, fatal complications Jane experienced. His decision to frame his interpretation of Jane's illness in this way corroborated the statements of other witnesses who said Jane had told them she visited an abortionist. The coroner agreed and gave the verdict that death was 'due to illegal operation'.¹²⁹ In the following years other pathologists around the country began to make similar statements.¹³⁰ By shifting their evidence from visible 'fact' to interpreting the significance of symptoms, pathologists were able to bring corroboration to other witness testimonies that implied an illegal abortion had taken place.

At the same time, pathologists began to reinterpret for coroners the significance of a lack of physical evidence of instrumental interference on women's bodies. Dr Bird told the coroner at Alice Fogarty's inquest in 1931 the lack of injuries on her body did 'not mean [that her] abortion could not have been induced or self procured'.¹³¹ The same year, the pathologist at the inquest into Christine Beath's death interpreted the lack of injuries to her body as significant: 'the fact that there were no injuries in the lower part of the [cervical] canal would suggest that the interference had been carried out by someone who was skilled in this class of work'.¹³² D'Ath concurred, telling the coroner at another inquest in 1937, 'use of an instrument would be shown by a post mortem examination only if the instrument

¹²⁹ J 46 1929/1517, ANZW.

¹³⁰ See for example J 46 1930/58; 1930/1460; 1931/822; 1931/1166, ANZW.

¹³¹ J 46 1931/1166, ANZW.

¹³² J 46 1931/822, ANZW.

had been used by a person unskilled in such use'.¹³³ The combined effect of the medical evidence to these inquests was to shift coroners' attention away from associating physical wounds with signs of illegal abortion. These pathologists offered an alternative interpretation to the absence of wounds, arguing that induced abortion could not be ruled out.

Coroners however varied in their acceptance of pathologists' interpretation of the significance of their findings or the lack thereof, especially in relation to married women. At Mrs Doreen Grainger's inquest in 1934 the coroner questioned the pathologist over his report. The report in the inquest archive had a handwritten note added to the bottom stating, 'sepsis is most commonly associated with induced abortion but it is not impossible that it might occur in a natural abortion'. The coroner remained reluctant to attribute Doreen's death to illegal abortion and found instead she died as a result of 'septicaemia associated with abortion'.¹³⁴ The use of the term 'abortion' alone did not infer criminal activity rather it was a medical term reflecting the gestation of the pregnancy.

At the inquest into Mrs Alice Fogarty's death in 1931, the coroner at Greymouth heeded evidence given by the pathologist. He concluded death was caused by 'septicaemia following abortion apparently brought on by herself' with a syringe. The coroner's verdict was influenced by the other evidence given at Alice's inquest. Her story was unusual in terms of married women's abortions. Alice was relatively young, newly married, and had a one year old infant at the time of her death. She expressed distress at her pregnancy to her mother, and told her husband of her desire to get rid of it.¹³⁵ Alice's professed intent to have an abortion provided the coroner with sufficient evidence to corroborate the pathologist's opinion she may have self-induced her abortion.

¹³³ J 46 1937/92, ANZW.

¹³⁴ J 46 1934/1004, ANZW.

¹³⁵ J 46 1931/1166, ANZW.

But the test of corroboration and establishing intent remained a difficult one to meet in other cases related to married women's inquests. In 1932, Elsie Hallett was found dead in a dry bath with a syringe between her legs. She died of an air embolism. No one at the inquest gave evidence they knew of her intention to terminate her pregnancy. Consequently the Gisborne Coroner determined she died as a result of an 'air embolism after use of douche during pregnancy'.¹³⁶ Two years later the Napier Coroner avoided any suggestion of illegal abortion at the inquest into Denise Craig's death in similar circumstances. He concluded cause of death was 'shock [after] using douche on a dilated uterus', again because there was no evidence presented to the inquest that Denise intended to terminate her pregnancy.¹³⁷ After death, these women were shielded from allegations of illegal activity because they kept quiet about their intentions, or at least no one who knew of their intentions came forward to give evidence.

At inquests into the deaths of women from post-abortal infections it was more difficult to see a clear distinction between infections related to spontaneous abortions and those of induced abortions. In 1930 at the inquest into Mrs Maureen Rutherford's death, none of the witnesses were aware of any intention by Maureen to terminate her pregnancy, a stark contrast to the wealth of information about women's intentions that was often presented at other inquests. Only the pathologist testified that an illegal abortion might have taken place based upon his belief the presence of an infection in her uterus could be a sign of illegal interference with the pregnancy. Apart from the pathologist's opinion, there was no evidence to support the view that Maureen's death was anything other than an unfortunate consequence of a spontaneous abortion.¹³⁸

¹³⁶ J 46 1932/782, ANZW. See also J 46 1930/969, ANZW.

¹³⁷ J 46 1934/432, ANZW.

¹³⁸ J 46 1930/58, ANZW.

In 1935 the inquest into Mrs Ginny Howard's death played out in a similar way. The police made extensive inquiries into Ginny's movements during the three weeks she stayed at her parents home before she died. They determined there was no possible opportunity for her to have come into contact with an abortionist, and there was no evidence in her or her parents' home suggesting she may have self-induced an abortion. It seemed likely Ginny's death too was the result of a spontaneous, incomplete abortion, which later became infected.¹³⁹ Women's deaths from post-abortal complications were not necessarily always caused by illegal abortions and could be natural, albeit terribly unfortunate, consequences of spontaneous abortions.

Conclusions

Women's deaths from complications associated with the termination of pregnancies were subject to multiple interpretations during the interwar period up to 1937. This chapter has outlined the interactions between different factions of the medical profession, between doctors and their patients, and between the medical professionals and coroners in the project of interpreting the significance of women's deaths from abortion-related complications.

As the primary interpreters of deaths for the public, coroners heard evidence from social and medical sources. They weighed this evidence independently of some of the harsher legal restrictions placed on criminal court trials such as the admissibility of deathbed depositions and lesser weighting attached to accomplice-witnesses' evidence. But coroners still observed other legal rules used in trials. They looked for evidence to corroborate witness testimonies as well as evidence women intended to induce miscarriages. If

¹³⁹ J 46 1935/397, ANZW. See also J 46 1930/1014; 1932/998, ANZW.

corroboration and evidence of intent could not be established, most coroners used medical descriptions of symptoms to describe cause of the death rather than legal descriptions attributing criminality to the woman's actions.

Coroners' findings of illegal activity were most commonly attributed to those cases meeting these legal tests. These were most commonly abortions performed as a result of social networking, like those commonly before the courts at the time. For this reason, as was also the case for the courts, coroners most commonly reviewed single women's deaths and these were most likely to be attributed to illegal activity. Investigating and ruling on married women's deaths proved far more difficult. Married women's abortions were generally not subject to the same degree of social networking unless, like Irene and Alice, the women were young and inexperienced. The deaths of married women from complications of pregnancy loss could include deaths caused by spontaneous abortions, making the coroners' task of determining the cause of death all the more difficult.

By contrast, representatives of the NZBMA, pathologists, and Health Department officials saw women's deaths from complications associated with pregnancy loss on rather different terms which evolved over the course of the 1920s. The Health Department's campaign to reduce maternal mortality from puerperal fever unintentionally reinforced medical claims that abortion-related fatalities were caused by illegal abortion. At the same time the views on infections propounded by departmental officials, and the changes they brought to the medical environment reinforced doctors' anxieties about illegal abortions. The effect of these anxieties was to reduce the ability of post-abortal women to keep the cause of their abortions private whilst receiving medical care.

Some doctors argued that deaths from abortions must have been caused by illegal abortions regardless of the woman's marital status or family circumstances. Initially this view was supported by their belief spontaneous abortions were inherently benign and any complications would be minor. Therefore, fatalities were likely to be interpreted by doctors as evidence the abortion was illegally induced. As the 1920s waned, Health Department officials expanded the number of conditions defined as notifiable septic abortion and drip fed these changes across the number of regulations observed by doctors. In consequence, the numbers of notified septic abortion deaths increased. This eventuality further fuelled medical anxieties that women's resort to illegal abortion may have been on the rise during this time. Whether or not these anxieties directly or indirectly influenced coroners has not been able to be established in this chapter, however. But it is evident there was an increase in the number of married women's deaths investigated by coroners during the 1930s.

Inquests, like criminal court trials, were a public forum unless specifically closed from view by the presiding coroner or judge. Inquests and criminal court trials provided the bread and butter of news coverage about abortion in the period up to the issuance of the McMillan Report in 1937. The next chapter discusses how the narratives about abortion, mediated by these legal forums, were represented to the public by the press.

Chapter Seven

'A Menace to Society': Continuity and Change in the Public Representations of Abortion, 1919–1937

The criminal courts and coroners' inquests were the most prevalent public forums which detailed people's experiences of abortion. Most New Zealanders accessed information about abortion via the popular press, apart from those few people who attended judicial hearings in person. During the 1920s and 1930s, the papers intermittently offered up stories of abortions to their readers. Articles relayed opinions about abortion in the form of quotes from a judicial source and were unwavering in their portrayal of abortion as both criminal and immoral. Coverage of abortion-related trials and inquests in the press varied according to the nature of the case and the editorial and commercial demands on individual papers.¹ The press offered stern moral warnings combined with a sense of voyeurism and sensationalism, providing readers with a point of entry into the private sexual lives of others. Press accounts served as titillation and provided the adult public with warnings about the dangers of extra-marital intimacy with the opposite sex.²

¹ Emma Jones discussed this variation in relation to the English Press. See Emma Jones, 'Abortion in England, 1861–1967', PhD Thesis, Royal Holloway, University of London, 2007, pp. 197–204.

² For these approaches in Britain see Jones, 'Abortion in England', pp. 197–8; Roy Porter and Lesley Hall, *The Facts of Life: The Creation of Sexual Knowledge in Britain, 1650–1950*, London, 1995, pp. 263–7.

This chapter describes the ways the press added layers of censorship, stereotyping, and moralising to people's narratives about their abortion experiences. In the process, the press edited stories already shaped to some degree by the legal processes of the courts and coroners' inquests. The first section describes the various characteristics of the popular press in New Zealand and outlines the types of censorship observed by newspaper editors. The second section discusses the representations of those couples who used abortion, showing the gendered stereotypes attributed to women who had abortions and the men who supported them. The third section explores press representations of the personnel who provided technical support for abortions: the abortionists and medical professionals. The last section describes the developments in press advertisements for abortifacient products, and the relationship between newspaper editorial staff and advertisers.

The Popular Press in New Zealand

In New Zealand the popular press was very similar to the variety of papers in England, albeit on a much smaller scale. Daily broadsheet papers such as the *New Zealand Herald*, *Dominion*, *Christchurch Press*, and *Otago Daily Times* served their cities and wider regions with 'staid respectability'.³ These papers ran articles of local interest, national and international affairs, and abbreviated accounts of selected news from other New Zealand regions supplied by the Press Association Telegraph.⁴ Weekly papers and magazines such as the *New Zealand Observer* served a similar purpose, often in rural areas.⁵ Monthly magazines presented news and articles of interest to specific sections of society, for

³ Richard Joblin, 'The Breath of Scandal: *New Zealand Truth* and Interwar Society, 1918–1939', MA Thesis, University of Canterbury, 1990, pp. 22–3.

⁴ These papers serviced the cities and wider regions of Auckland, Wellington, Christchurch and Dunedin respectively.

⁵ Joblin, 'The Breath of Scandal', pp. 23–4.

example popular women's magazines were the *Ladies' Mirror* in the 1920s, and in the 1930s its successor the *Mirror*, and the *New Zealand Woman's Weekly*.⁶

New Zealand's only version of the British tabloid press, *NZ Truth*, differed considerably from the other daily and weekly papers on offer during the interwar period. *Truth* presented its news, in the main stories about sex and crime, in the genre of melodrama and 'whodunnit'. At the same time *Truth* upheld the moral and legal status quo. It did not exist to reform society but rather to reveal its excesses and use the power of publicity to punish individuals who were perceived to have transgressed the social and moral order.⁷

Truth dominated the market in press stories of illegal abortion. The tabloid was the most prolific reporter of abortion-related legal proceedings of the newspapers in New Zealand throughout the interwar period and beyond.⁸ Moreover, *Truth* often reported the evidence presented at abortion trials and inquests verbatim, unlike other papers that might only publish brief reports about criminal court trials and coroners' inquests.⁹ The large regional dailies, for example, were more likely to limit coverage to salient comments by the judge or details of verdicts and sentences.¹⁰ In spite of these differences, there were discernable similarities between *Truth's* extensive reports and the more restrained coverage of the regional dailies.

Newspaper editors did not have licence to print whatever they pleased and were governed by legal and social constraints that occasionally were enforced with rigour. The courts policed the press, ensuring that press reports of trials did not extend beyond the words

⁶ For discussion on the history of the *Ladies Mirror* see R.C.J. Stone, 'Kelliher, Henry Joseph 1896 — 1991', *Dictionary of New Zealand Biography*, updated 22 June 2007, URL: <http://www.dnzb.govt.nz/>. For information on the *New Zealand Woman's Weekly* see Janet Blackwell (ed.), *NZ Woman's Weekly: The First 60 Years, 1932-1992*, Auckland, 1992.

⁷ Joblin, 'The Breath of Scandal', pp. 253–4.

⁸ This has been discussed in greater detail in Chapter One.

⁹ See for example *NZ Truth*, 25 February 1922, p. 5; 5 August 1926, p. 1.

¹⁰ For example *Christchurch Press*, 7 June 1923, p. 5.

expressed in the court.¹¹ All papers suppressed the details of how abortions were performed or attempted, lest they be the conduits of information on techniques or products to the public. Because *Truth* generally reproduced the proceedings in full, it replaced the details with the word ‘certain’. The practice resulted in opaque statements describing sexual intercourse as ‘certain relations’, pregnant women as being ‘in a certain condition’, a miscarriage as ‘a certain result’ and catheters as ‘certain pliable instrument[s]’.¹² Other papers were similarly reticent, discussing catheters as ‘certain instruments’ and avoiding use of the word pregnancy, referring instead to women being in ‘a certain condition’.¹³

The role of the press occasionally extended beyond simply reporting the news, and at times newspaper reports facilitated criminal investigations. In 1923, when the police were investigating allegations of illegal abortion against Daniel Cooper, they found the bodies of four newborn infants buried in the ground around the Coopers’ home in Newlands. Because the bodies were found on separate days and the investigation proceeded for some weeks, the local papers reported numerous times on the developments as they occurred over a period of weeks. Following the press reports about the police discoveries of the bodies of dead infants, a number of women came forward to tell the police they gave up their newborn infants to Cooper for adoption.¹⁴ Likewise in 1935, with the discovery of a woman’s decomposed body in the Tamaki Estuary at Auckland, the press reported regularly on the police investigation into her death. As a result of the coverage, a friend of Moira Ralston visited the police to tell them that Moira came to Auckland for an abortion the previous month and had not been seen since. This information led to police contacting her extended family, developments which concluded with the body being formally

¹¹ See for example the charges of Contempt of Court against the *Sun* after it reported on the demeanor of a witness during a court case in a manner that implied that she had an inappropriate affection for the accused. *Christchurch Press*, 24 October 1925, p. 14.

¹² *NZ Truth*, 2 September 1926, p. 5.

¹³ See for example *Dominion*, 22 March 1923, p. 11.

¹⁴ Charles Treadwell, *Notable New Zealand Trials*, New Plymouth, 1936, pp. 276, 278–82.

identified as Moira Ralston.¹⁵ The press did not just report on the arena of policing and justice, it also contributed to the gathering of evidence for the police.

The size and format of newspapers and the stories they ran fluctuated across the period from 1919 to 1937. The Great Depression (1929–1935) had considerable impact on the press. Revenues decreased as circulation dwindled and retailers cut back on their advertising budgets.¹⁶ From 1929, newspapers became smaller in an effort to reduce expenditure and as a result articles became shorter and more concise. The representations of abortion in the mainstream press became constrained by the tightened budgets of both newspaper proprietors and their readers.

In the 1930s, compared to the 1920s, there was less social and moral comment passed in the press in relation to abortion. Economised articles on abortion trials offered the bare facts or selected testimonies rather than transcribing the full proceedings.¹⁷ Little space was given over to the grand quotes and judicial pontificating which had been so popular a decade earlier. Even *Truth* cut back its trademark flamboyant headlines and verbatim reports of inquests and criminal court trials to smaller, less sensational short reports.¹⁸ The Depression reduced press coverage of abortion trials and inquests to the barest minimum.

‘instead of taking her to a clergyman, like an honourable man’: Representations of the Men and Women who used Abortion

Press representations of abortion focused on stories of individual behaviour, recounted through evidence to the courts and at coroners’ inquests. The men and women who

¹⁵ *NZ Truth*, 17 July 1935, p. 13; see also J 46 1935/896, ANZW.

¹⁶ The impact of the Depression on *NZ Truth*’s production and circulation is discussed in Joblin, ‘The Breath of Scandal’, pp. 28, 30, Table 1.

¹⁷ See for example *NZ Truth*, 14 May 1931, p. 7; *Taranaki Herald*, 13 February 1934, p. 10; 9 February 1934, p. 8.

¹⁸ Compare for example, *NZ Truth*, 9 December 1926, p. 7; 8 March 1928, p. 8; with *NZ Truth*, 12 November 1931, p. 7; 20 March 1935, p. 6; 15 May 1935, p. 8.

conspired to terminate pregnancies were the subject of gendered, stereotypical representations. Because most criminal court trials and coroners' inquests related to abortions performed on illegitimate pregnancies, the central moral message in press reports was about these individuals' failure to uphold the institution of marriage. But press representations of individuals' moral failings were highly gendered and expressed in ways that were at times apparently contradictory.

The press emphasised men's role in the procurement of abortions as evidence of their failure to observe the institutions of marriage and family. Men who facilitated abortions were often portrayed as shallow individuals whose sole motivation was to avoid responsibility for the unintended consequences of their sexual indiscretions. The *Christchurch Press* reprinted in full the Judge's reprimand given to Terry Vincent for his part in the death of his girlfriend Rose Napier in 1923, which stated, 'instead of taking her to a clergyman, like an honourable man, you took her to an abortionist and she now lies in a dishonoured grave in consequence of your action. I must send you to gaol as a warning to other men, as such conduct will not be tolerated in this country'.¹⁹ The emphasis given in the press about Vincent's actions presented his behaviour as an affront to public decency and morality, which could only be punished by imprisonment.

The press emphasised that men's crimes were social in addition to sexual. Married men who conducted illicit affairs were portrayed as calculating villains, as were older men with much younger lovers. One such example was a Gisborne newspaper's article about the conviction of Arthur Hensley for his part in Morag Halliwell's death. The paper reprinted word for word the concerns about Hensley's truthfulness on the stand, voiced by the Judge during his summing up of the case. By revealing the contents of letters used as evidence in

¹⁹ *Christchurch Press*, 7 June 1923, p. 5.

court, the paper invited its readers to conclude that illicit intimacy between the two was a given, contradicting Hensley's claims he was not responsible for Morag's pregnancy.²⁰ In 1931 *Truth* drew attention to the fact that Albert West's betrayal of Eleanor Beasley crossed generational boundaries with its headline stating '[Albert] Was Her Father's Special Friend'.²¹ In another case in 1926, *Truth* reprinted the Judge's comment calling the man involved 'an elderly curmudgeon' who chose to pay £35 rather than 'let his child live'.²² The message was clear: men who were not in control of their sexual desires, who would not contain their sexual expression within their existing marriage, or who would not enter marriage in response to pregnancy, were not just a danger to women but to the community at large as well.

On occasion the press pointedly emphasised how men could redeem themselves from their efforts to obtain an abortion. Like the courts, the press used the formation of a marriage or the resumption of an existing marriage as a shield against criticism of the parties involved. In 1926, when *Truth* reported on Robert Hooper's trial for unlawful carnal knowledge and procuring abortion, the paper focused on the revelation that Hooper's predicament brought his estranged wife back to the marriage to support him through his trial. In its report on the trial *Truth* valorised the restoration of the marriage and emphasised Robert's downfall was orchestrated by the bad influence of the girl concerned — despite the fact she was under the age of consent when their affair began.²³ In 1930 *Truth* and the *Herald* reported George Burgess's marriage to his girlfriend Judith as she lay on her deathbed in Auckland Public Hospital. Both papers reported verbatim the Judge's refusal to allow the defence attorney to question George's motivation to marry.²⁴ Through the demonstration of their

²⁰ Unnamed newspaper clipping, c. 21 March 1923, H1 131/139 B.100 Diseases – Septic Abortion 1922–1937, ANZW.

²¹ *NZ Truth*, 9 April 1931, p. 3.

²² *NZ Truth*, 9 December 1926, p. 7.

²³ *NZ Truth*, 4 March 1926, p. 4.

²⁴ *NZ Herald*, 11 February 1930, p. 14; *NZ Truth*, 30 January 1930, p. 6.

commitment to marriage and family, men could find protection from the overt scrutiny of the press into their private lives.

The press' endorsement of the institution of marriage was a double-edged sword for some papers. On rare occasions, newspaper articles overstepped the perceived boundaries of good taste and received complaints from public organisations. Press reports of the criminal court case taken against Daniel Cooper resulted in one such episode of popular censorship. By the time Cooper and his wife Martha came to court, the allegations of infanticide against them were already widely covered in press. But the papers came in for considerable criticism over their coverage of revelations about Cooper's private life uncovered during the trial. A young boarder at the Cooper house, Rose, admitted to having a sexual relationship with him, apparently with the full knowledge and consent of his wife. Two infants were born from their liaison. During the trial Rose testified she and Cooper travelled to Christchurch for the delivery of the first child, and afterwards left the baby boy with a woman in that city. The second baby, a girl, was born in Wellington. Rose told the court that Cooper had told her he arranged to adopt the baby to a family in Palmerston North, and took the child away from her. One of the infants found buried in the garden was believed to have been that child.²⁵

Cooper's story was highly unusual. He was at once a murderer, abortionist, adulterer, and had failed in his moral duty to protect the chastity of a young woman living in his household. Any one of these failings was fodder for the press, but together they told a shocking story of debauchery and crime. The publication of information from the trial drew a sharp response from organisations concerned with the moral welfare of the newspaper reading public. A deputation of leading clergymen, representing the Anglican,

²⁵ *Dominion*, 5 March 1923, p. 8; 9 March 1923, p. 8; 10 March 1923, p. 6; 12 March 1923, p. 5; 13 March 1923, p. 5; 14 March 1923, p. 5; 22 March 1923, p. 11; 28 March 1923, p. 6; 4 April 1923, p. 6.

Catholic, and non-Episcopal churches and the Wellington Council of Churches, visited the Minister of Justice in June 1923 to complain about the press coverage of these details.²⁶ The clergymen objected to the publication of Cooper's relationship with Rose and contended the newspapers offended against common decency by publishing such offensive revelations. In their words this 'could only have an unfortunate bearing upon the rising generation'. They requested the Minister legislate to ensure the censorship of such salacious proceedings, a request supported by a subsequent resolution from the National Council of the Women of New Zealand.²⁷ The Minister disagreed with the need for legislation, however, preferring to leave newspaper editors the responsibility for ensuring their stories met with the standards of public decency.²⁸ The press were duly warned. The churches and some women's organisations looked unkindly upon suggestions continence within marriage was optional. Whilst the adverse consequences of this event remain largely intangible, press editors and journalists would have been aware they walked a fine line when producing stories about crime and morality. The public had the last word on contemporary understandings of public decency, and there was considerable support for legislative remedies to remove editorial discretion if the press continued to push the boundaries of decency.

The women who had abortions were subject to rather different representations than men in the press. A woman, or at least her body, lay at the centre of the criminal court trials and coroners' inquests reported by the press during the period from 1919 to 1937. Yet surprisingly, women's actions to facilitate their abortions drew very little overt comment in the press during most of this period. The press did not emphasise marriage as a feminine responsibility, unlike their representations about men. Instead press reports about women

²⁶ The delegation consisted of Anglican Bishop of Wellington, the Rt Rev. Dr Sprott; Catholic Archbishop O'Shea; the Rev. Father Cullen and Rev. R. Inglis who represented the non-Episcopal churches and the Wellington Council of Churches.

²⁷ *NZ Times*, 13 June 1923, J1 1923/1321 Representations Re. Divorce and Illegal Operation Cases, ANZW.

²⁸ *Ibid.*

emphasised elements of their personal behaviour in terms of respectable femininity. These representations were characterised by a good/bad dichotomy: the good woman was passive and naïve whereas the bad woman was sexually knowledgeable and assertive.

The most common representation in the press of women who had abortions was as the victim of others' actions. Such stereotypes reflected the dominance of court and coroners' hearings in the press. These forums most commonly examined abortions performed as a result of social networking, implicitly positioning women as objects acted upon by others. Press reports presented women who obviously received help to terminate their pregnancies as the victims of their supporters. The *Christchurch Press*'s report into the conviction of Terry Vincent for his part in his girlfriend Rose Napier's death repeated the Judge's assertion that her death was a direct result of Vincent's actions.²⁹ In 1931 *Truth* headlined its report on the coroners' inquest into Christine Beath's death with the statement: 'Girl More or Less Done to Death' by her supporters.³⁰

During the 1920s, the lack of acknowledgement of women's agency extended even to those cases where women had no obvious supporters. The *Dominion*'s report on the inquest into Carol Jacobs' death in 1923 is one example: Carol died alone in a locked bathroom as a result of an air embolism which she caused with a syringe.³¹ The *Dominion* suppressed information about Carol's self-management of her condition, and focused instead on the allegation a chemist sold her some pills in the weeks preceding her death.³² Whilst the coroner had interpreted Carol's purchase of pills as evidence of her intention to terminate her pregnancy, the paper presented the chemist's desire for pecuniary gain as the cause of

²⁹ *Christchurch Press*, 7 June 1923, p. 5.

³⁰ *NZ Truth*, 23 April 1931, p. 5. See also *NZ Truth*, 6 December 1939, p. 1.

³¹ J 46 1923/398, ANZW.

³² *Dominion*, 2 March 1923, p. 7.

Carol's death. There was little space in the press to represent women as having any agency in their pursuit of abortions.

Truth went one step further and made a point of valorising women for their silence. In 1920, when Gertrude Bayfield refused to testify at the retrial of John Hayward and Neville Nelson, she was found in contempt of court. *Truth* described her demeanour during the hearing, in which she was sentenced to nine months' imprisonment, with obvious approbation. 'The girl took her "gruel" with a composure that won the admiration of many in the court. She was certainly not behind the door when pluck was given out'. The article was accompanied by a picture of the silent Gertrude, a highly unusual visual representation.³³ In spite of the fact that only Gertrude received a conviction as a result of her abortion, *Truth* portrayed her as the hero of the day.

Figure 10: Illustration of Gertrude Bayfield drawn by a court illustrator for *NZ Truth*, depicting her with a firmly closed mouth. The caption read, 'One Woman Who Can Hold Her Tongue'.³⁴



Source: '[Gertrude Bayfield] (One Woman Who Can Hold Her Tongue.)', *NZ Truth*, 29 May 1920, p. 5.

³³ *NZ Truth*, 29 May 1920, p. 5.

³⁴ *Ibid.* Pictures of the women who had abortions were generally not found in press reports during the interwar period.

On occasion *Truth*'s headlines twinned reports of women's tragic deaths with romantic melodrama, linking women's abortion-related experiences with love rather than immorality. In 1927 its bold headlines claimed that widow Maxine Twoomy's death was the result of 'Her Tragic Love Secret'. The headlines continued, stating her 'Silence Save[d] Culprit', indicating Maxine's death was not caused by her actions, but rather fault lay with her unidentified lover.³⁵ These headlines created the impression that the moral centre of the story for women was the dangerous association between romance and death. Another article in 1929 emphasised these links with the headline, 'Tragic End to Romance of Young Mental Hospital Nurse'. Like Maxine, this young woman, 'Took Secret to Grave', indicating those culpable for her death remained unidentified also.³⁶ In spite of the fact that the circumstances surrounding these women's pregnancies and abortions were never aired publicly, *Truth* relayed their stories as tragedies of love gone horribly wrong.

The press on occasion took the opportunity to repeat moral messages directed to women by judges and coroners. These messages focused on women's behaviour as individuals rather than insisting on their participation in marriage, unlike press representations about men. In 1925 the *Christchurch Press* printed the coroner's warning against abortion to young women, 'Nature should be allowed to take its course'.³⁷ In 1930 the *NZ Herald* printed Justice Herdman's comment, 'women have been risking their lives' when they used the services of an abortionist.³⁸ Although the press rarely offered comment on single motherhood, *Truth* reproduced Justice Alper's affirmation of one young woman witness who told the court she was the mother of two illegitimate children. 'Thank goodness she had borne them', he told the court, adding an equally bold comment that '[o]ne had to do

³⁵ *NZ Truth*, 15 September 1927, p. 5.

³⁶ *NZ Truth*, 28 September 1929, p. 7. See also *NZ Truth*, 2 October 1930, p. 8.

³⁷ *Christchurch Press*, 26 November 1925, p. 7.

³⁸ *NZ Herald*, 13 February 1930, p. 14.

with the control of child birth before conception'.³⁹ Reporting on abortion cases provided opportunities to reinforce to women their responsibility to take pregnancies to full term and observe the duties of motherhood. But these representations avoided discussing women as sexual agents. Unlike their male lovers, women were not informed by the press that they should limit their sexual expression to marriage.

Very occasionally, women's sexuality was the subject of abortion stories in the press. These stories applied the role of victim to the men in the relationship, and presented particularly negative representations of the women concerned. One such example was *Truth's* 1927 report on the trial of Selma Biddle and Noeline Beal's lovers, Richard and Burt, for the procurement of the women's abortions. *Truth* emphasised the concerns expressed by the defence about the young women's overt sexuality, demonstrated by their numerous boyfriends, an illegitimate child, and their apparent knowledge of sexual matters.⁴⁰ Noeline, at least, appeared happy to admit to these details on the stand, which may have ultimately been responsible for the men's acquittal.⁴¹ *Truth's* article on the trial reflected the defence case, but did not acknowledge the young women's complicity in it. *Truth* portrayed Selma and Noeline as temptresses who had lured their inexperienced lovers into criminal activity: leaving the impression that Richard and Burt had been the victims in the saga.⁴² Married women too were occasionally defined in the press as 'bad' women. *Truth* revealed in its coverage of Mary O'Donoghue's trial in 1926 that one of the women witnesses had aborted her legitimate pregnancy because of an impending family journey to Melbourne.⁴³ In these stories *Truth* highlighted the hallmarks of 'bad women', the apparent

³⁹ *NZ Truth*, 9 December 1926, p. 7.

⁴⁰ *NZ Truth*, 25 August 1927, p. 7. For another example see *NZ Truth*, 9 April 1931, p. 3.

⁴¹ See Chapter Five.

⁴² *NZ Truth*, 25 August 1927, p. 7. For another example see *NZ Truth*, 9 April 1931, p. 3.

⁴³ *NZ Truth*, 11 February 1926, p. 7. This detail was ignored by the *Herald* in its report. *NZ Herald*, 6 February 1926, p. 13.

expression of promiscuous sexuality by unmarried women or the avoidance of motherhood for the sake of convenience by those who were married.

During the early 1930s, press accounts of women's role in their abortions began to change. This change reflected the shift in focus of coroners' inquests, which began to look into more married women's abortions, and self-induced or partner-induced abortions. Unlike the article about the inquest into Carol Jacobs' death the previous decade, in 1931 the *Christchurch Press* acknowledged Alice Fogarty may have performed an operation on herself.⁴⁴ The same verdict of self induction was openly attributed to the actions of a 14 year old girl living in Belfast, Christchurch in 1934. The Coroner ruled she caused her own death by the introduction of mercurial disinfectant tablet, procured for her by a male neighbour, into her vagina in an effort to either prevent pregnancy or stimulate her period.⁴⁵ Reports in the *Christchurch Press*, *Otago Daily Times* and *Taranaki Herald* avoided overcomplicating the verdict with the suspicion she acted on the instruction of the 17 year old neighbour.⁴⁶ These women's interactions with their genitals, although only implied in the press, were no longer overlooked but instead highlighted as symbolic of their moral downfall.

Comment in the press on individual behaviour was not limited to the couples who sought to terminate pregnancies. *Truth's* report on Christine Beath's inquest in 1931 was headlined 'Deliberate Untruths Told' and 'Denunciation of Witnesses by Coroner'. The coroner's comments about the veracity of the statements given by witnesses dominated the article, showing he believed these people were shielding themselves from allegations of illegal

⁴⁴ *Christchurch Press*, 1 October 1931, p. 7.

⁴⁵ J 46 1934/119, ANZW.

⁴⁶ *Christchurch Press*, 2 February 1934, p. 7; *Taranaki Herald*, 2 February 1934, p. 6; *Otago Daily Times*, 3 February 1934, p. 12.

abortion.⁴⁷ Whilst *Truth* valorised women for their silence, its articles were scathing about the silence of those women's supporters who could have brought their stories out of the shadows.

Women's supporters, particularly male family members, often were the subject of criticism in press articles about their roles in the pursuit of abortions. In 1929, Eileen Henderson's stepfather had been roundly criticised by the coroner at the inquest into her death. *Truth's* headline on the inquest read 'This is a Conspiracy of Lies' was followed by scathing quotes from the coroner who, speaking of the lack of support Eileen had received from her stepfather while in hospital, stated 'It is a long time since I have heard evidence of such callousness and neglect'. *Truth* quoted directly the coroner's comments about Eileen's stepfather's 'absence of parental feeling', 'I have dealt with some rascals in my time but—' leaving the rest to the reader's imagination.⁴⁸

The increasing number of cases launched against men for the procurement of pills and medicines during the 1930s meant the press began to focus on familial conflicts over pregnancy and marriage also. When Archie Broughton was convicted of having procured pills for his niece in 1935, *Truth* reported his relationship with his wife was strained because of the attention he paid to their niece.⁴⁹ *Truth* emphasised the power of family members to stymie marriage in its article about charges laid against Edith Belcher's cousin, James for purchasing abortifacient pills. *Truth* reported Edith refused to allow her daughter Maude to marry in response to her pregnancy. Instead she asked James to pressure Maude into taking some pills to terminate it.⁵⁰ Such articles emphasised the responsibilities of family members to support and uphold the institution of marriage.

⁴⁷ *NZ Truth*, 23 April 1931, p. 5.

⁴⁸ *NZ Truth*, 2 July 1929, p. 8.

⁴⁹ *NZ Truth*, 27 March 1935, p. 10.

⁵⁰ *NZ Truth*, 3 April 1935, p. 13.

Court and coroners' inquests were generally focused on examining abortions conducted as a result of social networking. Because of this trend the overwhelming impression created in the press was that abortions were most commonly performed on illegitimate pregnancies. For the most part, the press represented abortion as a consequence of masculine failure to observe marriage and family as the moral response to pregnancy, or to limit their sexual expression to their existing marriages. The press portrayed men who supported their lovers to have abortions as a problem of unrestrained male sexuality, a danger to both women and the wider community. Such representations extended onto women's family members, who were similarly chastised for their failure to uphold their roles as the protectors of young women and efforts to prevent marriages. But these representations were on occasion able to be avoided if men demonstrated a renewed commitment to their roles within marriage and the family.

The dominant representations of women were as the victims of this masculine moral failure. In this regard, the press emphasised the desirability of feminine silence, passivity, and naivety, attributing little personal agency to women. During the 1920s, press reports about ex-nuptial pregnancy did not automatically result in women being represented as moral failures. Instead, the newspapers were far more likely to show moral failings in terms of men's responses to pregnancy, often overlooking the role that women played in the performance of their abortions. But by the 1930s the representations of women's roles in abortions began to change. Women's agency, which had only rarely been acknowledged in the 1920s, was highlighted more often in the 1930s, particularly in cases where married women were found to have had abortions.

‘Traffic in Blood for Lust of Gold’: Representations of Abortionists and Medical Professionals

The personnel whose technical expertise underpinned the performance of many abortions were the subject of press representations also. The professional abortionist has long been described by particularly negative stereotypes in the news media. But doctors too were subjected to severe criticism in the press during the interwar period. Considerable similarities in representations of abortionists and medical professionals existed across the spectrum of papers. Headlines, text, and even photographs reinforced for readers that abortionists were ignorant, careless, dirty, and avaricious, and that doctors’ motivations in the provision of medical care to aborting women were sometimes highly dubious.

The press used judicial quotes to reinforce that abortionists were both criminal and dirty. In 1923, for example, the *Otago Daily Times* quoted Mr Justice Reed as saying: ‘the jur[y] ... had wiped out an unclean spot on the town [of Gisborne]’.⁵¹ Later in the same year, the *Christchurch Press* reported Mr Justice Sim as saying that Dunedin had ‘been redeemed’ with the conviction of John Hayward.⁵² Headlines conveyed similar sentiments. The *Herald’s* coverage of Mary O’Donoghue’s trial in 1926 was headlined ‘A Menace to Society’.⁵³ Sensational headlines did not necessarily have to be factually relevant to the case at hand. The *Herald’s* coverage of O’Donoghue’s trial was subtitled ‘Direct Cause of Deaths’, which referred to her conviction for manslaughter some fourteen years earlier. None of her current clients had died.⁵⁴ In 1926 the *Dominion* ran the headline ‘Alleged Murder’ to describe proceedings in which a Magistrate had refused to validate a charge of murder against Edith Newcombe and offered a charge of either manslaughter or abortion.⁵⁵

⁵¹ *Otago Daily Times*, 21 March 1923, p. 5.

⁵² *Christchurch Press*, 11 August 1923, p. 8.

⁵³ *NZ Herald*, 6 February 1926, p. 13.

⁵⁴ *NZ Herald*, 6 February 1926, p. 13.

⁵⁵ *Dominion*, 4 September 1926, p. 5.

Even when at odds with reality, abortionists were represented as the cause of social degeneracy and as deliberate killers.

The text of articles, even short reports, also commonly conveyed that abortionists did not act out of concern for their clients. The *Christchurch Press* quoted Mr Justice Salmond, at the sentencing of Albert Hall, who stated Hall ‘recommended his nefarious practices’ as an abortionist immediately on release from an earlier term of imprisonment. Hall had to be imprisoned for seven years, said the Judge, to keep other women safe from harm.⁵⁶ In 1934, the *Taranaki Herald* reported the Judge’s comments to Jane Randal that abortion was ‘dangerous’ as was Mrs Randal because she made ‘a living out of [abortion] and knew that there was a risk attached to it’.⁵⁷ Judges’ comments about the recidivist nature of abortionists’ offences were repeated in the press to reinforce the view that offenders were incorrigible and did not care about the consequences of their actions.

The fact that abortionists were paid for their services also drew the attention of the papers. *Truth* in particular used photographs to reinforce that abortionists had greater wealth than ordinary folk. In 1926 *Truth* repeatedly ran a photograph of Edith Newcombe taken outside the courthouse. She was described as smartly dressed in a fur coat and stylish hat, as if this incriminated her further.⁵⁸ Headlines also drew attention to the pecuniary nature of abortionists’ activities. *Truth*’s headline ‘Traffic in Blood for Lust of Gold’ over an article about O’Donoghue’s criminal court trial implied that she had only been concerned about profits. The text of the article revealed the reality was quite different. O’Donoghue received in the range of £1, £2 and £5 from her clients, an extraordinarily low charge for an

⁵⁶ *Christchurch Press*, 7 June 1923, p. 5.

⁵⁷ *Taranaki Herald*, 9 February 1934, p. 8.

⁵⁸ *NZ Truth*, 2 December 1926, p. 7. See also *NZ Truth*, 2 November 1938, p. 17.

abortion.⁵⁹ Whether there was evidence or not, abortionists in the news were almost invariably tarred with the taint of death and avarice.

On occasion, the press overrode its abhorrence of the abortionist in favour of a scandal involving police methods. The police sometimes found themselves at the sharp end of *Truth's* headlines, for example 'Unfair Methods Denied by Detective'.⁶⁰ In 1929, *Truth* reported on the trial of Mildred Davidson for having allowed the use of an instrument on her body. Mildred told the court she only told the police Maureen Carlson performed an abortion for her, because they threatened to charge her mother with the crime. *Truth* responded to the apparent injustice of the allegation with the headline, 'Did Police Apply Third Degree?'.⁶¹ Likewise the press was not always immune to popular verdicts. Earlier in 1929, when Maureen Carlson was acquitted of the charges of illegal abortion brought as a result of police pressure on Mildred, the headline read: 'Popular Verdict: Spectators in Court Cheer Jury's Decision'.⁶²

The close relationship between medical care and illegal abortion was on occasion highlighted by the press also. In 1921, *Truth's* report on the inquest into Audrey Clark's death, for example, was headlined 'Was There an Illegal Operation: Two Christchurch Doctors Concerned'.⁶³ An article in a subsequent edition indicated the coroner had cleared the doctors of any wrongdoing. The article subtly undermined any suggestion the doctors were completely innocent of the allegations, however. Within the article was inserted the statement that one of the doctors 'ADMITTED THAT THIS WAS TRUE' regarding an

⁵⁹ *NZ Truth*, 11 February 1926, p. 13. Charges varied by practitioner and in mid 1920s ranged between £10 and £50. See discussion in Chapter Three.

⁶⁰ *NZ Truth*, 7 November 1929, p. 5; Similar claims were also made in *Otago Daily Times*, 21 March 1923, p. 3; *NZ Truth*, 16 December 1926, p. 7.

⁶¹ *NZ Truth*, 28 March 1929, p. 8.

⁶² *NZ Truth*, 9 May 1929, p. 4; See also *NZ Truth*, 28 March 1929, p. 8.

⁶³ *NZ Truth*, 20 August 1921, p. 5.

allegation he lied in his initial statement to the police.⁶⁴ The structure of the article belied its headline and its emphasis on the doctor's lie created the impression that the doctor was concealing something regarding his treatment of Audrey.

When doctors appeared before the courts in relation to their roles in the performance of abortions, the press treated these events as solemn and even shocking occasions. In 1926 the *Dominion* reported that Wellington Friendly Society physician Dr Oswald Jennings was before the courts on charges related to Edith Newcombe's abortion practice. The seriousness of the charge was emphasised in the headline: 'Doctor Faces Grave Charge'.⁶⁵ When Jennings was found to have no charges to answer both the *Dominion* and *Truth* made it clear this development was based on a legal technicality rather than on an absence of evidence.⁶⁶ *Truth* used the same approach in its report on the inquest into Annie Stein's death during which it was disclosed that Annie had named her abortionist as Dr James Henderson before her death. Henderson was acquitted on other abortion-related charges a few months earlier. The paper's headline 'Girl's Startling Accusation' expressed mock surprise at Annie's allegation.⁶⁷ In these cases the press did little to foster a sense of the doctors' innocence of the allegations.

Although doctors did not attract the same degree of negative press as non-medical abortionists, their relationship with the news media was at times strained and other times hostile. In part this was because of the medical profession's own conflicts with the press over maternal mortality during the early 1920s when the stereotypes about abortion produced in the press, in particular its association with illegitimate pregnancies, were often at odds with the opinions of doctors.

⁶⁴ *NZ Truth*, 5 November 1921, p. 5 (their emphasis).

⁶⁵ *Dominion*, 9 September 1926, p. 15; 10 September 1926, p. 10.

⁶⁶ *Dominion*, 10 September 1926, p. 10; *NZ Truth*, 23 September 1926, p. 5.

⁶⁷ *NZ Truth*, 6 September 1928, p. 9.

The hostile interactions between medical professionals and the press stemmed from a report in 1921 by a Special Committee of the Board of Health on New Zealand's maternal mortality rate (MMR). MMR measured the deaths of women from accidents, diseases, or complications of pregnancy or during and after childbirth.⁶⁸ Newspapers around New Zealand launched a media campaign, prompted by a Health Department press release, which focused on the sections of the report that claimed 'hurried midwifery' by doctors was part of the problem.⁶⁹ Over the course of the next few years representatives of the NZBMA attempted to highlight the contribution of abortion-related infections to maternal mortality. The dominant discourses about abortion in the press suggested the practice was widely perceived to be used by single women, whereas mothers were synonymous with married women. To discuss illegal abortions in the same context as MMR was, in 1921, almost incomprehensible.

Press reports about the NZBMA during this time were highly critical of the medical profession. *Truth*, for example, argued that the impatience of medical practitioners, or their sheer incompetence, endangered women's lives and begged the question: 'Are Mothers Murdered?'⁷⁰ When doctors at the NZBMA annual conference in 1922 complained about their treatment in the media, *Truth* retorted that the Association was 'a regular "hush-hush" brigade'. Its article about the conference argued, 'No doubt the [NZBMA] is indignant that dictation should come from the laity ... the publicity levelled against the medical profession has been fully justified ... If the doctors [seek] to infer that it was not their house that required putting in order [regarding the cause of maternal mortality] then we frankly

⁶⁸ 'Maternal Mortality in New Zealand. Report of Special Committee', NZMJ, 20, 1921, p. 354; See also AJHR, 1921, H-31A, pp. 20-3.

⁶⁹ Philippa Mein Smith, *Maternity in Dispute: New Zealand, 1920-1939*, Wellington, 1986, pp. 9-11, 14-16.

⁷⁰ *NZ Truth*, 6 August 1921, p. 4.

disagree with them.⁷¹ At the start of the interwar period, doctors were not the source of authoritative information about MMR, but rather were demonised in the press as the cause of women's deaths.

The power of the press to shape and determine the content of the stories they published was considerable. As the 1920s wore on, the NZBMA continued to find the press hostile to their claims over illegal abortion.⁷² A second maternal mortality scandal erupted in 1924 with the deaths of five women at Auckland's Kelvin Maternity Hospital. The NZBMA repeated its argument that abortion-related deaths inflated MMR, for which it claimed the profession should not be held responsible. In response, the *Ladies Mirror*, a monthly women's magazine, accused the Association of callous disregard for the lives of pregnant and labouring women.⁷³ The NZBMA struggled to extricate its members' reputations from the adverse publicity because the editor of the *Ladies' Mirror* simply refused to allow the Association the right of reply. In the end the Association was forced to appeal to the Newspaper Proprietor's Association (NPA) to have its reply published.⁷⁴ The press could, and in this case did, actively censor viewpoints which did not reflect its established narratives about abortion.

That the press was somewhat hostile towards doctors perhaps helps to explain why doctors increasingly resorted to treating abortion patients in public hospitals, which has been discussed in Chapter Six. The increased trend towards more transparent locations for the treatment of aborting women seems to have helped to minimise the abortion scandals related to medical treatment uncovered in newspapers. From 1928 to 1935 doctors were not the main focus of criminal court trials or press accounts of abortions. But in 1935 this

⁷¹ *NZ Truth*, 25 March 1922, p. 1.

⁷² See Mein Smith, *Maternity in Dispute*, pp. 18–22.

⁷³ *Ladies Mirror*, 1 July 1924, p. 35.

⁷⁴ *NZMJ*, 23, 1924, p. 417; *Ladies Mirror*, 1 October 1924, p. 29; also published as 'The Work of the British Medical Association on the Problem of Reducing Maternal Mortality', *NZMJ*, 23, 1924, pp. 411–4.

changed when the activities of unregistered medical practitioner and electrotherapist, 'Dr' Godfrey Hewson, came under considerable press and police scrutiny in the wake of the so-called 'Panmure Mystery'.⁷⁵

The 'Panmure Mystery' epitomised press representations of abortionists and doctors. When the details of the story were revealed to the public in press coverage of the inquest into Moira Ralston's death, they were particularly shocking by the standards of the day. The Coroner ruled Moira probably died as a result of an illegal abortion and her body was dumped by the abortionist to cover his or her crime.⁷⁶ As has been discussed in earlier chapters, such action on the part of an abortionist was unprecedented in the recent history of abortion in New Zealand. In the mid 1930s it was common practice among abortionists to send seriously ill women either to hospital or back to their families. If an abortionist was caring for a woman who died, then he or she usually sought a death certificate so the body could be returned discreetly to the woman's family.⁷⁷ In relation to Moira's death, no charges were ever laid against Hewson, because the evidence of his involvement was circumstantial. Moira's boyfriend had destroyed her letters to him, which contained the main evidence against Hewson, on the basis that these would have incriminated himself as well as the abortionist.⁷⁸ Although Moira Ralston's story was vastly different from many other women's experiences of abortion, it confirmed the worst aspects of press representations about both professions.

Then, in 1936, extensive press coverage of the exhumation and subsequent inquest into the death of another young woman, Madeleine McDowell, led to considerable criticism in the press of her doctor for his failure to inform the police that she admitted to an illegal

⁷⁵ *NZ Truth*, 17 July 1935, p. 11.

⁷⁶ *NZ Truth*, 24 July 1935, p. 18.

⁷⁷ Examples of a social contract between abortionists and their clients are discussed in Chapter Four.

⁷⁸ The lack of a case against Hewson has been discussed in Chapter Five.

abortion.⁷⁹ The *Dominion* reported on the inquest in which the doctor, Andrew Melville, did his profession no favours. He came across in press reports as pompous and arrogant when he complained it ‘was unfair to exhume the body without notice to a doctor of 25 years standing’.⁸⁰ His complaint was reminiscent of the claims made by *Truth* during earlier maternal mortality scandals that the profession were ‘a regular “hush-hush” brigade’. In the wake of the Depression, ‘bad’ doctors, whether they acted illegally or simply saw themselves as above the critique of the press, continued to be infinitely newsworthy.

Abortionists and women’s doctors were subject to particularly negative representations in the press. The dominant narratives about abortionists in the press were simplistic and negative. These representations contrasted with abortionists’ complex social connections and sometimes obvious popularity within their communities described in Chapter Four. In the press, abortionists were not only criminal they were dangerous, deadly, and cared only for profit. The press mobilised quotes gleaned from court and coroners’ proceedings to reinforce the view abortionists performed a crime not a service. These representations argued abortionists did not care whether their actions led to the deaths of their clients. But at the same time the press, particularly *Truth*, disclosed what it perceived to be overt injustices on the part of the police in investigating such crimes.

The relationship between the press and medical professionals was at times hostile and at other times ambiguous at best. But while the press highlighted individual doctors’ dubious practices in relation to abortion, doctors were not as harshly characterised by the press as were lay people who stood accused of performing abortions. Nonetheless the association of

⁷⁹ *Otago Daily Times*, 30 May 1936, p. 9.

⁸⁰ *Dominion*, 30 May 1936, p. 13.

medical practice with criminal abortion was a theme that the press reinforced throughout the 1920s and into the 1930s, fuelled in large part by individual doctors' own practices.

‘Ladies Don’t Wait’: Advertisements for ‘female regulators’

There was a degree of irony to the newspapers’ negative portrayal of abortion as a crime given that many papers earned income from advertisements for abortifacient products. Most papers ran substantial numbers of commercial advertisements, receipts for which funded a large portion of the papers’ production costs. Advertisements for products widely used by women to ‘bring on their periods’ were displayed in the press alongside representations of illegal abortions as the crimes of greedy and avaricious abortionists.

The law in relation to abortifacient drugs and so-called ‘female regulators’ was ambiguous. The products themselves were not illegal. It was only illegal to sell or use these products with the intention of inducing a miscarriage, a condition which implied users acted in the knowledge or suspicion a pregnancy actually existed.⁸¹ There was no law restricting the advertisement or sale of such remedies in general or their use for purposes other than abortion.⁸²

The manufacturers and purveyors of these products had a longstanding relationship with the press that spanned geographic boundaries.⁸³ As William Martin, the manufacturer of Martin’s Apiol & Steel Pills, told the New Zealand Health Department in 1921, he

⁸¹ *Crimes Act*, 1908, S. 223(1).

⁸² Unlike New South Wales, New Zealand’s Indecent Publications Act, 1910 had not legislated against the advertisement of female pills in an attempt to reduce the incidence of abortion. See Louise Falconer, ‘The Mother Country and Her Colonial Progeny’, in *Law Text Culture*, 7, 2003, pp. 162–5.

⁸³ The earliest example of an advertisement for female regulators that I could find was in the *New Zealander*, 4, 249, 18 October 1848, p. 4. Examples of some of these kinds of advertising are included in Chapter Two, Figures 2–8. For more information on the sale of these products in British Colonies see Gigi Santow, ‘Emmenagogues and Abortifacients in the Twentieth Century: An Issue of Ambiguity’, in Etienne Van de Walle and Elisha P. Renne (eds), *Regulating Menstruation: Beliefs, Practices, Interpretations*, Chicago, 2001, p. 64.

advertised his products ‘in every British Colony in the world. They have an enormous sale, my advertising [budget] is over £4,000 pa’.⁸⁴

The popularity of the products did not stop the press from attempting to censor advertisements. In 1921 the *Wanganui Chronicle* refused to run an advertisement for Martin’s Apiol & Steel Pills because its statement, ‘Ladies Don’t Wait’, implied an illegal purpose.⁸⁵ As a result the advertiser, Martin, removed the statement from his advertisements in this and other papers.⁸⁶ Subsequent advertisements for Martin’s Pills used the less offensive ‘Every Lady should keep a box in the house’.⁸⁷ By 1937, the distinctive description of ‘Apiol & Steel’ was removed from Martin’s advertisements also.⁸⁸ A similar change occurred in advertisements placed by E.T. Towle & Co., which advertised Towle’s Pills in New Zealand newspapers. Towle & Co. removed the reference to ‘pennyroyal and steel’ from their advertisements in 1921. By 1927, the reference to ‘ladies ailments’ was replaced with ‘Immediately you notice any irregularity of the system take Towle’s Pills. They will quickly remove all suffering’.⁸⁹ Advertisers bowed to increased censorship of their advertisements and in return the newspapers continued to publish these.

Newspaper proprietors’ efforts to censor advertisements may have stemmed from concerns about their newspapers’ potential legal liabilities. Health Department official Dr Joseph

⁸⁴ William Martin to Dr J. Frengley, Deputy DGH, 26 November 1921, H1 175/50 17185 20484 Quackery Prevention Act – Sale of Abortifacients 1922–1930, ANZW.

⁸⁵ See for example William Martin, Southampton, to Dr Joseph Frengley, Director Division Food & Drugs, Health Department, 26 November 1921; Frengley to Martin, 21 February 1922; Frengley to Mr L.J. Berry, Newspaper Proprietors Association, 22 February 1922; Martin to Frengley, 15 April 1922; Frengley to Martin, 13 June 1922, H1 175/50 17185, ANZW.

⁸⁶ Martin to Frengley, 26 November 1921; Frengley to Martin, 21 February 1922; Frengley to Berry, 22 February 1922; Martin to Frengley, 15 April 1922; Frengley to Martin, 13 June 1922, H1 175/50 17185, ANZW.

⁸⁷ See for example *NZ Truth*, 9 September 1926, p. 2.

⁸⁸ *Mirror*, January 1937, p. 46. Formerly the *Ladies’ Mirror*, by 1930 the magazine’s name had been changed to the *Mirror*. See R.C.J. Stone, ‘Kelliher, Henry Joseph 1896 — 1991’, *Dictionary of New Zealand Biography*, updated 22 June 2007, URL: <http://www.dnzb.govt.nz/>.

⁸⁹ *NZ Observer*, 3 July 1920, p. 28; 5 February 1921, p. 28; 6 July 1927, p. 20.

Frengley stirred this concern in 1925 by suggesting to the NPA that newspapers could potentially be considered accomplices if illegal acts were performed as a result of their advertisements.⁹⁰ His letter led some newspapers to refuse to run these advertisements.⁹¹

But this eventuality was by no means universal. The advertisers of remedies for menstrual problems had a longstanding commercial relationship with the press and this was not easily disrupted.

Increasing censorship did not seem to affect some of these products. Well known products with a long standing reputation as female regulators survived the removal of the more obvious statements about their abortifacient purpose. They did not apparently need to identify abortifacient ingredients in order to convey a sense of their purpose. Martin's Pills, Towle's Pills, and Widow Welch's Pills for example continued to be advertised in New Zealand newspapers and magazines well into the late 1930s.⁹² While censorship might have removed statements implying the products could induce abortions, the press continued to run advertisements and to profit from these.

Other product and consumer developments probably had a greater effect on the visibility of advertisements for female regulators. In the decade from 1925 to 1935, the number of mail order companies and chemists advertising product catalogues rose exponentially.

Catalogue advertisements were widespread in newspapers such as the *Daily Telegraph*, *New Zealand Herald*, *New Zealand Observer*, *Northern Advocate*, and *Thames Star* and in magazines like the *New Zealand Woman's Weekly*.⁹³ These advertisements, aimed at 'Husbands and Wives', offered consumers a discrete way to purchase and receive a range

⁹⁰ Dr Joseph Frengley, Health Department, to L.J. Berry, Secretary, Newspaper Proprietors' Association, 29 June 1925, H1 175/50 17185, ANZW.

⁹¹ Editor, Waikato & King Country Press to DGH, 19 May 1927, H1 175/50/17185, ANZW.

⁹² See for example *NZ Truth*, 7 April 1937, p. 24; *Mirror*, January 1937, pp. 46, 71.

⁹³ See for example *Daily Telegraph*, 1 October 1934, p. 6; *New Zealand Herald*, 11 August 1925, p. 1; *New Zealand Observer*, 9 July 1936, p. 23; *Northern Advocate* 1 September 1930, p. 1; *Thames Star*, 1 May 1934, p. 4; *New Zealand Woman's Weekly*, 3 May 1934, p. 27.

of contraceptive and abortifacient products.⁹⁴ Suppliers advertised catalogues because the 1910 Indecent Publications Act prohibited direct advertisement of contraceptives. One way around the restrictions on the advertising and display of contraceptive products was to advertise catalogues as available on application.⁹⁵ In the early years of the 1930s mail order suppliers, and their advertisements, were a growing business.

The press both supported and suppressed the sale of abortifacients. The press censored the language of advertisements but nonetheless continued to publish these. In doing so the press perpetuated the notion that the use of abortifacients and female regulators were not really a form of abortion — and certainly did not attribute these products with the degree of criminality attached to the services of abortionists. But as a result of the constraints placed on the advertisers of female regulators, direct advertisements of these products appeared to be on the decline by 1930. They were not necessarily less available as a result. Instead female regulators or corrective pills were included in mail order catalogue advertisements. Abortifacient advertisements had been absorbed by mail order catalogues rather than superseded by them.

⁹⁴ Note that Martin's Pills and Towle's Pills continued to be advertised in a number of publications throughout the 1930s, see for example *Mirror*, January 1937, p. 46; *NZ Truth*, 7 April 1937, p. 24.

⁹⁵ Mein Smith, *Maternity in Dispute*, p. 110.

Figure 11: Advertisement from *NZ Truth* for unspecified Corrective Pills and douches along with 'Toilet and Rubber Goods', which were most probably contraceptives, available by mail order from Wellington.⁹⁶

LOOK!

CORRECTIVE PILLS Guaranteed effective 7/6
WHIRLING SYRINGES. No. 1
 Low Pressure 15/-
WHIRLING SYRINGES. No. 2
 High Pressure 17/6
WHIRLING SYRINGES. No. 3
 Extra High Pressure 25/-
505 VITALITY PILLS (feel fit) 5/-
TOILET & RUBBER GOODS
 of every description.
 Write for Catalogue. Everything sent in plain wrapper. Post free from
CHEMIST,
P.O. Box 421, WELLINGTON

Source: *NZ Truth*, 18 April 1925, p. 10.

Figure 12: Advertisement from *Otautau Standard and Wallace County Chronicle* for a free catalogue of 'Ladies' and Gentlemen's Toilet and Rubber Goods', probably contraceptive and abortifacient products, available by mail order from Christchurch and assuring confidentiality and discrete packaging.⁹⁷

MAIL ORDER CHEMIST.

—

Write for Free Catalogue of Ladies' and Gentlemen's Toilet and Rubber Goods, Every Description. All correspondence treated as strictly confidential, and parcels forwarded in plain sealed wrapper, post free.

—

Mail Order Chemist.

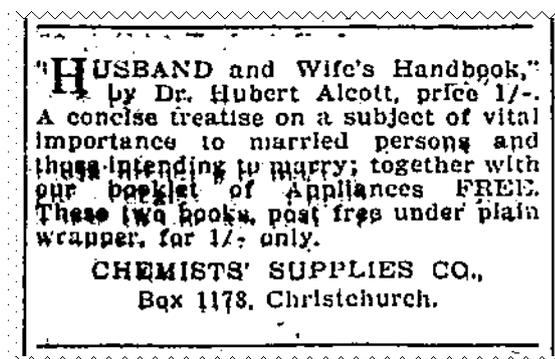
P.O. Box 791, Christchurch.

Source: *Otautau Standard and Wallace County Chronicle*, 21 January 1930, p. 1.

⁹⁶ *NZ Truth*, 18 April 1925, p. 10.

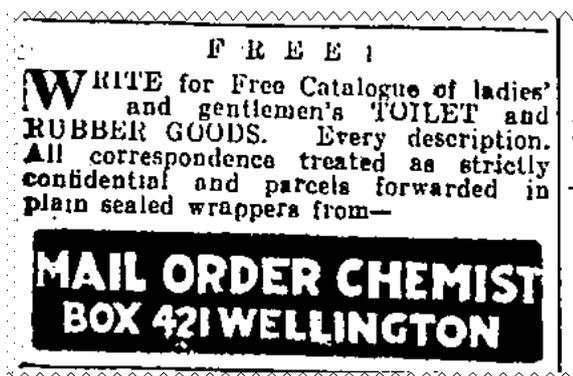
⁹⁷ *Otautau Standard and Wallace County Chronicle*, 21 January 1930, p. 1.

Figure 13: Advertisement from the *Daily Telegraph* for Dr Hubert Alcott's handbook on 'a subject of vital importance to married persons' with a free booklet on appliances (contraceptive products) available by mail order from Christchurch and assuring discrete packaging.⁹⁸



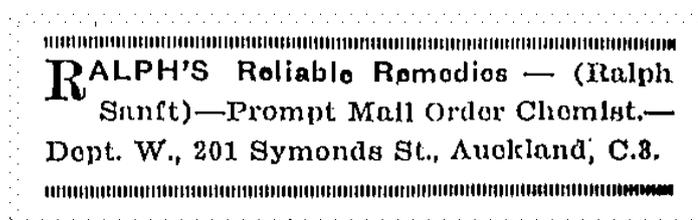
Source: *Daily Telegraph*, 1 December 1930, p. 6.

Figure 14: Advertisement from the *Daily Telegraph* for a free catalogue of 'ladies' and gentlemen's TOILET and RUBBER GOODS', available by mail order from Wellington and assuring discrete packaging.⁹⁹



Source: *Daily Telegraph*, 1 October 1934, p. 6.

Figure 15: Advertisement from the *New Zealand Woman's Weekly* for reliable remedies by mail order from Ralph Sanft, Auckland assuring prompt delivery.¹⁰⁰



Source: *New Zealand Woman's Weekly*, 3 May 1934, p. 27.

⁹⁸ *Daily Telegraph*, 1 December 1930, p. 6.

⁹⁹ *Daily Telegraph*, 1 October 1934, p. 6.

¹⁰⁰ *New Zealand Woman's Weekly*, 3 May 1934, p. 27.

Figure 16: Mail order catalogue from the Mailing Sales Co. circa December 1936, containing contraceptives, douches and enemas, and abortifacient products (marked) from the Health Department archives.¹⁰¹

RUBBER SHEATHS—
 6/- per dozen
 Special ... 6 for 5/- or 7/6 dozen
 Gordons ... 6 " 7/6 " 12/-
 H.S.C.'s Special ... 6 " 7/6 " 12/-
 Reliance (Latex) ... 6 " 7/6 " 12/-
 Silver Fern ... 6 " 7/6 " 12/-
 Checks ... 6 " 7/6 " 12/-
 Virginia ... 6 " 7/6 " 12/-
 3-ply Washable ... 4 " 9/- " 18/6
 Transparent—Extra Good ... 4 " 9/- " 18/6
 Fishkin 3 " 4/6 6 " 8/- " 15/-
 Fishkin 3 " 4/6 6 " 8/- " 15/-
Selected Materials—Every Piece Guaranteed.

OUR SPECIAL SAMPLE PACKET
 Having the Greatest Variety in N.Z. of the above, we make up our famous Sample Packet. This Packet, amounting to 11/6, we send to you at the GIFT PRICE of 10/-.

PARAGON SHEATHS—
 Special Thick Heavy, Washable ... 7/6
 Special Double Top, Washable ... 7/6
 Silk Finished Paragon, Unbreakable, Washable, Finest on the Market. 10/-
 Single (Unsoed) ... 4/6
 Full instructions in each Box.

This Catalogue is sent on request only. All correspondence strictly confidential.

DOUCHE CANS—
 8/6 10/6
WHIRLING SPRAYS—
 M.S.C.'s Specials in Whirling Sprays:
 Type A—Good ... 12/6
 Type B ...
 Type C—Extra ... 17/6
 The Universal ... 10/6
 The above Sprays are absolutely the best on the market. Their penetrating powers are unquestionable, they are a hygienic necessity. We recommend for reliability and long life.

ALCO HYGIENIC ANTISEPTIC SPRAY TABLETS—
 Recommended for use with the above Sprays. These Tablets are non-injurious, contain correct antiseptic properties essential for safety. 50 for 5/- :: 100 for 8/-

ENEMA SYRINGES—
 A Good Enema ... 4/6
 Best English Black Rubber ... 7/6
 Best English Red Rubber ... 8/6
 Each Syringe complete in Box with Fittings.
We Pay Postage on All Goods Ordered.

ALCO SPECIAL REGULATING REMEDY.
 There is a large demand for this excellent corrective powder. Serviceable in irregularities, contains nothing to upset the system. Good. Price 7/6 bottle.

SOLUBLE QUININE PESSARIES—
 M.S.C.'s Special 1 doz. 2 doz. 4 doz. 6 doz. gross
 Non-Greasy 3/6 6/6 13/ 27/-
 Special ... 5/- 9/- 20/- 35/-
 Spolon ... 4/6 8/6 22/6 38/-
 Fraxaline ... 3/6 6/6 15/6 25/-
 Benzols ... 5/- 9/- 20/- 35/-
 Also (Recommended) 3/6 6/6 15/6 25/-
 Soremsits ... 5/- 9/- 20/- 35/-
 Preventoids ... 5/- 9/- 20/- 35/-
 Full instructions in each Box.

RUBBER CHECK PESSARIES & CAPS.
 Comfortable to wear. Easily adjusted. Recommended the world over by eminent medical men.
 The Toned Section Air Pad ... 20/-
 The Improved Rubber Cap ... 15/-
 The Spring Rim Cap ... 7/6
 The Hard Rim Cap ... 7/6
 The Vaseline Cap ... 7/6
 The Pro Roco Cap ... 7/6
 The Dutch Cap ... 7/6
 Directions are enclosed with each Cap.
LADIES' SANITARY SPONGE (Double Strength) ... each 2/6
 Rubber Stomachs ... each 2/6

CORRECTIVE PILLS—
 The Three Specials:
 Ordinary Strength ... 7/6
 Extra Strong ... 12/6
 M.S.C.'s Special Strength ... 20/-
 Bougassas ... 2/6
 Martin's Apol and Steel ... 10/6
 Mrs. Ross's Pills ... 5/-
 M.S.C.'s Apol and Steel ... 5/-
 Tansy, Pennyroyal and Cottonroot ... 5/-
 Irving and Frenen ... 5/-
All Goods Sent Under Plain Wrapper.

Source: 'Mailing Sales Co. Catalogue', c. December 1936, H1 175/50 17185, ANZW.

¹⁰¹ 'Mailing Sales Co. Catalogue', c. 1936, H1 175/50 17185, ANZW.

Conclusions

This chapter has exposed the dominant representations about abortion in the press during the interwar period. These representations were overwhelmingly influenced by criminal court cases and coroners' inquests. As Chapters Five and Six have shown, these forums highlighted particular kinds of abortions, those facilitated by social networks, which were most commonly abortions performed on illegitimate pregnancies. The press shaped these stories according to the dominant social mores of the day, creating publicly acceptable representations of abortion for public consumption.

Press coverage of these events during the 1920s intertwined tales of sexual immorality with articles about crime and justice. Men were firmly informed by the press that it was their role to be the initiators of marriage and to observe its sanctity. Men's moral and criminal failings were couched in terms of their failure to respond to pregnancy with marriage, or in straying outside the boundaries of their existing marriages. Women were the subject of rather different representations. The press presented women's primary role as that of motherhood, regardless of marital status. There was little injunction on women to pursue marriage but rather women were firmly told in the press to appear passive and naïve. Consequently, women's pregnancies were not presented as evidence of their own moral failings in the press, but rather as evidence that these women were the victims of male moral failures.

As the 1920s progressed, the image of abortion in public was one of the criminal abortionist and his or her clients. Abortionists were portrayed as deadly, dirty, and avaricious. Doctors did not provide the press with a moral centre for anti-abortion discourses, but rather were demonised for facilitating the performance of abortions and as the cause of

maternal mortality. For most of the 1920s dominant representations of abortion in the press reflected the practices of abortionists with varying degrees of support from medical professionals. But the press also facilitated the sale and use of abortifacient pills during the same period by publishing advertisements for retailers and manufacturers. The lack of stigma attached to menstrual regulation products in the press may well have helped normalise these practices for the public.

As the 1920s gave way to the 1930s the representations of abortion portrayed to the public by the newspapers evolved also. Women and their lovers' occupied less certain positions in the press. Representations of women in particular changed, with greater numbers of women acknowledged as having actively participated in their abortions. The press also increasingly represented the purchase of abortifacient products as a crime, reflecting the shift in focus by the judiciary. At the same time abortifacient advertisements were absorbed into mail order catalogues, which primarily sold contraceptives. This development removed non-criminal reference to menstrual regulation from the pages of the newspapers altogether. Nonetheless, the financial exigencies of the Depression narrowed press coverage of trials at the same time as the courts and coroners' inquests began to explore more married women's attempts at abortions. The reduced coverage in the press may have minimised the impact of these changes on public perceptions of abortions.

Chapter Eight

Conclusions

This thesis has examined ordinary people's narratives about their abortion experiences and explores their contribution to public representations of abortion in the press during the interwar period up to 1937. The main sources used to gain access to these stories included 94 criminal court trials, 83 coroners' inquests, and related newspaper articles. I have explored personal abortion narratives told by women and men during the period through various lenses. The first part of the thesis follows New Zealand historian of sexuality Chris Brickell's argument that such sources 'offer us a way into the categories, language and conventions of their time.'¹ Chapter Two explores women's descriptions of their abortion attempts, uncovering the methods and the language they used in their journey to and from abortion. Chapter Three offers insight into the world of private, heterosexual relationships, by examining these peoples' narratives as stories of familial and sexual relationships. It uncovers societal expectations of women and men who were sexually active outside marriage and the challenges associated with managing reproduction within marriage during the interwar period. Chapter Four expands the focus to include social networks, describing

¹ Chris Brickell, 'Court Records and the History of Male Homosexuality', *Archifacts: Journal of the Archives and Records Association of New Zealand*, 2008, p. 35.

the links between individuals who wanted abortions and the personnel who provided them. These three chapters examine the practice of abortion within the contexts of personal experience, and interpersonal and community relationships during the period from 1919 to 1937.

The second part of the thesis examines the rules constraining the production of these narratives, looking to the public institutions that produced and interpreted these narratives for the public: the courts, inquests, and the press. When read alongside sources from Justice and Health Department archives, such as Health Department archives on septic abortion, these sources reveal the complex processes that shaped the telling and retelling of these stories in the public domain. Chapter Five examines the rules governing criminal court trials. It reveals how the courts separated parties to abortions into categories of witnesses and accused, and explores the effect of this separation on trial outcomes. Chapter Six uses the same analysis for those institutions that interpreted women's deaths from abortion. It reveals coroners' inquests were subject to similar legal rules as the courts, which constrained their verdicts. It explores the influences on the development of medical perspectives on abortion-related deaths also, which contributed to the changing definitions of suspicious deaths among doctors and coroners. Chapter Seven discusses how the representations of abortion in the aforementioned institutions were re-interpreted in the popular press. It describes the subtle changes in representations across the period, which suggests a hardening of public attitudes towards abortion during the period from 1919 to 1937.

Women's narratives about their abortion experiences reveal they did not use the term 'abortion'. Instead women described a wide range of activities aimed at inducing menstruation. Methods included exercise, self-medication, and physical interaction with

the vagina, cervix, and uterus. These women's narratives did not reflect modern understandings of abortion solely as efforts to terminate a known pregnancy, but rather reflected the view women could induce and regulate their menstrual cycles. This perspective rendered unnecessary any discussion about pregnancy, and made the success or failure of abortion attempts largely a matter of perception. Some women recalled their subsequent miscarriages as gruelling experiences that left them weakened. Women's experiences of abortion were at once uncertain as to their efficacy and were painful, leading them to express relief when menstruation resumed.

Women did not describe their abortions as acts of desperation. Rather they framed their actions in terms of managing the consequences of their sexuality to meet their expectations of marriage and family life. Single women framed the practice around their relationships with their male lovers and their readiness to marry. Some described abortion as a way of ending a relationship they or their lovers did not deem suitable to transition into marriage. Some women described their resort to abortion as a way to maintain an ongoing sexual relationship when marriage was not possible for legal or social reasons. Others described the experience of abortion as a response to a poorly timed pregnancy, revealing the practice's role in their assessment of their partners' suitability for marriage. When they told their stories, single women described considerable personal agency and often emphasised they saw abortion as the best option available to them under the circumstances.

Married women only rarely admitted to using abortion to delay first births or space births during family building. Most commonly, married women described their use of the practice in terms of having had 'enough' children. As has been indicated by the respondents to the 'Married Women's Questionnaire' (MWQ), 'enough' of a family was highly subjective. More importantly, the MWQ showed unplanned pregnancy,

contraceptive failure, or even a very large family were not necessarily imperatives to abortion. Married women demonstrated considerable variations in decision-making about when the family was complete, and revealed similar variation in terms of their willingness to use abortion for this end.

These narratives revealed the significant role men played in the pursuit, and performance, of abortions. Although some women's experiences did not include male support, many acknowledged varying amounts of support from their partners: including financial and emotional support, and as caregivers during abortion-related illnesses. Men's narratives about their participation in abortions revealed the social expectations placed upon sexually active males during the interwar period. Men were expected to provide financially and emotionally for the women in their lives. These expectations were sometimes forced upon men by women's friends and families, but other men gave freely of their own volition.

Because of its illegality, abortion was ostensibly a private practice. But by necessity it was at times a very social practice as well. Those in need of help sought advice from all manner of people — family members, friends, employers, workmates, retailers, professionals, and even strangers. These social and professional networks were the mainstay of many abortionists' businesses. Word of mouth brought new customers to abortionists, and referrals from trusted sources assured that requests for help were authentic. Yet the conversations, telegrams, letters, and notes facilitating these contacts also made the participants' actions more liable to detection.

As English historian Emma Jones argued, the abortionist has been 'a particularly liminal figure' in histories about abortion.² In New Zealand, court trials, and coroners' inquests

² Emma Jones, 'Abortion in England, 1861–1967', PhD Thesis, Royal Holloway, University of London, 2007, p. 77.

reveal much about the practices of professional abortionists, and the changes in abortionists' personal profiles during the interwar period. The male abortionists examined in this thesis were most commonly middle-class businessmen, professionals (including some doctors), or skilled tradesmen. During the 1920s, female abortionists, in contrast, were most commonly middle-aged women who in their youth trained as midwives or nurses and acted as handywomen, providing unregistered nursing services in their own homes. By the 1930s, lay women began to enter the profession. Most of these women were housewives and with no experience of midwifery or nursing. Their abortion techniques reflected their lack of technical training in midwifery. They used drugs and syringes rather than catheters. These were methods commonly associated with self-induced abortions.

Doctors were an integral part of abortion networks, albeit with varying degrees of complicity in illegal acts. A few provided abortions directly. Others supported the practices of abortionists by referring clients to them and providing medical care or admission to hospital if it were required. Sometimes abortionists called in doctors previously unknown to them, relying on doctor-patient confidentiality to ensure that they did not divulge to the authorities information obtained during the consultation.

Criminal court trials provide a window on the legal system's engagement with society, albeit one revealing unexpected interactions. The 1908 Crimes Act criminalised the actions of all the parties to abortions but because of the serious penalties imposed by the legislation, the Act limited the powers of the police to investigate complaints also. The Act imposed checks and balances on police investigations, protecting the privacy of individuals. The Act criminalised all the parties to abortions, meaning that those cases that did go to court only partially enforced the law. The use of accomplice-witnesses testimony during

abortion-related trials further complicated these proceedings. Accomplice-witnesses were not always fully converted to the side of the prosecution and sometimes actively or passively undermined the prosecution's case. On rare occasions, when jury members made their feelings known about criminal court cases, it was to protest they were not asked to administer justice to all the parties to abortions. These findings suggest we should be wary of arguments that see the failure of the courts or juries to enforce the law as representative of public acceptance of abortion.

Whilst women's deaths were often the subject of criminal court trials, coroners' inquests were the most common interpreters of women's deaths for the public. Like the courts, coroners relied on referrals from the police and doctors. In reaching their verdicts, coroners' looked for corroborated evidence of an abortion attempt and for evidence of the intent to perform an abortion. Although less constrained by evidentiary rules than the courts, coroners were still limited in their ability to identify women's deaths as the product of illegal activity. This was particularly so where abortions appeared to have taken place without the help of social networks, because in these cases there was an absence of the key evidence that allowed the judiciary to interpret behaviour as criminal.

In contrast doctors appear to have interpreted post-abortal deaths on much simpler terms. Many seemed to believe that any abortion-related fatality was likely to be caused by illegal abortion. Doctors' views were, however, highly politicised. Their views were, in part at least, the product of disputes over maternal mortality between Health Department doctors and the members of the New Zealand Branch of the British Medical Association (NZBMA). As Philippa Mein Smith has noted, Health Department officials and the press in New Zealand roundly criticised doctors over the issue of maternal mortality in childbirth

during the early 1920s.³ These conflicts contributed to medical professionals' anxieties about the prevalence of illegal abortion in New Zealand: both as a defence against allegations that doctors caused maternal mortality, and because doctors were conscious that doctor-patient confidentiality and private care could lead to allegations they performed abortions themselves. In this very hostile professional environment many doctors began to change their approach to aborting patients, questioning them vigorously over the cause of their abortions, and opting for the more transparent care available in public hospitals. These moves were supported by Health Department policies, which strove to exclude aborting patients from maternity hospitals and directed them into public hospitals instead. As a result of these broad trends, in the 1930s women's deaths from post-abortal complications appear to have been more often interpreted as the result of illegal abortions and scrutinised by the authorities.

The narratives of those people who experienced abortions were retold in the press as tales of crime and immorality, reflecting gendered stereotypes. Most criminal court trials and coroners' inquests investigated abortions performed on illegitimate pregnancies, because single women's tendency to use social networks meant that investigations tended to find more evidence that an abortion may have taken place. Therefore, press representations situated abortion as individual failure to resort to marriage in response to pregnancy. The press reinforced to men their duty to initiate, maintain, and protect the institution of marriage. Women were cast as the victims of men who failed in their duty to observe marriage. Representations of abortionists were particularly negative. They were presented as avaricious and uncaring individuals concerned only about profit. Doctors fared little better. Press accounts of doctors' interactions with aborting women reinforced the notion that confidentiality allowed doctors' to hide their dubious activities from public scrutiny.

³ Philippa Mein Smith, *Maternity in Dispute: New Zealand 1920–1939*, Wellington, 1986, pp.7–22.

But press antipathy to the personnel who facilitated abortions seems somewhat contradictory, even slightly hypocritical. The press was an integral part of the commercial side of abortion also. Papers published advertisements for patent medicines with abortifacient ingredients, which later gave way to advertisements for free catalogues including abortifacient products, syringes, and catheters, all of which were used by lay people for abortions.

Historiography on abortion prior to the 1990s has tended to focus on the 1930s, emphasising abortion as a problem caused by women's perceived social and economic disabilities in New Zealand society. Social and economic reforms were issues at the core of the First Labour Government's mandate to govern.⁴ As Barbara Brookes and Philippa Mein Smith have noted, these issues were a major preoccupation of the professionals and reformers who gave evidence to the Committee of Inquiry the Government instituted to examine the problem of abortion in New Zealand (the McMillan Inquiry).⁵ Historians' reliance on evidence held in the Health Department archives from the Inquiry has produced particularly negative interpretations of women's abortion experiences, however.⁶ These interpretations read women's use of abortion as representative of their relative powerlessness in society, their lack of political authority, and as a sign of their desperation.⁷

This thesis offers different perspectives on people's abortion experiences in the period leading up to the McMillan Inquiry. It challenges the universality of interpretations linking abortion with women's experience of social and economic disadvantages. Indeed, the

⁴ See 'Labour's Election Manifesto: Security and Prosperity for All', 1935, 329.995 N531e1 1935 University of Auckland, General Library, Special Collections Glass Case, Auckland.

⁵ Barbara Brookes 'Reproductive Rights: The Debate over Abortion and Birth Control in the 1930s' in Barbara Brookes, Charlotte Macdonald, and Margaret Tennant (eds), *Women in History: Essays on European Women in New Zealand*, Wellington, 1986, pp. 119-36; Mein Smith, *Maternity in Dispute*, pp. 111-115.

⁶ Brookes, 'Reproductive Rights', p. 124-5; Mein Smith, *Maternity in Dispute*, p. 101-2;

⁷ See for example Andree Levesque, 'Grandmother Took Ergot: An Historical Perspective on Abortion in New Zealand (1897-1937), Part Two: The Women', *Broadsheet*, 44, November 1976, 26-31.

findings of this thesis suggest the opposite. Abortion was sometimes expensive; the full costs were uncertain at the outset and could escalate rapidly if medical treatment was required. Examination of the responses to the MWQ suggests discussions about limiting family size for economic reasons were decidedly middle-class preoccupations.⁸ This thesis has shown evidence suggesting abortion may have been more prevalent among middle-class women during the Depression or, at the very least, was most readily admitted to by these women.

By referring to increasing numbers of septic abortion deaths recorded in maternal mortality statistics, New Zealand historians have emphasised the Depression as a period of apparently increasing resort to abortion.⁹ I have argued in this thesis these statistics were insufficient for this purpose. Maternal mortality from septic abortion measured all notified post-abortal infection deaths irrespective of whether the cause of the abortion was identified as illegal or spontaneous. Furthermore, during this period Health Department officials changed the definition of the disease to include a wider range of infections, and notified doctors of these changes in a piecemeal fashion across a number of years. It is entirely possible that the rising number of deaths recorded as septic abortion indicated the Department's reporting procedures were in the process of catching up with a situation that pre-existed the Depression.

This thesis has illustrated the ways in which public forums scrutinised private behaviour and their interpretation of this behaviour changed over time. During the Depression, significant changes in efforts to enforce the law against the people who used abortion occurred. In the courts, more lay people were investigated for self-induced or partner-induced abortions. At the same time coroners' inquests investigated more married

⁸ Appendix C.

⁹ See for example Andree Levesque, 'Grandmother Took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937), Part One: The Abortionists', *Broadsheet*, 43, October 1976, p. 21.

women's post-abort deaths, albeit coroners were less likely to be able to define these as the product of illegal abortion because of the privacy associated with married women's abortions. These findings suggest the Depression was a time when women's experience of pregnancy loss became more visible.

Some earlier histories have suggested the public may have been sympathetic to those who used abortion, or at least relatively uncritical of their actions.¹⁰ This thesis suggests otherwise. The changes in criminal court and coroners' examinations of private abortion practices coincided with the demands by members of the public for greater policing of abortions. Some juries expressed desires to see the people who used abortion held accountable for their actions. Likewise, medical professionals were loudly voicing concerns about married women's use of illegal abortion, and there is some evidence to suggest the police responded to their concerns. The increased visibility of pregnancy loss in these public forums corresponded with changes in the press representations of women, married and single alike. The press increasingly represented women as playing an active role in the performance of their abortions. These findings suggest aborting women in particular perhaps encountered a more critical environment in the 1930s than they had in the early 1920s.

This thesis leaves many questions still to be answered. Its emphasis on abortion stories in the public domain produces only a partial reflection of abortion practices in New Zealand. This history is very much about the abortion practices of white New Zealanders. It has left Maori abortion practices largely unexplored, yet we should not claim this dearth as evidence Maori women did not use abortion. Likewise, most of the people whose experiences were examined in this thesis lived in larger towns and cities around New

¹⁰ See for example Sandra Coney, *Standing in the Sunshine: A History of New Zealand Women Since They Won the Vote*, Auckland, 1993, p. 73.

Zealand. Local and regional histories on the role of abortionists in relation to their communities might offer a more nuanced understanding of the racial and regional specificities of abortion practices.

The diversity of approaches to family building revealed in this thesis raises questions that have not been answered. What made abortion an acceptable option for some couples and not others? Why, for example, did some women use abortion to complete their family after the first two children, whereas others accepted pregnancies they tried to prevent to produce families of four, five, or more? Although today it is popular to see religion as one disincentive to abortion, there was little evidence in the bulk of the material examined for this thesis that religious beliefs were part of the decision-making processes of those who had abortions between 1919 and 1937.

By exploring people's abortion narratives, this thesis adds new dimensions to the history of abortion in New Zealand. It expands the range of subjectivities available to historians to explain why people used the practice during the interwar period. Examining these stories offers insight into the worlds of private, heterosexual relationships, contributing to our understanding of the complexities of courtship, marriage, and family life. Analysing the activities of public institutions, while being sensitive to the constraints on their performance, uncovers and acknowledges the forces driving the production of these narratives and shaping them for presentation to the public. This thesis reveals that public representations were sculpted from the complex human realities of personal experience into publicly acceptable caricatures reflecting societal concerns and attitudes. Personal narratives about abortion experiences reveal the diversity of private behaviours and actions, and their representations in the public domain reveal a gradual hardening of public attitudes towards the practice during the period from 1919 to 1937.

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