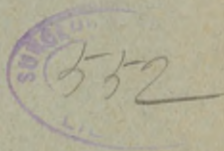


McCULLOM (W^m)

CRIMINAL ABORTION.

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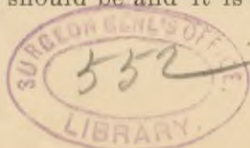
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CRIMINAL ABORTION.

Spice
BY CHARLES McCOLLOM, M.D.

I use the words in their legal sense, viz, the effecting of the unlawful expulsion of the contents of the womb at any time after conception before the term of gestation is complete. The very old English law made a distinction between the crime perpetrated before and after quickening. The rulings of the supreme court of several of the American States corresponded with the old English law which was abolished a half century, more or less, ago. The Pennsylvania court was one of the first to discard the old doctrine and the courts of many of the other States have progressively fallen into line, and have ruled that it is a crime to destroy embryo life after gestation has begun. Judge Coulter, of Pennsylvania, ruled that "it is not the murder of a living child which constitutes the offence, but the destruction of gestation." An attempt by a physician or other person to procure an abortion is a crime, though the effort fail and the abortion is not produced, and it renders the party criminally guilty. When a physician prescribes medicine or gives advice and allows the patient or party to believe, or gives her reason for believing that it is given for the destruction of embryo life, though he does not intend such destruction, is little better than a criminal. I have heard physicians confess to such deception without seeming to realize that they were seriously compromising honesty and integrity and countenancing sin and crime.

Criminal abortion is frightfully prevalent and the practice is apparently on the increase among professed Christian women. It should be and it is the



duty of the physician to enlighten applicants for relief from pregnancy who have no adequate idea of the criminality of the act. The women of the Church of Rome are better instructed and made to keenly feel the great sin of murdering unborn human life. I might raise the question whether the clergy are doing their duty in the matter or not, but I am addressing medical men only. Let us do our duty, if our spiritual advisers neglect to do theirs, in denouncing this common crime and great sin. It is evident that women of the lower class have no adequate idea of the criminality of the act, for they unblushingly apply to the physician and to the druggist for medicine to abort pregnancy, or, in other words, to bring about the monthly sickness. Great ignorance of the criminality of the practice is manifested by educated women, but it is not ignorance alone but a downright lack of moral sense as well, which greatly needs educating. The common law at the present day does not make the destruction of an unborn child murder. I quote Blackstone on English law: "Though to kill the fetus in utero is as such by common law no murder, yet if it be born alive and die subsequently to birth from wounds received in the womb, or from the means used to expel it, the offence becomes murder in those who cause or employ them." I also quote from another distinguished jurist, Wharton, "Law of Homicide," 93: "If a person intending to procure an abortion, does an act which causes the child to be born earlier than its natural time, and therefore in a state much less capable of living and it afterward die in consequence of such premature exposure, the person who by this misconduct brings the child into the world, and puts it into a situation in which it can not live, is guilty of murder, though no direct injury to the child is proved; and the mere existence of a possibility that something might have been done to prevent death, does not lessen the crime." We are inclined to the belief that such law is not good common sense; to

kill the child in utero according to Blackstone is not murder or infanticide, but to inflict such injury upon it that though it is born alive and dies in consequence of the injury it is murder.

Some years ago I attended a woman, the wife of an attorney-at-law, seven months or more advanced in pregnancy, the child stillborn; the brain had been punctured through the eye from some instrument; this was not technically murder under common law, but I bluntly charged the mother with murder in the presence of her husband and friends, pointing out the evidence of it, and there was no denial. I have repeatedly been shocked at the manifest lack of moral sense in intelligent women in applying for medicine to reëstablish the menstrual function when it was evident that they believed the absence of the menses due to pregnancy. The woman sometimes attempts to justify the act because she does not positively know that conception has taken place. The physician's excuse for giving noxious drugs or for sounding the womb when miscarriage results that he did not know that the suppression was due to pregnancy renders him not less criminally liable.

Under the older English law for an attempt to procure a criminal abortion without proof of the woman's pregnancy conviction could not take place. More recent rulings as well as amended laws now make the attempt to procure a miscarriage a crime. It has been the law of France for more than fifty years, that the proof of pregnancy is not essential to the commission of the crime. We try to excuse Christian women for asking us to terminate pregnancy on the ground of ignorance of the law of man, if not of the law of God. If they took as much pains to become enlightened in the common law regarding it as they do to how it can be accomplished with or without aid from others they would not long remain in ignorance in the matter. Physicians long in general practice know that the practice of criminal abortion is common, and that it is not confined to

the laity or to the quack and the pretender. Sometimes the ordinary physician who may be a member of a regular medical society violates his duty; and the distinguished college professor without the fear of God or of sufficient fear of human law takes his large fee for the criminal act. I am not drawing on the imagination, but state what I know to be true. Such statement does not sound well, but this fearful immoral destructive practice can not be checked unless facts are stated and proclamation is made of this great evil.

I have no belief that the practice is common among physicians who have a reputable standing with the profession in the neighborhoods where they are known. The moral status of physicians is high and I trust that we have no more black sheep than the other learned professions. As we go down the scale from the higher to the lower the evil grows greater, until the criminal abortionist, who may be a graduate of a regular medical college, loses all shame and not only sends out his advertisements to the laity, but his cards at frequent intervals to reputable physicians as well. These villains would not continue to inform the medical profession at considerable expense to themselves year after year unless their business was helped by it. A little lower down in intelligence, if not in wickedness, comes the so-called midwife and the woman who prefixes doctor to her name, and poses as a dermatologist or specialist in disease of females; they flourish in many localities.

Now we come to the economical woman and her economical friend, with their skewers, steel knitting needles and other instruments of murder. Quite recently an intelligent, educated professed Christian woman whom I attended in a miscarriage in the fourth month of pregnancy, confessed without expression of sorrow or remorse that she had effected the abortion with her own hand by pushing a knitting needle into the womb, following the instruction of another young woman who had repeatedly succeeded

in destroying embryo life in her own person and was kindly instructing her young friends in the art without hope of pecuniary reward. It is only necessary for me to briefly call attention to the existing criminal facts, for all physicians who have had full opportunity to observe know that the alleged statements are true, and not overdrawn; true of the city and true of the country.

Much might be said of the far-reaching, demoralizing destructive influence upon woman, upon the community, upon the State, upon the world; but the portraiture of the facts, bad as they would appear, I fear would have little influence in arresting the practice. The moral sense in woman, and possibly in the medical profession as well, has degenerated as regards this matter. The physician is so related to woman in his professional duties that he can do much, if he will, to instruct her as to the law and to show her that she would be a criminal, and shock her into a sense of her duty. It is presumed that few people know that the penal code of many of the States make the woman guilty of manslaughter if she consents to the procuring of a miscarriage. I quote from section 194, New York penal code: "A woman quick with child, who takes, or uses, or submits to the use of any drug, medicine or substance, or any instrument or other means, with intent to procure her own miscarriage, unless the same is necessary to preserve her own life or that of the child whereof she is pregnant, if the death of such child is thereby produced, is guilty of manslaughter in the second degree."

When one woman advises another woman to procure an abortion, instructs her as to the method or assists her in any way in its performance, she becomes a criminal and is guilty of manslaughter.

Section 191, Penal Code of New York, says: "A person who provides, supplies or administers to a woman, whether pregnant or not, or who prescribes for or advises or procures a woman to take any

medicine, drug or substance, or who uses or employs, or causes to be used or employed, any instrument or other means, with intent to procure the miscarriage of a woman, unless the same is necessary to preserve her life, in case of the death of the woman or of any quick child of which she is pregnant is thereby produced, is guilty of manslaughter in the first degree."

The field for missionary work is a large one and should be faithfully worked, both by the conscientious physician as well as by the Protestant Christian clergy, who perhaps fully understand the enormity of the sin if they do not know how prevalent it is. It is not a pleasant subject to discuss before a mixed audience. Young women could be reached, instructed and warned by a properly published circular or tract sent to them by Christian organizations at intervals, where personal instruction would not be practicable. There is little to criticise, as it relates to the laws of most of the older and some of the newer States of America. A recent ruling, June, 1895, by the supreme court of Kansas, rendering an important section of the Crimes Act as it relates to criminal abortion invalid, is a long step of about fifty years backward. The law provides that an attempt on the part of any one to abort "any woman pregnant with a quick child" "shall be guilty of manslaughter in the second degree;" this is declared inoperative and invalid "where neither the death of the child nor the mother results from the acts committed." The low moral sense of the community, as it relates to the offence, has much to do in the non-enforcement of the law. The criminal is seldom put under arrest unless the woman is murdered, and then the party, if convicted, frequently gets the minimum penalty prescribed by law. If physicians would do their duty and make complaint in all cases when it comes to their knowledge that physicians or other persons are violating the law in the destruction of unborn human life, it would do much to lessen the practice. I have more than once made written appeal accompanied with a

threat that unless I could be satisfied that the practice would stop, I would enter formal complaint to the legal authorities. Parties have responded, pleaded for mercy and given solemn promise never to again produce the miscarriage of a pregnant woman for any reason until they had held a consultation with a reputable physician, and its necessity was advised. It is not safe or best that any doctor procure the miscarriage of a woman in case of necessity until a consultation with another physician is had; such practice would protect himself against suspicion of wrong-doing, and materially help to trace and convict the criminal. So long as it is allowed the physician to produce the miscarriage or the abortion of woman without consultation the evil will not be materially checked, for the criminal abortionist is a perjurer and when under trial in court will swear if necessary to avoid conviction, that the act was performed to prevent the death of the woman from disease, pelvic deformity, or for some reason given, satisfactory to the jury. It is very easy to speak upon this shocking criminality practiced by professed Protestant Christian men and women, as well as by the ungodly, and to moralize upon the destructive influence, especially upon woman, but it is difficult to solve the question when we ask, What is the remedy? How can it be checked?

