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History and Abortion

Session L9

- Leslie J. 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 (March 1991): 1240-1264.
- L. Alta Charo, "The Celestial Fire of Conscience -- Refusing to Deliver Medical Care," *New England Journal of Medicine* 352 (16 June 2005): 2471-2474.

Reagan, "'About to Meet Her Maker'": A historian of medicine at the University of Illinois, Reagan has studied the history of abortion while it was illegal in the United States. Abortion, which had been legal for most of the 19th century, was illegal in most states by 1900, only gradually and recently becoming legal again (*Roe v. Wade*, 1973). In the early 20th century, states went to great lengths to prevent abortion. This article describes efforts by law enforcement officials in Chicago to prosecute abortionists. As you will see, these officials were extremely coercive in their interactions with both women and doctors. Try to imagine the experiences of women at this time: what would have driven you to pursue an illegal abortion? What would it have been like to be interrogated by the police while dying from complications of the abortion? Why did police try so hard to get 'dying statements' from women? Did the police go too far? Also try to imagine the bind doctors were in: wanting to care for patients, but threatened with prosecution unless they cooperated with police investigations. Why did the situation begin to change in the 1940s? The article abruptly changes direction on its last page (p. 1264), when it becomes clear that Reagan is using this case to argue against modern efforts to recriminalize abortion. Does her historical material make a compelling contribution to the modern debate? Does knowing her political position on the current debate make you reassess her historical arguments -- is she an objective historian?

Charo, "The Celestial Fire of Conscience": A lawyer and bioethicist, Charo examines a series of debates that have emerged recently, motivated by abortion controversies, but not limited to them. Most states allow doctors to refuse to provide a treatment if they have moral objections to it, as long as they refer the patient to a provider who will. Recently, states have begun to remove even that requirement, creating a situation in which patients would not even know what treatments were being withheld from them. Which should prevail: patient autonomy and the right of access to medical care, or physician autonomy and the right to exercise one's conscience? Do medical providers have obligations to provide services, in exchange for their access to other professional privileges (e.g. doctors have a monopolistic right to practice medicine)? Are you convinced by Charo's arguments against a right of conscientious objection?