

Dr. Eli Kirk Crothers (1826-1893) was a successful physician and druggist from the time of his arrival in Bloomington in 1850. He is most remembered for his involvement in what is thought to be one of the earliest medical malpractice suits in the state of Illinois, *Fleming v. Rogers and Crothers* (1855)—or better known today as the “Chicken Bone” Case. The local renown of the name Crothers can also be attributed to Crothers’s wife Marie Louise (DePew) Crothers (1833-1920) and her joint success as a physician; not to mention their daughter Rachel Crothers, who was an accomplished playwright.

E.K. Crothers was born on October 29, 1826 in Mt. Pleasant, Jefferson County, Ohio to parents Noble and Rachel (Brown) Crothers. Noble was a farmer by trade. Between 1835 and 1836 the family left Ohio for Illinois in order that Crothers’s father could further pursue his agricultural endeavors. The family settled in Fulton County where Noble went on to become the leading stockman in the county.¹ Shortly after relocating to Illinois, Crothers’s mother Rachel passed away. By the time of his death on March 1, 1880, Crothers’s father Noble had survived his wife over 40 years.² Including E.K., Noble and Rachel left behind five children: Casaline M. (Mrs. Parker), Rev. Warren B., Dr. William R., and Vincent, a prominent stock-dealer.

As a youth, Crothers divided his time between responsibilities on his father’s farm and schoolwork. In 1845 at the age of nineteen, he taught for five months in a district school before beginning his medical studies with Dr. William H. Nance of Vermont, Illinois. Soon after, in the winter of 1847-48, he began attending lectures at McDowell Medical College in St. Louis, Missouri, before continuing his education in medicine at Jefferson Medical College of Philadelphia, where he eventually received his degree.³

Immediately following his graduation in 1850, Crothers moved to Bloomington—a city that, according the 1850 census, already boasted sixteen doctors—to begin his own practice.⁴ According to one account, Crothers “commenced with a capital of \$10 in cash and his medicine box, and was a stranger to the people.”⁵ The doctor’s estrangement to the people, however, did not last long. Crothers quickly became well known amongst his patients and colleagues in the McLean County area as a dedicated and competent professional. Contrary to other doctors of the time who often had to supplement their income with work outside of their specialty, Crothers’s reputation allowed him the opportunity to build up a “large and lucrative practice.”⁶

¹ *Portrait and Biographical Album of McLean County, Ill.* (Chicago: Chapman Brothers, 1887), 137.

² *Ibid.* 137.

³ *Ibid.* 138; *The Biographical Record of McLean County, Illinois* (Chicago: S.J. Clarke Publishing Company, 1899), 470. E.K.’s graduating class numbered 211, the “largest total in the history of the College to that time.” Frederick B. Wagner, Jr., MD and J. Woodrow Savacool, MD, eds “Part 1: Jefferson Medical College 1846 to 1854,” *Thomas Jefferson University: A Chronological History and Alumni Directory, 1824-1990* (1992), 68.

⁴ Lucinda McCray Beier, *A Matter of Life and Death: Health, Illness and Medicine in McLean County, 1830-1995* (Bloomington, IL: McLean County Historical Society, 1996), 31.

⁵ *Portrait and Biographical Album*, 138. The equivalent of \$10 in 1850 would amount to approximately \$300 in 2014. <http://www.measuringworth.com/uscompare/relativevalue.php>

⁶ *The Biographical Record*, 470.

By the mid to late nineteenth century, most doctors had garnered a measurable level of respect among their fellow community members. That said, the doctors’ salaries and social prestige cannot compare to the levels doctors came to enjoy in the mid to late twentieth century. The close of the nineteenth century saw the proliferation of hospital building, the expansion of nurses’ training, more refined education regarding germs and pathogens, and

It should be noted that Crothers's arrival in Central Illinois in 1850 conveniently coincided with an incorporation of the city of Bloomington and the community's official adoption of a city charter. Though the first tracts of land in what is now Bloomington were purchased in 1831, the year 1850 signifies the start of a long period of steady growth and prosperity for Bloomingtonians. In the five years from 1850-1855, the population of the city roughly tripled in size (increasing from 1,611 to 5,000).⁷ By the time of the doctor's death in 1893, the population of Bloomington numbered over 20,000. As indicated by these figures, Crothers was not only able to witness the sheer expansion of the burgeoning city, but was also able to actively participate in the professional development of the area. Several contributing factors (including, most obviously, the introduction of the railroad system in 1853) serve to explain the abundance enjoyed in the area. Apart from the railroad, one of the most significant contributions was the extensive network of educated individuals intimately involved in the management and organization of the city and the resources it had to offer.⁸

In the midst of this boomtown atmosphere, on May 1, 1851 Crothers married Miss Marie Louise DePew, a native of Indianapolis, Indiana, who had come to the area ten years prior. Louise was the daughter of Elijah DePew, a successful businessman who made a name for himself in the dry-goods trade.⁹ Mr. Depew was a dedicated Whig turned Republican who was well acquainted with Judge David Davis and future President Abraham Lincoln.

Inspired by the work of her husband, Louise eventually made her own name for herself in the medical profession. In 1877-78, she enrolled in the Women's Medical College of Pennsylvania at Philadelphia and then continued her studies at the Women's Medical College of Chicago in 1880-81. While in Chicago, Louise also took a specialized course in gynecological studies at Rush Medical College. She was able to secure this opportunity through the help of Professor W.H. Byford, a professional acquaintance of her husband.¹⁰ In the winter of 1882, Louise returned to Philadelphia to complete her studies and graduated with the class of 1883.¹¹ Afterwards, she returned to Bloomington to engage in her own practice, specializing in gynecology and pediatrics. As indicated by Eli's willingness to assist his wife in her educational pursuits, i.e. by helping her gain admittance to the course in Philadelphia and not requesting that

increased specialization and professionalization among those in the medical field. Beier, *A Matter of Life and Death*, 4-7, 11, 27-30.

⁷ R.S. Lawrence, *The Evergreen City: Past, Present, and Future of Bloomington, McLean County, Illinois* (A.J. Goff & Co., Printers and Binders: 1871), 17.

⁸ Illinois Wesleyan University was founded in 1850, the same year that Bloomington officially adopted a city charter. Thus, it is safe to say that Bloomington has always been a college town.

⁹ *The Biographical Record*, 471.

¹⁰ "Death Comes to Dr. Crothers: Bloomington's Pioneer Physician Expires Suddenly Yesterday at Age of 89, Mother Rachel Crothers," *The Pantagraph*, June 1, 1920, p. 3.

This trend toward specialization within the medical profession tended to increase in line with the wider acceptance of germ theory as an explanation for communicable diseases and illness. Popularized by the well recognized Louis Pasteur, and later further developed by Robert Koch, germ theory challenges the previously accepted miasma (or "bad air") theory by stating that [some] diseases can be caused by microorganisms, or pathogens. These pathogens, whether they be bacterium, protists, fungi, etc., are the cause of infectious disease.

¹¹ *Portrait and Biographical Album of McLean County, IL* (Chicago: Chapman Brothers, 1887), 138.

Louise remain in Bloomington at times when he was also engaged in professional development, there is no reason to suppose that Eli was unsupportive of his wife's professional aspirations.¹²

The doctors Crothers had nine children, four of whom lived to adulthood. Those that survived included two sons, Noble E. and E.K. Jr., and two daughters, Louise (Lulu) M. and Rachel A. Both sons went on to make careers as jewelers, whereas Lulu followed in her parents' footsteps, becoming the first female pharmacist in Bloomington. Rachel, the most famous of the Crothers children, followed her artistic aspirations to New York where she established herself as a fairly esteemed female playwright during the course of the 1920s.

At various points throughout his career, the Mr. Dr. Crothers served the community as a general practitioner, a surgeon, and a druggist. Though the doctor states in an 1853 announcement that surgery is his "favorite department,"¹³ within three years of his arrival in Bloomington, Crothers established the City Drug Store with his brother Dr. William H. Crothers. February 1857, mention is made in the *Weekly Pantagraph* of Crothers and Chew's Drug Store located on North Center Street.¹⁴ On July 22, 1857 the *Daily Pantagraph* reported Crothers's intention to "erect a three story brick building on his lot adjoining the drug store of CHEW & LANE, on Washington street."¹⁵ By 1860, advertisements for the City Drug Store by [Dr. T.P.] Bryan and Crothers appear in the local paper. Following the partnership with Bryan, Crothers, in business again with his brother W.H., and in affiliation with his nephew Jordan Parker, established the Drug Store of E.K. Crothers and Parker, located at 116 W. Washington Street.¹⁶

By the early 1870s, there were 46 wholesale houses in Bloomington, three of which dealt in drugs.¹⁷ Among the preparations sold at the store, "Crothers' 'Cough Balsam,' 'Diarrhea Cordial,' 'Black Salve,' ... 'American Sherry Wine Bitters,' ... 'Wizard Wart and Corn Salve,'

¹² *The Pantagraph*, February 10, 1883, p. 3.

¹³ "E.K. Crothers, M.D.," *Weekly Pantagraph*, December 12, 1853 p. 4 col. 5.

¹⁴ "Select English and Classical School," *The Weekly Pantagraph*, February 4, 1857, p. 2 col. 7.

Dr. W.R. Chew was president of the McLean County Medical Society from 1859-1860. Dr. Chew presided over the society at the same time that E.K. served as secretary (April 12, 1857-April 8, 1861). *Biographical History of the Members of the McLean County Medical Society of Illinois* (Bloomington, Il: 1954), 22.

http://libsysdigi.library.illinois.edu/oca/Books2009-06/biographicalhist00mcle/biographicalhist00mcle_djvu.txt

¹⁵ "Ground Broken," *The Daily Pantagraph*, July 22, 1857, p. 3 col. 1.

¹⁶ Jordan Parker, of Fulton County, is one of four children of E.K.'s sister Casaline M. (Mrs. Parker) mentioned previously. *Portrait and Biographical Album*, 137-138.

The drugstore is referred to in this way in *The Evergreen City* published in 1871. In an advertisement in the *Bloomington City Directory of 1855-56* the business name listed is The City Drug Store, which was located on Front Street according to the doctor's listing in the directory. According to research compiled by Greg Koos on the subject of the history and development of the South Square Buildings, 116 Washington was completed in 1857. By 1859, the location of E.K.'s office is listed as Washington Street. After 1868, the address of the office listed (116 W. Washington) appears to remain consistent. That said, in *Holland's Bloomington City Directory of 1870-71*, the business listing appears as "Crothers, Parker, and Crothers." The individual listings can be found under the "City Directories" tab in the file for Dr. Eli Kirk Crothers.

It should also be noted that apart from 116 W. Washington, E.K. also commissioned 117 and 118 W. Washington. The design of these three buildings is unattributed; though it is possible that German architect Rudolf Richter was involved. Greg Koos, "Historic Analysis of South Square Buildings, Downtown Bloomington, Illinois" (1989), 3.

¹⁷ Wholesale houses dealt in large quantities of goods that were to be sold to retailers and other businesses, who would then sell the goods to the general public. Much of the wholesale trade out of Bloomington was limited to retailers "about 40 counties in Central Illinois." Lawrence, 47.

&c” had earned a respectable reputation among patrons. Crothers did not advertise in the city and county directories as consistently as other local business owners; however, the few ads that were placed emphasize his skills as a physician, as well as the quality of medicine provided. An item of interest is an advertisement that appeared in the *Bloomington City Directory of 1855-56* denoting services offered by the doctor in medicine, surgery, and obstetrics. Some of the doctor’s more impressive surgical feats included the removal of several tumors, one of which he removed from the ovary of a woman in Hopedale. The tumor had been growing inside for the woman for at least two years and weighed almost 50 pounds.¹⁸ Though he appears to have been well versed in a number of areas within the medical profession, Crothers came to specialize in ailments of the eyes and ears.¹⁹ As stated previously, Mrs. Dr. Crothers was the one to specifically tailor her career toward women’s afflictions.²⁰ A Dental Depot also operated out of the Washington Street building in conjunction with the drugstore.²¹

Following his arrival in Bloomington in 1850, his marriage in 1851, and the opening of his local storefront in 1853, Eli K. Crothers was involved in what would turn out to be the most notable incident of his career—and one of the very first medical “malpractice” suits in Illinois.²²

In October of 1855, the city of Bloomington suffered a great fire (not its last), during which the entire south-side block of the courthouse square was more or less destroyed—apart from the McLean County Bank and a lone hardware store. The offices for the *Bloomington Pantagraph* suffered severe damage.²³

The fire began the night of October 16 and continued into the early morning of the following day. Beginning in the livery stable behind the Morgan House, the fire spread to subsequent buildings before firefighters managed to quell the flames amidst the crowd of 4,000 anxious citizens that had been attracted to the scene. If the one fatality, that of drayman William Green, and estimated property damages amounting to \$150,000, were not sufficient to ensure

¹⁸ “Important Surgical Operation,” *The Pantagraph*, March 24, 1880, p. 3.

¹⁹ In 1865, E.K. took supplementary courses at Wills Hospital in Philadelphia especially focused on the treatment of eyes and ears. As early as 1860, however, E.K.’s attention to ocular medicine is clearly evident in the advertisement of a “Spectacle Depot” on site at the City Drug Store by Bryan and Crothers. It is reported that E.K. probably had “more experience in this direction than any colleagues in this locality.” *Portrait and Biographical Album*, 138.

²⁰ The Mrs. Dr. Crothers ran her practice from the Crothers family residence, first at 118 N. Main Street, then from 414 E. Jefferson Street. Though Mr. Dr. Crothers was alive when the family moved to Jefferson Street between 1888 and 1889, he continued to run his practice from the North Main Street address.

²¹ *Ibid.* 50, Advertisement.

Dentistry along with pharmacy are two fields that were still relatively new to the medical profession in the mid-1800s. The first American schools of pharmacy were established in the 1820s, whereas the first professional school of dentistry—the Baltimore College of Dental Surgery—was not founded until 1840. Beier, 30.

²² Not until the 1860s was the issue of medical malpractice intensively addressed. A.D. Spiegel, however, points to an American malpractice “crisis” from 1835-1865 in which “70 to 90 percent of the litigation involved fractures and dislocations with imperfect results or deformities such as shortened or crooked limbs.” Kavalier F. Spiegel, “America’s first medical malpractice crisis, 1835-1865,” *Journal of Community Health* vol. 4 (Aug. 1997) <http://www.ncbi.nlm.nih.gov/pubmed/9247851>

²³ Charles M. Hubbard, “Lincoln and the Chicken Bone Case,” *American History* (October 1997), 32.

that the Bloomington fire of 1855 would be remembered, the two broken legs of carpenter Samuel G. Fleming have proved useful in that respect.²⁴

The aforementioned Fleming suffered potentially crippling injuries to his two legs when the chimney of the Morgan house collapsed as the fire raged. Local physicians Dr. Jacob R. Freese, Dr. Thomas Rogers, and Dr. E.K. Crothers each assisted that evening in the dressing of Fleming's injuries. Dr. Freese dressed the left leg, while Drs. Rogers and Crothers dressed the right.²⁵ Though the doctors were hesitant to promise a full recovery, observations during regular check-ups over the course of the 14 days following the incident indicated that the limb appeared "right."²⁶ However, Fleming began to experience pain near the point of the fracture; and after again removing the bandages one week later, 'the displacement of the fracture was observed,' and it was found that Fleming's right leg had healed crooked.²⁷ In order to rectify the problem, the consulting doctors suggested that the leg be broken a second time and reset. Fleming agreed to the procedure. Dr. Freese administered the chloroform, as Drs. Rogers and Crothers prepared to break the limb. The doctors were stopped short of completion, however, when Fleming (apparently not greatly affected by the effects of the chloroform) complained that the pain was too great.²⁸ Dr. Crothers reportedly explained to Fleming that, should they fail to complete the procedure, the leg would always be crooked and may not bear his weight.²⁹ The doctor also made it clear that "he would not be responsible for the result."³⁰

Despite the doctor's warning, after hiring an impressive team of lawyers—consisting of Asahel Gridley, William H. Hanna, William W. Orme, John M. Scott, Leonard Swett, and John H. Wickizer—Fleming issued a lawsuit on March 28, 1856 accusing Drs. Rogers and Crothers of failing to use "due and proper care, skill, or diligence."³¹ Fleming's asking price for damages was \$10,000.³² In response to the suit, Crothers engaged four Bloomington lawyers, as well as Abraham Lincoln and his former partner, John T. Stuart, to serve for the defense. According to an account drafted by Henry James Forman, Crothers was forced to telegraph Lincoln in order to secure his services before Fleming could contact him in Springfield by train. Fortunately for Crothers, his use of this relatively new communication technology at the suggestion of his wife proved successful in reaching Lincoln in time.³³

Following a series of continuances that resulted in a yearlong delay in taking the case to trial, the case of *Fleming vs. Rogers and Crothers* commenced in April 1857. Every doctor in Bloomington was called to testify either for the prosecution or the defense. The prosecution

²⁴ The equivalent of \$150,000 in 1855 would amount to over four million dollars in 2014. <http://www.measuringworth.com/uscompare/relativevalue.php>

²⁵ Hubbard, 32.

²⁶ Harry E. Pratt, "The Famous 'Chicken Bone' Case," *Lincolnia*, 165; Hubbard, 32.

²⁷ Ibid.

²⁸ Hubbard, 33.

²⁹ Pratt, 164-165.

³⁰ Hubbard, 33.

³¹ Ibid.

³² The equivalent of \$10,000 in 1855 would amount to approximately \$283,000 in 2014. <http://www.measuringworth.com/uscompare/relativevalue.php>

³³ Henry James Forman, "The Story of Rachel Crothers," *Kessler* vol. 3, 21.

alone called 15 doctors and 21 other witnesses. After hearing one week of testimony, the jury deliberated for 18 hours but was unable to come to a decision. As a result, the case was continued to a special term in June. At that time, the case was then continued to the September term, before being continued to December—at which point a change of venue was called for by representatives for the defense. Before the case could be tried in March, 1858 under the Logan Circuit Court at Lincoln, IL, an agreement was reached that the case should be dismissed. Doctors Crothers and Rogers agreed to cover any medical fees incurred by the plaintiff.³⁴

Though the case was eventually dismissed without a decision by the jury, Lincoln's closing remarks to said jury are what lend historical significance to this case—both for the Dr. Crothers and for Lincoln the lawyer. In an attempt to illustrate to Lincoln the scientific explanation for Fleming's right leg healing as it did, Crothers provided his lawyer with two chicken bones—one of which was from a young chicken and one of which was from a chicken far more advanced in age. The purpose behind the visual aid was to make clear the decreased capacity for older bones to regenerate properly after withstanding severe trauma. Though the details related to biological chemistry may have escaped Lincoln when he adopted Crothers's approach in his address to the jury, the point was clear: the defense could not be held responsible for Fleming's agedness, only for their attempts to provide the patient with proper medical care in the hopes that his legs would heal as well as possible considering his current stage in life.

According to a letter written by Lulu Crothers, daughter of Eli Crothers, to Sherman D. Wakefield, Lincoln is quoted as advising Fleming, who had admitted that he could walk with a limp, to 'get down on your *knees* and thank your Heavenly Father, and also these two Doctors that you have any legs to stand on at all.'³⁵

Thus, the "Chicken Bone" case is now considered a prime example of the antics Lincoln often undertook to sway juries to accept his line of thinking. Though this particular case is not an example of a jury that was successfully convinced, Lincoln's use of Crothers's strategy proved effective enough to prevent the jurors from making a unanimous decision. None of the research conducted for the purpose of this biography made mention that the lawsuit against Drs. Crothers and Rogers had any ill effect on the reputation and continued careers of the individuals involved, as can be demonstrated by previous references to the longevity and fruitfulness of Crothers's various professional endeavors.

While considering Crothers's relationship with Lincoln, it is worth noting that upon the advent of the American Civil War, Crothers was designated "Examining Pension Surgeon for McLean and surrounding counties."³⁶ As Examining Pension Surgeon for the region, the responsibility fell on Crothers to examine all applicants for disability pensions to determine the individual's eligibility to receive financial assistance based on injuries sustained during the war effort. He was also charged with examining soldiers who were home on furlough and

³⁴ Pratt, 167.

³⁵ Ibid. 166.

³⁶ Multiple announcements to this effect are listed in issues of the *Weekly Pantagraph*. One of which (not the earliest) can be found: "E.K. Crothers M.D." *The Weekly Pantagraph* August 5, 1863, p. 4 col. 8.

determining whether the soldiers' wounds merited extending their leaves of absence.³⁷ According to one secondary account, Examining Pension Surgeon is not a title that Crothers actively pursued. As noted in *The Biographical Record*, Crothers was appointed by Lincoln “[w]ithout his knowledge or solicitation.”³⁸ That said, Crothers maintained the role until the work became too burdensome. It also seems as though others in the community shared Lincoln’s belief that Crothers was right for the job, for on Saturday, November 29, 1862 the *Pantagraph* reported that, “It is a good appointment, and the doctor will fill the place with ability and fidelity.”³⁹

Descriptions of Crothers suggest that he had a friendly disposition and maintained a genial rapport with his patients and colleagues. His physical stature has been described as “rather large.” As was typical of doctors of the time period, he often sported a “long tail coat, stove pipe hat and leather medicine case.” In regard to his preferred practice of medicine, Crothers was “an Allopath of the Old School”—a phrase here indicating the doctor’s affinity for traditional forms of medicine rather than certain homeopathic techniques that were gaining recognition among other professionals.⁴⁰ Repeatedly Crothers is referred to with the highest praise as an “esteemed citizen, ranking high in the profession,”⁴¹ as “among the best diagnosticians,”⁴² and as “a man of marked decision of character,” who was “never timid about stating what he believed to be right.”⁴³

Crothers was a charter member—along with 13 other doctors, including Dr. Rogers—and three-time secretary of the McLean County Medical Society, organized on March 20, 1854.⁴⁴ The society was established among these physicians with the purpose being the “mutual improvement of its members in the art and science of medicine and in social and ethical culture,” as stated in the society’s revised 1904 constitution.⁴⁵

Crothers was Republican in his political leanings and was a devout Christian. He was a member and an elder of First Christian Church and “a strong believer in the inspiration of the Bible.”⁴⁶ The importance of Crothers’s faith is evident in the activities of his children; particularly Rachel who taught Sunday school classes at the church and later in life spearheaded various philanthropic ventures, including founding the Stage Women’s War Relief (later known

³⁷ *The Biographical Record*, 472.

³⁸ *Ibid.*

³⁹ “Appointment,” *The Pantagraph*, Saturday, November 29, 1862, p. 4 col. 1.

⁴⁰ “Crothers,” 1939.

⁴¹ Lawrence, 43.

⁴² *The Biographical Record*, 471.

⁴³ “Dr. E.K. Crothers,” *The Daily Pantagraph*, April 24, 1893, p. 7 col. 3

⁴⁴ *Biographical History of the Members of the McLean County Medical Society of Illinois: One Hundredth Anniversary Edition* (Bloomington, IL: McLean County Medical Society, 1954), 22.

⁴⁵ *Biographical History of the Members of the McLean County Medical Society of Illinois*, 19.

<https://archive.org/details/biographicalhist00mcle> Date accessed August 7, 2015.

⁴⁶ *Ibid.* 472.

as the American Theater Wing) in New York City at the start of World War 1—an organization that married her inherited charitable disposition and her passion for the performing arts.⁴⁷

At the time of his death, Crothers was “the oldest physician in the city in point of practico.”⁴⁸ The doctor died Sunday, April 23, 1893 at 3:45 in the afternoon following a prolonged struggle with diabetes, leaving behind his wife and caretaker Louise and their four children.⁴⁹ All immediate family members were present at his deathbed. Louise continued to practice medicine following her husband's death, outliving him by almost 30 years. Eli Crothers is buried beside his wife at Evergreen Memorial Cemetery in Bloomington.

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⁴⁷ “Famous Bloomington Women: Playwright Liked to Act, Rachel Crothers Later Decided Her Forte Writing,” *The Pantagraph*, February 6, 1949.

⁴⁸ “Dr. E.K. Crothers.”

⁴⁹ Crothers obituary published in the *Pantagraph* suggests that the doctor only lived as long as he did because of the “constant care and attention given him by his wife.” “Dr. E.K. Crothers.”