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THE BIRTH CONTROL REVIEW

Dedicated to the Principle of Intelligent and Voluntary Motherhood

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Drawn by Wilkie C. Harris

Courtesy of Puck

A Decision for Liberty
The Objects of Marriage *By Havelock Ellis*

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THE BIRTH CONTROL REVIEW

104 Fifth Avenue, New York City

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A Decision for Liberty

We reproduce in full the opinion handed down on June 6 by Justice Nathan Bijur of the Supreme Court of New York in his decision in the case of The Message Photoplay Company producers of the film play Birth Control vs George H Bell Commissioner of Licenses, New York City. The libertarians of America will read with hope the views of freedom expressed therein. It is a decision which takes its place beside that of Lord Justice Coleridge of the High Court of Justice England who in a similar case spoke on the same high plane in behalf of social justice.

Message Photo Play Co v Bell—This is a motion for a temporary injunction to restrain the commissioner of license from revoking the license of a theatre because of the proposed production thereof of a moving picture known as "Birth Control." No question is raised concerning the general power of the commissioner to issue and revoke licenses (L 1914, ch 475, adding secs 641 and 642 to the Greater New York Charter). For the purposes of this motion also, the implied definition of the function of the commissioner, contained in Chapter III Article II, section 41 of the Code of Ordinances of the City of New York as amended to July 16 1916 may be accepted. That section reads as follows: "The inspectors of the Department of Licenses * * * shall report to the commissioner any offense against morality, decency or public welfare * * * It is conceded by the plaintiff that the discretion of the commissioner exercised in a proper case may not be interfered with by the courts merely because the latter may not agree with the commissioner's reasoning or judgment. It is not claimed on behalf of the commissioner however that the discretion conferred upon him may be exercised without any reasonable basis of fact or as it is frequently phrased, "arbitrarily exercised." Such exercise would be subject to review and correction by the courts in an appropriate proceeding (People ex rel Lieberman v Van der Carr, 199 U S, 552 562 People ex rel Schwab v Grant 126 N Y, 473 482 People ex rel Lodes v Dept of Health 189 N Y, 187, 194, Ormsby v Bell, 171 App Div, 657). The question is therefore, whether there is any valid or reasonable basis for the commissioner's opinion that the play is 'against morality decency or public welfare.' Plaintiff admits that the commissioner is acting in good faith. On the other hand, I think I may say that it is conceded on behalf of the commissioner that there is nothing indecent or obscene in the pictures in the sense in which those words are usually understood that is to say they contain nothing which might ordinarily be regarded as prurient or directly "suggestive." The scenario of the play may be briefly summarized as follows. It presents a number of pictures showing the poverty and misery frequently associated with the presence of large families of children among the poor. It illustrates the sufferings of one or more women to whom childbirth means serious danger to life. It then presents pictures of comfort among the rich where smaller families are supposed to obtain. Intermingled with these are pictures of Mrs Sanger acting as a nurse. She is strongly tempted to advise some of the suffering poor women on the subject of birth control, but refrains from giving such information because it is forbidden by law (sec 1142 of the Penal Law). Finally she concludes to defy the law and opens a clinic to disseminate information on this subject. There is then portrayed a movement undertaken by persons of means who engage detectives to suppress her efforts. The clinic established by Mrs Sanger is exhibited crowded by poor women. Thereupon the police investigated by the association referred to place Mrs Sanger under arrest, and she is finally shown in prison after conviction for violating the law. No suggestion or hint of the methods or means looking to a violation of the law or for facilitating birth control is anywhere contained in the proposed exhibition. It may perhaps be inferred from the pictures that the rich violate the law by employing contraceptive methods of which the poor are ignorant, that

there is a certain amount of hypocrisy on the part of those who lend their active support to the enforcement of this law and that Mrs Sanger is actuated by high and unselfish motives in condemning and even in violating it. This inference is illustrated by touches which I presume are intended to lend to the performance greater dramatic color. The objections to the exhibition as presented on behalf of the commissioner may I think fairly be summed up as follows. First that it deals with a subject which is in itself immorally suggestive second, that it advertises the existence of contraceptive methods or means and substantially announces that Mrs Sanger is familiar therewith third that a subject of this kind is not fit for treatment in a public moving picture theatre fourth that the performance encourages violation of the law. Taking up the last objection first, I can find no sound basis for it. The result of the exhibition is to show Mrs Sanger punished for a violation of the law. There is no encouragement for others to follow the same course nor is it even hinted that violence or defiance of the law should be indulged in to nullify its provisions or for the relief of those who may have suffered its penalties. It has been suggested that it is unmoral to present Mrs Sanger a violator of the law as a "heroine" but the use of this catch phrase borrowed from the language of the "border drama" must not divert us from a just appraisal of the performance. It cannot be fairly said that she is presented in the play as a martyr, though that might be permissible. If any one with a saving sense of humor had proposed to call the play "The Way of the Transgressor Is Hard" the title would have been perhaps more truly descriptive. Broadly considered the criticism that this performance encourages violation of the law might be addressed with equal force to an exhibition of the exploits of John Brown or a narrative of the career of William Lloyd Garrison. As to the argument that the exhibition advertises either the subject of birth control or Mrs Sanger's activities—while of course it is true that any form of publicity must necessarily have that effect—it does not seem to me to be possible in a juridical sense to distinguish the publicity here afforded from that contained in the very law itself. Moreover apart from other and fundamental considerations to which I presently shall advert, the subject and Mrs Sanger's connection therewith have been so voluminously and recently exploited without restriction in the daily press that this or similar exhibitions are but an afterglow compared with the glaring light of publicity which has thus previously been thrown upon them. The objection that the matter is not of a character fit for treatment at a public moving picture exhibition, seems to me to lie rather to the good taste of the promoters of the picture than to any legal impropriety in the play itself. The subject is plainly one in which the public has an interest, and concerning which two conscientious and opposite views are and may properly be held. As therefore the public welfare may be affected by the dominance of the one or the other view it is both appropriate and lawful that the matter be publicly considered, provided the presentation be free from gratuitous or obtrusive uncleanness. In that respect, I am unable to distinguish substantially the presentation in this proposed exhibition from one in words at public meetings. It may also be argued with much plausibility that a discussion or presentation of a subject of this kind should be limited to persons engaged in certain professions or of a certain age, although the precise line of demarcation would be rather difficult to draw. Any extended consideration of this branch of the question is rendered fairly academic by the proposal of plaintiff to limit admission to the performance to adults only. Viewed as other than an ordinary dramatic entertainment the exhibition is merely a pictured argument against an existing law. As such, it deals with an undoubtedly great problem of life in which our citizenship as a whole has the right to take an active interest. It is possible that a certain and perhaps not altogether prudish sense of delicacy may be offended, or a natural disinclination to con-

(Concluded on page 8)

THE OBJECTS OF MARRIAGE

Havelock Ellis

(Written especially for The Birth Control Review)

What are the legitimate objects of marriage? We know that many people seek to marry for ends that can scarcely be called legitimate, that men may marry to obtain a cheap domestic drudge or nurse, and that women may marry to be kept when they are tired of keeping themselves. These objects in marriage may or may not be moral, but in any case they are scarcely its legitimate ends. We are here concerned to ascertain those ends of marriage which are legitimate when we take the highest ground as moral and civilized men and women living in an advanced state of society, and seeking, if we can, to advance that state of society still further.

The primary end of marriage is to beget and bear offspring, and to rear them until they are able to take care of themselves. On that basis Man is at one with all the mammals and most of the birds. If, indeed, we disregard the originally less essential part of this end,—that is to say, the care and tending of the young,—this end of marriage is not only the primary but usually the sole end of sexual intercourse in the whole mammal world. As a natural instinct, its achievement involves gratification and well-being, but this bait of gratification is merely a device of Nature's and not in itself an end having any useful function at the periods when conception is not possible. This is clearly indicated by the fact that among animals the female only experiences sexual desire at the season for impregnation, and that desire ceases as soon as impregnation takes place, though this is only in a few species true of the male, obviously because, if his sexual desire and aptitude were confined to so brief a period, the chances of the female meeting the right male at the right moment would be too seriously diminished, so that the attentive and inquisitive attitude towards the female by the male animal—which we may often think we see still traceable in the human species—is not the outcome of lustfulness for personal gratification ("wantonly to satisfy carnal lusts and appetites like brute beasts," as the Anglican Prayer Book incorrectly puts it) but implanted by Nature for the benefit of the female and the attainment of the primary object of procreation. This primary object we may term the animal end of marriage.

This object remains not only the primary but even the sole end of marriage among the lower races of mankind generally. The erotic idea in its deeper sense, that is to say the element of love, arose very slowly in mankind. It is found, it is true, among some lower races, and it appears that some tribes possess a word for the joy of love in a purely psychic sense. But even among European races the evolution was late. The Greek poets, except the latest, showed little recognition of love as an element of marriage. Theognis compared marriage to cattle-breeding. The Romans of the Republic took much the same view. Greeks and Romans alike regarded breeding as the recognisable object of marriage, any other object was mere wantonness and had better, they thought, be carried on outside marriage.

Religion, which preserves so many ancient and primitive conceptions of life, has consecrated this conception also, and Christianity—though, as I will point out later, it has tended to enlarge the conception—at the outset only offered the choice between celibacy on the one hand and on the other marriage for the production of offspring.

Yet from an early period in human history a secondary function of sexual intercourse had been slowly growing up to become one of the great objects of marriage. Among animals, it may be said, and even sometimes in man, the sexual impulse, when once aroused, makes but a short and swift circuit through the brain to reach its consummation. But as the brain and its faculties develop, powerfully aided indeed by the very difficulties of sexual life, the impulse for sexual union has to traverse ever longer, slower, more painful paths, before it reaches—and sometimes it never reaches—its ultimate object. This means that sex gradually becomes intertwined with all the highest and subtlest human emotions and activities, with the refinements of social intercourse, with high adventure in every sphere, with art, with religion. The primitive animal instinct, having the sole end of procreation, becomes on its way to that end the inspiring stimulus to all those psychic energies which in civilization we count most precious. This function is thus we see, a by-product. But, as we know, even in our human factories, the by-product is sometimes more valuable even than the product. That is so as regards the functional products of human evolution. The hand was produced out of the animal fore-limb with the primary end of grasping the things we materially need, but as a by-product the hand has developed the function of making and playing the piano and the violin, and that secondary functional by-product of the hand we account, even as measured by the rough test of money, more precious, however less materially necessary, than its primary function. It is, however, only in rare and gifted natures that transformed sexual energy becomes of supreme value for its own sake without ever attaining the normal physical outlet. For the most part the by-product accompanies the product, throughout, thus adding a secondary, yet peculiarly sacred and specially human, object of marriage to its primary animal object. This may be termed the spiritual object of marriage.

By the term "spiritual" we are not to understand any mysterious or supernatural qualities. It is simply a convenient name, in distinction from animal, to cover all those higher mental and emotional processes which in human evolution are ever gaining greater power. It is needless to enumerate the constituents of this spiritual end of sexual intercourse, for everyone is entitled to enumerate them differently and in different order. They include not only all that makes love a gracious and beautiful erotic art, but the whole element of pleasure in so far as pleasure is more than a mere animal gratification. Our ancient ascetic traditions often make us blind to the meaning of pleasure. We see

only its possibilities of evil and not its mightiness for good. We forget that, as Romain Rolland says, "Joy is as holy as Pain." No one has insisted so much on the supreme importance of the element of pleasure in the spiritual ends of sex as James Hinton. Rightly used, he declares, Pleasure is "the Child of God", to be recognized as "a mighty storehouse of force," and he pointed out the significant fact that in the course of human progress its importance increases rather than diminishes. While it is perfectly true that sexual energy may be in large degree arrested, and transformed into intellectual and moral forms, yet it is also true that pleasure itself, and above all, sexual pleasure, wisely used and not abused, may prove the stimulus and liberator of our finest and most exalted activities. It is largely this remarkable function of sexual pleasure which is decisive in settling the argument of those who claim that continence is the only alternative to the animal end of marriage. That argument ignores the liberating and harmonizing influences, giving wholesome balance and sanity to the whole organism, imparted by a sexual union which is the outcome of the psychic as well as physical needs. There is, further, in the attainment of the spiritual end of marriage, much more than the benefit of each individual separately. There is, that is to say, the effect on the union itself. For through harmonious sex relationships a deeper spiritual unity is reached than can possibly be derived from continence in or out of marriage, and the marriage association becomes an apter instrument in the service of the world. Apart from any sexual craving, the complete spiritual contact of two persons who love each other can only be attained through some act of rare intimacy. No act can be quite so intimate as the sexual embrace. In its accomplishment, for all spiritually evolved persons, the communion of bodies becomes the communion of souls. The outward and visible sign has been the consummation of an inward and spiritual grace. "I would base all my sex teaching to children and young people on the beauty and sacredness of sex," writes a distinguished woman of to-day, "sex intercourse is the great sacrament of life, he that eateth and drinketh unworthily eateth and drinketh his own damnation, but it may be the most beautiful sacrament between two souls who have no thought of children." To many the idea of a sacrament seems merely ecclesiastical, but that is a misunderstanding. The word "sacrament" is the ancient Roman name of a soldier's oath of military allegiance, and the idea, in the deeper sense, existed long before Christianity, and has ever been regarded as the physical sign of the closest possible union with some great spiritual reality. From our modern standpoint we may say, with James Hinton, that the sexual embrace, worthily understood, can only be compared with music and with prayer. Every true lover," it has been well said by a woman, "knows this, and the worth of any and every relationship can be judged by its success in reaching, or failing to reach, this standpoint."

I have mentioned how the Church—in part influenced by that clinging to primitive conceptions which always marks religions and in part by its ancient traditions of asceticism—tended to insist mainly if not exclusively on the animal ob-

ject of marriage. It sought to reduce sex to a minimum because the pagans magnified sex, it banned pleasure because the Christian's path on earth was the way of the Cross, and though theologians accepted the idea of a "Sacrament of Nature" they could only allow it to operate when the active interference of the priest was impossible, though it must in justice be said that, before the Council of Trent, the Western Church recognized that the sacrament of marriage was effected entirely by the act of the two celebrants themselves and not by the priest. Gradually, however, a more reasonable and humane opinion crept into the Church. Intercourse outside the animal end of marriage was indeed a sin, but it became merely a venial sin. The great influence of St. Augustine was on the side of allowing much freedom to intercourse outside the aim of procreation. At the Reformation, John a Lasco, a Catholic Bishop who became a Protestant and settled in England, laid it down, following various earlier theologians, that the object of marriage, besides offspring, was to serve as a "sacrament of consolation" to the united couple, and that view was more or less accepted by the founders of the Protestant Churches. It is the generally accepted Protestant view to-day. The importance of the spiritual end of intercourse in marriage, alike for the higher development of each member of the couple and for the intimacy and stability of their union, is still more emphatically set forth by the more advanced thinkers of to-day.

There is something pathetic in the spectacle of those among us who are still only able to recognize the animal end of marriage, and who point to the example of the lower animals—among whom the biological conditions are entirely different—as worthy of our imitation. It has taken God—or Nature, if we will—unknown millions of years of painful struggle to evolve Man, and to raise the human species above that helpless bondage of reproduction which marks the lower animals. But on these people it has all been wasted. They are at the animal stage still. They have yet to learn the A B C of love. A representative of these people in the person of an Anglican bishop, the Bishop of Southwark, appeared as a witness before the National Birth-rate Commission which, two years ago, met in London to investigate the decline of the birth-rate. He declared that procreation was the sole legitimate object of marriage and that intercourse for any other end was a degrading act of mere "self-gratification." This declaration had the interesting result of evoking the comments of many members of the Commission, formed of representative men and women with various standpoints,—Protestant, Catholic, and other,—and it is notable that while not one identified himself with the Bishop's opinion, several decisively opposed that opinion, as contrary to the best beliefs of both ancient and modern times, as representing a low and not a high moral standpoint, and as involving the notion that the whole sexual activity of an individual should be reduced to perhaps two or three effective acts of intercourse in a lifetime. Such a notion obviously cannot be carried into general practice, putting aside the question as to whether it

WOMAN AND WAR

Margaret Sanger

Realization of the world tragedy—war—has at last been forced upon the American people. Two years ago the fiendish internecine strife of the militarists of Europe seemed remote enough. Today our women of the working class find themselves facing an outrage unparalleled in the history of this republic. Their husbands, sons and brothers are to be herded to the front as conscript fighters, in violation of every human instinct fostered in them by the great libertarians who founded this country.

America's participation in the war has been brought about by interested groups, not in response to the will of the majority. Not fifty per cent of the men could have been induced to vote Yes in a war referendum, not five per cent of the women. In Australia, a colony of the British Empire, where democracy was respected to the extent of submitting the question to a referendum, the votes of the women defeated conscription overwhelmingly.

Woman hates war. Her instincts are fundamentally creative, not destructive. But her sex-bondage has made her the dumb instrument of the monster she detests. For centuries she has populated the earth in ignorance and without restraint, in vast numbers and with staggering rapidity. She has become not the mother of a nobler race, but a mere breeding machine grinding out a humanity which fills insane asylums, almshouses and sweat shops, and provides cannon fodder that tyrants may rise to power on the sacrifice of her offspring.

Too long has she been called the gentler and weaker half of humankind, too long has she silently borne the brunt of unwilling motherhood, too long has she been the stepping-stone of oligarchies, kingdoms and so-called democracies, too long have they thrived on her enslavement. Had she not been so submissive and inarticulate, the present war could not have been imposed upon the workers, for there would not have been the big battalions of superfluous humanity to be moved about like pawns on a chessboard.

The great horde of the unwanted has proved to be a spineless mass, which did not have the courage to control its own destiny. Had woman had knowledge of birth control and brought into the world only such offspring as she

desired and was physically and spiritually prepared to receive, society would have been far too individualistic to tolerate wholesale massacre for the benefit of money kings. Under such an order, the child would have been considered a priceless gift to the community. Manhood would have been too valuable to be sacrificed on battlefields. Motherhood would have been revered, and the mother's voice raised to forbid the slaughter of her offspring would have been heeded.

But unfortunately the forces of oppression have cared nothing for the poignant grief of exploited motherhood. They have turned in callous indifference from her tears, while her flesh and blood have reddened every battlefield in history. There are statues in plenty to kings, statesmen and generals who have driven her sons to the universal shambles of slaughter. But where are the statues to Motherhood?

In the present soul-trying crisis, the flower of European manhood has been sacrificed on the altar of Tyranny. The rulers of Europe are begging, imploring, crying to woman, using every subterfuge to induce her to breed again in the old-time submission to man-made laws. Soon the war lords of America will be echoing the same plea.

To all these entreaties the working woman must answer No! She must deny the right of the State or Kingdom hereafter to make her a victim of unwilling motherhood, and the handmaiden of militarism.

Mothers of the working class, if your love for offspring, husband, sweetheart or brother stirs within you as deeply as the love that fired the mothers of France and Spain who strove to halt unjust wars by throwing their bodies across the railroad tracks to prevent troop trains from leaving, you too will rouse yourselves to action. You will make it necessary for this democracy, which has set out to conscript your men for foreign warfare, to take them over the dead bodies of the protesting womanhood of the United States.

Instead of an immense amount of life of low type, I would far sooner see half the amount of life of a high type. Increase in the swarms of people whose existence is subordinated to material development is rather to be lamented than rejoiced over.—Herbert Spencer



Courtesy of New York Call

Drawn by Robert Minor

Take It From Billy

Every once in a while the unspeakable Billy Sunday interrupts the straight course of his gospel-barking, to attack one or other of the liberal movements of the day. It is all, of course, part of the game.

Though it took him a long time to get around to it, it was inevitable that birth control should be honored with the Reverend Billy's disapproval. "Woe betide the nation when we sink down to the level of the brutes," he roared on April 18. "What would the world be if the beasts had birth control? There'd be no milk to drink, no meat on the table, the chickens would refuse to lay eggs, seeds would refuse to produce, and we'd all starve to death."

Ask any farmer what he thinks of these sapient arguments. It is scarcely worth an intelligent person's while to refute them, but it may be amusing to take up one point—that of the chickens. On poultry farms, experience has proved that when the hens are kept apart from the roosters, they lay more eggs. The last-named are infertile, to be sure, but they are as good as the other kind for table purposes.

Billy's second assault on birth control occurred on June 1. Tearing his collar and slobbering to right and left, the mountebank shrieked: "I despise the women who shrink from maternity because they love ease and fashion. Their hands are stained with the blood of their unborn children, and they are murderers just the same as if they put their hands on the throats of their twelve-year-old children and choked them to death. It was this that almost made France the charnel house of Europe. This country is drifting on the same rocks. Up to date matrons pride themselves on their knowledge of criminal prevention."

It is interesting to note that Billy and Ma Sunday's contribution to the population of the United States has been three sons and one daughter—hardly a better record than leading birth control advocates can show. —Richard Hoyt

To Our Subscribers

We regret to have to announce the suspension of this magazine. Inadequate support has made its continued publication impossible, at least for the present. Paid subscriptions do not begin to cover the cost of getting it out. However, we are not discouraged, because we realize that the war has had a disorganizing effect on all radical movements. This together with arbitrary opposition on the part of city and state authorities, who have stopped meetings and prevented the sale of *The Birth Control Review*, has forced us to the conclusion that we must give up publishing the magazine during this summer. In the fall, when possibly some of the remnants of free speech may have been restored to us (and if in the meantime the workers for birth control have pledged us support) we hope to put out a stronger and more aggressive magazine. Fainthearted friends may rest assured that they will receive the full number of issues covered by their subscriptions. As we have had to reduce the size of this issue to eight pages, it has been impossible to find space for articles by Arturo Giovannitti and Lillian Browne-Olf, advertised to appear this month.

Is That So, Dr Emerson?

In a letter to George H. Bell, New York Commissioner of Licenses, upholding his opposition to the film play, "Birth Control," Dr. Haven Emerson, Health Commissioner, wrote:

"From the medical point of view I see no reason whatsoever for propaganda in this matter, inasmuch as information on the subject of prevention of conception is readily available through proper medical sources.

"If the woman concerned, whether she be married or unmarried, pregnant or not, is in such a condition of health that pregnancy or parturition would in any way jeopardize her health (for instance, because of the presence of tuberculosis, heart disease or physical deformity,) there is no legal impediment which prevents any physician to whom she appeals, whether this physician be in private, hospital, dispensary, public or free practice, from giving her all the information necessary to spare her from any added risk to her health, even if this information goes to the extent of explaining in detail to her how she may prevent the results of intercourse."

Advocates of birth control are delighted to hear this. But is it true, Dr. Emerson? If you can prove to them that they are safe from prosecution, thousands of your more liberal fellow-practitioners stand ready to tell the overburdened mothers of the working class how to prevent conception, without waiting for the repeal of Section 1142.

Pirated and Spurious Editions

It is a well-known fact that there have been many pamphlets written by me on which no copyright could be obtained. Under such circumstances it is to be expected that editions will be pirated and circulated. Recently several such editions have come to my attention. Also, several pamphlets are in circulation under my name, of which I am not the author, and which express ideas directly opposed to those I hold. There is no doubt that many, in reproducing my work, have the best intentions of forwarding the propaganda, and I would suggest for the benefit of all concerned that proofs of such material at least be submitted to me if my name is to be used in the future. Those wishing authentic copies of the books and pamphlets I have written should write to me or to my publisher, Max N. Maisel, 424 Grand Street, New York City. —Margaret Sanger

"The Case for Birth Control"

Although Margaret Sanger served thirty days in prison following her conviction for conducting the Brownsville clinic, the case has been appealed on principle to the higher Courts of New York State, in order to test the constitutionality of Section 1142. In addition to the brief written by her counsel, Jonah J. Goldstein, she has prepared in book form a supplementary brief which comprises all the available statistics and medical and social facts on the subject. The fruits of her research work in this country and Europe are here given, and many eminent authorities are quoted. A limited edition has been bound in cloth and can be supplied from this office at \$2.00 a copy.

BIRTH CONTROL AND THE REVOLUTION

Walter Adolphe Roberts

There are two main reasons for supporting birth control—for the sake of woman's freedom, and because the limitation of offspring is a keen and telling weapon with which to strike in the larger battle of the social revolution

The first reason is the more important, because it is essential to woman to know how to prevent conception. Without this knowledge, she cannot win her moral, intellectual or economic freedom. It is primarily her fight, and she must be backed in it by every one who wishes to see her emerge from the sex-bondage in which she has been held since the beginning of the Christian era.

In the social revolution, on the other hand, birth control is only one factor. The revolution might march forward without it. But no rebel can fail to exult over the fact that Margaret Sanger had the vision and courage to launch the movement in America, and thereby to furnish him with new ammunition against the enemy.

Having paid my respects to its self-evident value to woman, I propose to state briefly why birth control appeals to the revolutionist.

It appeals because it is destructive to the capitalist system. Fewer children mean better children, stronger and more independent men and women who are likely to demand and take their share of the world's wealth. The theory that poverty is the most effective spur to revolution has long since been exploded. Unrest ferments in teeming slums, but usually it leads nowhere. The sweated worker struggling to support a horde of unwanted children is too cowed in spirit to revolt effectively. He is afraid to lose his job, because he has no savings wherewith to finance his family through even one week of idleness.

In a community, however, where birth control is consciously practiced and where the scarcity of labor results in good wages for all, the worker begins to measure his resources against those of the capitalist. To quote a modern Italian philosopher, Leo Gioacchino Sera, little known as yet in the United States: "To grasp at wealth and wrest it from the hands of those who hold it, one must be in possession of a certain amount of health and riches, since it is well known that want and poverty always render man less capable of fighting and winning."

What chance will there be for the exploiting class to re-

main in power, once the proletariat realizes that by reducing its own crude weight of mere numbers it will so gain in energy and efficiency that its superiority will be overwhelming from every point of view?

Another reason why birth control appeals to the advanced radical is that it is calculated to undermine the authority of the Christian churches. I do not expect every one to agree with this statement, but it is the opinion of many who, like myself, look forward to seeing humanity free some day of the tyranny of priests no less than of capitalists.

The Church depends for its existence upon dominating the family. In early days it arrogated to itself the right of licensing the marital relations of men and women, and has partially yielded that privilege to the State only under the greatest pressure. When priests ceased to be the sole purveyors of marriage contracts, they lost much of their influence. They will lose still more when the emancipated working class mother rejects their dictum that, in order to please the Deity, she must dispute the fertility record with female guinea pigs.

The Church will never be converted to birth control. It prefers that the world should be over-populated by the ignorant and unthinking. It will continue to thunder against the prevention of conception as an "unholy interference with the laws of God and Nature." But those who take its clamor with a

grain of salt will increase in numbers, until birth control finally looms up as one of the principal factors in the downfall of the Church.

There is still a third major reason why the limitation of offspring appeals to the revolutionist. It would in time make war impossible. International warfare, at all events, men would be too precious to be conscripted and sent out to slaughter each other. They would be too intelligent to go, even if their rulers were misguided enough to attempt to herd them to the shambles. Birth control is essentially an anti-militaristic philosophy. There is no question in my mind that if it had been universally practiced by the last generation, the present war—all Kaisers, Kings and Presidents, notwithstanding—could never have been imposed upon the world.

TO MARGARET SANGER

Lives fall and dreams fall
 Along the way of all men —
 Young Christ upon the fresh wood, all
 Rebels in a den.
 Lives fall but what clear eyes have seen,
 Dreams fall but what a life has been
 Are turned to light that is the very woof
 Of that the sun gives while it reaches earth,
 And in all mirth,
 And sudden sorrows of bold struggling days,
 Sets a gold crown to sacrifice
 And true words of new mouths to silence lies
 So, knowing this, your joy may walk aloof,
 Proud of loud lack of praise

Orrick Johns

A Decision for Liberty

(Concluded from page 2)

sider frankly an unpleasant subject may be shocked into activity by this exhibition but that does not warrant the suppression of a prosaic public performance. It is true that unclean minds may find unclean suggestion in the discussion of any subject which involves the relations of the sexes. The same possibility exists even in necessary everyday conversations on such matters. It lies dormant in hundreds of the classics of literature and art, in pictures, books, operas and plays open to every one, and even in Holy Writ. The welfare of the community, however can not be limited by a standard based upon the possible misconceptions of persons with perverted tastes. It may not be inept to recall the passage from *Mill on Liberty*, in the course of which while discussing freedom of speech, he cites the case of Socrates, who was convicted of "immorality" as a "corrupter of youth. The pictures suggest nothing erotic or obscene neither the subject of birth control nor the course of its advocates or opponents is presented in 'high colors' nor with undue exaggeration, but rather in a measured and dispassionate tone. I think that a valuable analogy and guide as to the law applicable to this case is to be found in the many decisions which deal with the extent of the police power of the state, such for example, as *Lochner v New York* (198 U S 45 reversing *People v Lochner* 177 N Y 145) and also *Matter of Jacobs* (98 N Y 98 114). In the prevailing opinion in the *Lochner* case in the Federal Supreme Court at page 56 occurs the significant phrase "It must of course, be conceded that there is a limit to the valid exercise of the police power by the state * * * Otherwise * * * the claim of the police power would be a mere pretext—become another and delusive name for the supreme sovereignty of the state to be exercised free from constitutional restraint. And the question is thus there posed. Is this a fair reasonable and appropriate exercise of the police power of the state or it is an unreasonable unnecessary and arbitrary interference with the right of the individual to his personal liberty? * * * From this standpoint, it seems to me that there is nothing in the exhibition proposed to be given which warrants or calls for the exercise of any censure or censorship on the part of the commissioner, and that the performance is beyond his power to interdict. Viewed from another angle however my conclusion appears to be strongly fortified. It is needless to speak of the importance of freedom of speech in a republic like ours. The value of that institution in a democratic government has been accentuated by the result of our political experiment in which public opinion has become perhaps the dominant factor. So keen an observer as Lord Bryce has devoted an entire part of his classic, "The American Commonwealth" to a consideration of the value and influence of public opinion in our government. In discussing two dangers to which a government thus influenced may be exposed, he says One—the smaller one—yet sometimes troublesome is the difficulty of ascertaining the will of the majority * * * *The other danger is that minorities may not sufficiently assert themselves.* Where a majority has erred the only remedy against the prolongation or repetition of its error is in the continued protests and agitation of the minority an agitation which ought to be peaceably conducted carried on by voice and pen, but which must be vehement enough to rouse the people and deliver them from the consequences of their blunders. Under the same head, again, he cites the strength of popular government (after comparing it to a pyramid—the very emblem of stability), and adds "It has no need to fear discussion and agitation. Assured freedom of speech insures resort to discussion as the sole necessary means to reform. The solvency of American institutions is based largely upon the flexibility of the popular life and of the institutions under which it exists. The abiding conviction on the part of every citizen that he may freely express his opinion and advocate any peaceable means of reform is in itself the greatest preventive of the use of force or of temptation to violent and subversive change. Indeed it is probably the decisive factor in reconciling us (as Lord Bryce intimates) to willing submission to the iron discipline of war and to according to our administrative officers in times of crisis an almost absolute power. We know that when the need has passed the people may safely and freely demand the recall of that power to its proper source. De Tocqueville, in his *Democracy in America* (Part III chap 21) says *Although the Americans continually modify or abrogate some of their laws they are far from evidencing revolutionary passions.* This observation is accurate, but not complete. To my mind the learned author has overlooked the fact that in the very statement of the phenomenon he was including its cause. Had he said *Because the Americans continually modify their laws they are far from showing revolutionary passions* he would have apprehended one of the truths which accounts for the evenness of our national existence. Comparatively paradoxical as it may appear the soundness and serenity of our communal life rest upon the absence of rigidity in our system of law and upon the opportunity for

the facile change of such of our institutions as are not absolutely fundamental. Compared with the importance of guarding the commonwealth against even the possibility of disturbing the foundation of our social solidity by unduly limiting the vital right of free speech, the contention that the exhibition here complained of might be construed as immoral seems to me to be negligible. I think that the performance which the commissioner of licenses has sought to interdict may not properly be interpreted as more than an attempt to present a dramatic argument in favor of the change of an existing law that while its form its force and its good taste may furnish ground for an honest difference of opinion, there is nothing in it which can reasonably be viewed as against morality, decency or public welfare. It affords therefore, no basis for the exercise of any discretion on the part of the commissioner. It is a measured and decent exercise of the right of free speech guaranteed by our constitutions, essential to our national wellbeing and, as such beyond the power of the commissioner of licenses to forbid. Motion granted. Order signed.

The Objects of Marriage

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would be desirable, and it may be added that it would have the further result of shutting out from the life of love altogether those persons who, for whatever reason, feel that it is their duty to refrain from having children at all. It is the attitude of a handful of Pharisees seeking to thrust the bulk of mankind into Hell. All this confusion and evil comes of the blindness which cannot know that, beyond the primary animal end of propagation in marriage, there is a secondary but more exalted spiritual end.

It is needless to insist how intimately that secondary end of marriage is bound up with the practice of birth-control. Without birth-control, indeed, it could frequently have no existence at all, and even at the best seldom be free from disconcerting possibilities fatal to its very essence. Against these disconcerting possibilities is often placed, on the other side, the un-aesthetic nature of the contraceptives associated with birth-control. Yet, it must be remembered, they are of a part with the whole of our civilized human life. We at no point enter the spiritual save through the material. Forel has in this connection compared the use of contraceptives to the use of eye-glasses. Eye-glasses are equally un-aesthetic, yet they are devices, based on Nature, wherewith to supplement the deficiencies of Nature. However in themselves un-aesthetic, for those who need them they make the aesthetic possible. Eye-glasses and contraceptives alike are a portal to the spiritual world for many who, without them, would find that world largely a closed book.

Birth-control is effecting, and promising to effect, many functions in our social life. By furnishing the means to limit the size of families which would otherwise be excessive it confers the greatest benefit on the family and especially on the mother. By rendering easily possible a selection in parentage and the choice of the right time and circumstances for conception it is, again, the chief key to the eugenic improvement of the race. There are many other benefits, as is now generally becoming clear, which will be derived from the rightly applied practice of birth-control. To many of us it is not the least of these that birth-control effects finally the complete liberation of the spiritual object of marriage.