

# Learning While Serving

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On January twenty-ninth the Court of Special Sessions first took up the case of Fania Mundell. She was charged with having sold an obscene book, and since the court found *What Every Girl Should Know* indecent, she was convicted and later fined \$50, which Mrs Pinchot paid.

The court then opened its case against the principal defendant, Margaret Sanger. J J Goldstein pinned his hopes on the young Italian, John Freschi, who presided over a panel of three. On this first day Judge Freschi was most understanding. Picking up the cervical cap or pessary which the prosecution had put in evidence, he asked why this proved a legal violation, since the law allowed the use of contraception to prevent disease.

The district attorney had subpoenaed thirty mothers from the clinic list, and they had come with their children, equipped with lunches, pacifiers, and diapers. They nodded reassuringly to Margaret, trying to tell her that they would put in a good word. One by one they were called to the witness stand.

When asked by the prosecutor why she had gone to Mrs Sanger's clinic, each mother answered, "To stop the babies." At this point the mother might beam at Margaret, telling how helpful she had been. Each answer seemed to the defendant like another nail in her seal of doom.

At last J J had a chance to turn this testimony to his client's advantage. He brought out the background of these mothers, the

number of children, the poverty and bad health. The climax came with a pitiful little woman whose husband had a bad heart.

"How many children have you?" he asked.

"Eight and three that didn't live."

"What does your husband earn?"

"Ten dollars a week—ven he verks."

Judge Freschi slammed down his gavel. "I can't stand this any longer," he muttered and adjourned the court for the week end.

J J was jubilant, and on this auspicious note Margaret had gone to the Carnegie Hall rally.

At the next session the district attorney produced a copy of *Family Limitation* with a picture of the same cervical cap. Reading aloud the author's instructions for use in preventing conception, he then gave irrefutable proof that Margaret Sanger had recommended the article for purposes banned by the law.

As for Section 1142, he argued that a citizen's liberty was safeguarded by the law's exemption of physicians. Since Mrs. Sanger was not a physician, she was of course not exempt and was guilty. The court agreed, but deferred sentence.

On good authority, J J learned that if his client would change her plea to guilty, her sentence would be suspended. The panel was relieved to have Mrs. Byrne finally off the front page and wanted neither to stir up the issue again nor to inflict punishment. J J was delighted, for to him, as to most lawyers, prison was the ultimate defeat. Besides, as he shrewdly pointed out, world events had changed since the first trial. Because the Kaiser had declared unrestricted submarine warfare, the United States had severed diplomatic relations with Germany. In the next weeks there would not be the same concern over birth control. Admitting all this, Margaret nevertheless refused to plead guilty.

The panel and J J now entered into a long legal discussion and Margaret, who was exhausted, began to drowse. When she dimly heard her lawyer promising something, she aroused herself with new apprehension. He had planted himself directly in front of her so that she could neither hear nor see much. She tried to peer around him but each time she moved, he shifted to obstruct her.

view At last she grabbed his coattail which ended the conference Then the court asked her to rise and in brief, this is what followed

THE COURT Your counsel had made the statement that pending the prosecution of appeal, neither you nor those affiliated with you in this so called movement will violate the law Do you personally make that promise?

THE DEFENDANT Pending the appeal

THE COURT If Mrs Sanger will state publicly and openly that she will be a law abiding citizen without any qualifications whatsoever, this Court is prepared to exercise the highest degree of leniency

THE DEFENDANT I'd like to have it understood by the gentlemen of the Court that the offer of leniency is very kind and I appreciate it very much It is with me not a question of personal imprisonment or personal disadvantage I am today and always have been more concerned with changing the law regardless of what I have to undergo to have it done

THE COURT Then I take it that you are indifferent about this matter entirely

THE DEFENDANT No, I am not indifferent I am indifferent as to the personal consequences to myself, but I am not indifferent to the cause and the influence which can be attained for the cause

THE COURT Since you are of that mind, am I to infer that you intend to go on in this matter, violating the law, irrespective of the consequences?

THE DEFENDANT I haven't said that I said I am perfectly willing not to violate Section 1142—pending the appeal

THE COURT (*to Mr Goldstein*) What is the use of beating around the bush? You have communicated to me in my chambers the physical condition of your client, and you told me that this woman would respect the law The law was not made by us We are simply here to judge the case We harbor no feeling against Mrs Sanger We ask her openly and above board, "Will you publicly declare that you will respect the law and not violate it?" and then we get an answer with a qualification Now what can the prisoner at the bar for sentence expect? I don't know that a prisoner under such circumstances is entitled to very much consideration after all (*To the Defendant*) We don't want you to do impossible things, Mrs Sanger, only the reasonable thing and that is to comply with this law as long as it re-

mains law      If you succeed in changing the law, well and good  
 If you fail, then you have to bow in submission to the majority rule  
 THE DEFENDANT It is just the chance, the opportunity to test it  
 THE COURT Very good You have had your day in Court      Now  
 we are prepared to be extremely lenient with you if you will tell us  
 that you will respect this law and not violate it  
 THE DEFENDANT I have given you my answer  
 THE COURT We don't want any qualifications      We are not con-  
 cerned with the appeal      What is your answer, Mrs Sanger? Is it  
 yes or no?

Everyone's eyes were on the defendant Juliet Rublee, sitting close by, later described that moment Margaret looked so small and frail that it seemed impossible that she could be challenging this panel of justices When the Court said, "Is it yes or no?" her body stiffened and the muscles in her face grew so tight that they seemed to be bursting out of her skin She was risking a long prison term and a fine of up to \$5,000 although Juliet knew that she had not a penny in the bank There was a terrible silence while the whole room seemed to hold its breath Then Margaret spoke in "that quiet brave little voice"

"I cannot promise to obey a law I do not respect"

The tension broke as every woman in the room began to shout and clap A gavel sounded and the sentence was pronounced

"The judgment of the Court is that you be confined to the Workhouse for the period of thirty days"

Someone cried, "Shame!" and then it was over

For a few minutes life went on just as before J J was busy with legal formalities while Margaret sat there, rather relieved at the sentence For thirty days there was no need for a hunger strike, which at best would be an anticlimax after Ethel's She had no wish to be a martyr, and with her past record she did not think that she could survive what Ethel had endured

Her thoughts were cut short by a reminder of her new status when someone took her into the anteroom to be fingerprinted Fingerprinted! She reacted in fury She was being classified along with thieves and prostitutes This should not be, for she was a political prisoner, not a criminal When she balked, the clerk con-

sulted the justices and, worn out by trying to keep her out of prison, they refused to become involved. So she won a technical victory before being herded with the other prisoners out of the rear of the building into a waiting van.

Now she entered a new world. Some young men were joking about their "sleeping time," the three or more years which they would serve behind bars. At the Raymond Street jail, where she spent the night, Margaret scored another victory by refusing a physical examination. Her reputation had preceded her, and when the attendants learned that she was Mrs. Sanger, they let her alone.

The workhouse apparently refused to care for a second Higgins sister, and next morning she was taken to her unknown destination, which turned out to be the Queens County penitentiary on Long Island. On meeting her, Joseph McCann, the jovial warden, asked if she had lunched and was pleased to hear that she would only fast if the food was too bad to eat.

It was reassuring that the building was laid out something like a hospital and she was used to uniforms. Furthermore her cell was a happy surprise, for unlike Ethel's, it was clean and equipped with a washstand and toilet. Mrs. Sullivan, the matron, added a table for her books and papers, and when Margaret asked why she was not given a job assignment, Mrs. Sullivan chuckled. Margaret looked better, she said, with a pen in her hand. To their mutual comfort, she and the administration cooperated. Following the young men's theory that prison was sleeping time, Margaret tried to catch up on sleep and on reading and writing.

A few excerpts from her diary describe her routine.

February 8th      Afternoon drags slowly and supper—bread and molasses and tea—seemed tasteless. Locked in at 6 p.m., lights out at 9 o'clock.

Wednesday      Cells open at 7 a.m., but bell rings at 6 o'clock. Breakfast—oatmeal with salt and milk and coffee, two slices of bread (salt-peter said to make it taste so queer).

Clean cells      walk in air. Talked with little colored girl, Liza [who knew of Mrs. Sanger and called out], "you'se eats, don't you?" referring to Mrs. Byrne's hunger strike.

Dinner of stew and bread Afternoon four letters Called to warden's room to be fingerprinted Told him I objected to being classed as a criminal and would not submit

Supper of tea, bread and stewed peaches

Women here seem to like Warden McCann and matron Atmosphere here very different from Workhouse or Raymond St Jail Women are not treated so well as men though—not allowed papers, nor to send out for anything like food, papers or cigarettes as men are allowed to do No visitors except two a month All letters read going and coming—which is an outrage

Since she was to be there for a month, she decided that it was a chance to study penology Her fellow prisoners fascinated her, especially in their class snobbery There was a pecking order in the prison yard as rigid as in a chicken coop A high-class thief or "Tiffany," warned her not to associate with the pickpockets They were the lowest order, in part because they filched from the poor, which in the eyes of the others was not cricket

In the first quarter of this century, instead of being given any therapy, young drug addicts were locked up with criminals for as much as three years There were also young illiterates, whom she proposed to teach, until she found a better solution

One stately white-haired woman, "the Duchess," who held herself aloof from her fellow prisoners, told her story to Margaret She had been a teacher for many years before she married a retired minister, when he died, years later, she not only found herself penniless, but too old to be reemployed In her predicament, she had fled from several unpaid landlords until the law caught up with her Margaret thought the broken-spirited woman might regain her self-respect by teaching once more With the help of J J, she obtained a set of primers, and the Duchess happily opened literacy classes Hers turned into a rags-to-riches tale with Margaret as the fairy godmother Later when the elderly Cinderella was released, Margaret found her a position as hostess in an Adirondacks summer camp, where she met her prince, a retired millionaire, and they were soon honeymooning on his yacht

Margaret saw prison as a good social laboratory to test a favorite

thesis Recently Dr Alice Hamilton of Hull House had shown that the nation's child labor was recruited from the large families of the poor From these same families, Margaret believed, came most of the nation's prostitutes and petty criminals Warden McCann, with whom she discussed the matter, offered to relay whatever facts she wanted, but he warned her that her theory would be disproved Most of the inmates, according to him, had been single children This seemed incredible until some of the old timers explained that every prisoner tried to keep his family out of his affairs by claiming that he was an "only" child Margaret's personal poll of thirty-one in her corridor refuted the warden's report The average home had seven children

Her fellow prisoners wanted to know about "sex hygiene," and never missing a chance to tell her story, Margaret asked Mrs Sullivan if she might lecture to them in the corridor The matron's first response was that the girls "knew bad enough already!" Soon, however, Margaret was lecturing almost daily in one corridor or another

By chance, a sidelight from a fellow prisoner is included in the privately printed *Our Margaret Sanger* in the Smith College Collection Hannah Voorsinger was secretary of a church committee which tried to help the women at the penitentiary In talking to "the Queen" of New York's pickpockets, she heard of "a wonderful woman" who ought never to have been locked up Miss Voorsinger was so impressed that she asked McCann to point out this remarkable Mrs Sanger She caught a glimpse of Margaret talking with other prisoners, dressed like them in the cotton uniform, but conspicuous for her "gorgeous red hair"

Although Margaret had gained some insight and perhaps some rest, the month was not therapeutic Because of the poor food, she had lost fifteen pounds, which reactivated her tuberculosis Furthermore, her last two hours were so brutal that they wiped out the memory of otherwise decent treatment

McCann had hoped that by cooperating with her, she would relent about the fingerprinting, which was mandatory He could not guess the steel underlying her ladylike presence, and in the end he turned her over to his strong-arm men Even she could not ex-

plain where she found the strength to keep them from their purpose. Finally, police headquarters, prodded by J. J., ordered McCann to forget the fingerprinting.

It was a stinging cold day when the metal doors clanged behind her. In front stood her friends, nearly frozen by the delay, but now lifting their voices in the *Marseillaise*. Behind and above her at the upper windows were new friends, waving good-by. Nothing in her life, she said later, touched her more than this moment. The waiting escort, which included a delegation from the Brownsville mothers, strewed her way with flowers, helped her into a warm limousine and whisked her off to a breakfast fragrant with real coffee, grapefruit, eggs, and toast. It was her "coming out party."