

Research and the Tides of Public Opinion

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When Margaret Sanger gave up the league and the *Review*, she ceded only the façade of her movement, but she never meant to give up the Clinical Research Bureau, which was its heart. This, indeed, was the fulfillment of her work. Since the board had discouraged its creation, she had organized it as a separate entity under her personal guidance.

For more than five years the clinic quietly performed its function, but on an April morning in 1929, it was raided. The blow fell during one of the crucial moments of Margaret's life. Not only was she in the midst of her struggle with the league board and about to take off on a lecture tour, but Stuart had just come down with an excruciating case of mastoiditis. He was staying at her New York apartment, where she had come to nurse him. Having been up most of the night, she was asleep when Anna Lifshiz called to say that the police were ransacking the clinic.

Time seemed to swing backward to the decade of violence that she had hoped to have outgrown. Leaving Stuart with Daisy Mitchell, her long-time maid, Margaret grabbed a taxi and in a few moments was at her headquarters, now menaced by the parked Black Maria. The blinds of the clinic were drawn, the door was locked, but a plainclothesman from the vice squad finally admitted the owner of the building. She faced a familiar scene. Huddled in a small room were the patients, tearfully submitting their names and addresses.

After a word with Anna, Margaret resumed her Brownsville role of reassurance to the frightened mothers and children

In the corridor outside, a burly uniformed woman shouted orders to men who were seizing books, charts, and medical supplies The commander, Margaret was told, was Mary Sullivan, head of the Policewomen's Bureau A second policewoman began to rummage through the files of case histories This was too much, but when Margaret rushed over to stop that outrage, Mrs Sullivan intervened, flashing her search warrant signed by Chief Magistrate McAdoo For future "evidence," the cards were poured into a waste basket Margaret protested that the files were the property of doctors, anyone who touched them would face trouble

"Trouble!" jeered Mrs Sullivan "That's what you're in This is my party"

Luckily, Anna, in a side room, was consulting Dr Robert L Dickinson of the Academy of Medicine His response was to call Morris L Ernst, a brilliant young lawyer, who in the future would carry on the work that J J Goldstein had begun of securing the decisive legal opinions of Margaret's career

While Margaret was a veteran in such encounters, some of the staff were close to hysterics Only Dr Stone, nursing a weak heart, remained aloof and a little amused Just that morning, she recalled, a visiting doctor had asked if they ever had police trouble, she had assured him that those days were past

On the way to the police station, Margaret learned the background of the raid, which was almost a repeat performance of the earlier Brownsville raid Mrs McNamara, the second policewoman, had come as a decoy with a pitiful tale of three children and a heavy-drinking husband Since she actually was afflicted with several pathological conditions, the doctors, after consultation, had fitted her with a pessary This was the crime which had triggered the action At the police station Mrs Sullivan demanded fingerprints, to which Margaret again protested At this point young Ernst arrived, managed to have the fingerprinting by-passed and arranged for bail, at \$300 each, for the two doctors and three nurses

Margaret hurried home to her sick boy, whom she took to a hospital With his doctor's approval, she then rushed up to Boston for an

important appearance and after this on to Chicago. En route, she heard from the hospital that Stuart was recovering from a mastoid operation. Leaving him, as she wrote Hugh de Selincourt, was "the hardest thing, next to one [when she left all three for exile] that she had ever done in her life."

In New York, both Noah and Morris Ernst were busy. It happened that Noah's minister, Karl Reiland, was a friend of Magistrate McAdoo, who was immediately consulted. McAdoo was chagrined to learn that he had signed one warrant without reading it. He ordered that the clinic files be deposited in his safe. Next morning the *New York Times* quoted his statement that the police had "gone beyond the authority of their search warrant."

Ernst assembled a Defense Committee of Five Hundred, whose quality was as impressive as its numbers. Among the well-known ministers were Reiland and Harry Emerson Fosdick, among the medical profession, the outstanding Dr. Walter Timme, and a former health commissioner, among the lawyers, the distinguished Paul Cravath. The list was studded with such names as Vanderbilt, Reid, Morgenthau, Phipps, and Lamont.

This time the press found no excuse for the police. The *Herald Tribune* said that if they could seize doctors' general files without a specific warrant, "the privileged relations of doctor and client cease to exist. The possibilities of abuse, including blackmail, are virtually unlimited." In his column, Heywood Brown suggested that if the medical profession did not resent the raid, they should all consult chiropractors to learn what ailed their spines.

In fact, the medical profession's reaction proved a turning point in their policy. Challenged on their right to privacy, dozens of doctors offered to testify. The New York Medical Society, which had once voted three to one against birth control, passed a resolution of censure on the seizure of the records. On Dr. Dickinson's proposal, the Academy of Medicine attested to its "grave concern" over the action. After this formal rebuke, Commissioner of Police Grover E. Whalen, who had called the action "routine," apologized.

This raid, like the Brownsville one, was based on Section 1142 of the penal code, barring contraceptive information. But the result of the appealed decision on the earlier raid had been the Crane inter-

pretation, now embodied in Section 1145 Physicians giving information for the "cure and prevention of disease" were thereby exempted Ernst's function was to show that this was exactly what the two clinic doctors were doing To prove this, he depended on professional testimony, and here the case made history When Goldstein had presented a physician as his star witness twelve years earlier, the testimony had been ruled out as "irrelevant, incompetent and immaterial" At this second trial, Dr Louis T Harris, former health commissioner, was the chief witness

"The birth control clinic is a public health work," he asserted "In preventing conception it may be said to cure because pregnancy can often be the cause of furthering the progress of disease" He had personally investigated the clinic and found it "quite in keeping with the spirit and purpose of the law and with the spirit of medicine, public health medicine"

To develop this point, Ernst asked about the spacing of children and frequent pregnancies Harris explained that "so far as the mother is concerned, it [frequent pregnancy] aggravates and may, in fact, precipitate invalidism As far as the child is concerned, it increases the hazard to the next born child very decidedly"

Equally helpful was the testimony of Policewoman McNamara She was forced to admit both her lies and her plan to deceive the doctors As Margaret wrote in *My Fight for Birth Control* "Every step in the legal procedure following the raid, was an amazing revelation of progress—the fruit of long, steady plodding, the response of an awakened conscious interest which up to then had been strangely silent"

In the end Justice Abraham Rosenbluth, who at the start had seemed hostile, strengthened the Crane opinion "But why," asked a *New York Herald* editorial, "had the raid taken place? The clinic had been in public operation for five years, it had cooperated with the City Department of Health and with the medical societies, it had never concealed its existence or its methods" Yet it was raided without warning, and the police showed animus against its staff Why?

Since an official answer was unlikely, Margaret hired the Burns Detective Service Social workers had always brought in a large

share of patients, but she was surprised to hear that the Catholic social workers had recently conferred with church officials for guidance about the clinic. The clergy, all the way up to Cardinal Hayes, had been astounded to learn that a birth control clinic existed. The very men who had maneuvered the Town Hall raid against talk on this subject now resolved to smash the institution. Mrs. Sullivan was chosen to lead the attack. Later she refused to answer reporters' questions about the reason for the raid or whether the Church was behind it. She was not put on the stand, and after a first silent appearance, was not seen again at the trial.

Once more the enemies of birth control had given it a major boost through their arrogant interference. The hierarchy must have recognized the mistake, for this was its last strong-arm attack in New York. Furthermore, the decision strengthened the legal position of clinics everywhere. The law was plain, said Justice Rosenbluth: "If a doctor, in good faith believes that the patient is a married woman and that her health requires prevention of conception, it is no crime to so advise and instruct her."

"At times," wrote Helena Huntington Smith in *The New Yorker* of July 5, 1930

the birth control question has looked like a personal encounter between Margaret Sanger and the Catholic Church. One might ask, however, whether the Roman hierarchy has not after all been her best friend. Several times its blundering opposition has focused public attention on the birth control movement which was not ingenious enough to do so for itself.

Mrs. Sanger has never been adept at juggling the diableries of publicity. Her strength is an overwhelming sincerity and great personal courage. Although she doesn't know how to trump up an issue, she will fight to the last ditch on a real one.

Unexpected publicity had certainly stimulated so many calls that future appointments at the clinic had to be made weeks in advance. To ease the pressure, as well as to remove the clinic from the whim of its Catholic landlord, Margaret hunted for larger quarters. Noah, who was no longer supporting either the league or the *Review*, made another major contribution. He bought a pre-Civil

War mansion at 17 West Sixteenth Street, the final and perfect headquarters. With an expanded staff and evening sessions, the clinic served upward of eighteen hundred patients a month.

At Sixteenth Street there also was room for research. Already the files were rich with information for students of social, economic, health, and sex data. It was news to find that in 1930 70 percent of the patients had family incomes of less than \$50 a week and that for every two children born, there had been an abortion. One mother had undergone forty

Margaret, however, was increasingly concerned with another type of research. As modern medicine and sanitation prolonged life, population problems grew. Doctors were stressing preventive medicine, but few did anything to prevent conception. In the United States the Comstock laws, which strengthened religious taboos, stymied progress. The bureau itself had taken a forward step by developing the lactic acid jelly, but only recommended it as a supplement to the pessary. In a technological age, the diaphragm that Mensigna had created sixty years previously, although cumbersome and costly, was still the best there was. This meant that contraception for the majority remained impossible.

Yet there were exciting rumors. The Soviet Union, it was said, had a spermatoxin immunizing women for several months against pregnancy. At the University of Pennsylvania, Stuart and Emily Mudd had made tests that seemed to confirm this possibility. Dr. Guyer, at the University of Wisconsin, was inoculating female rabbits with a semen taken from fowls. There was hope of a breakthrough in several fields. In California, scientists had isolated vitamin E, which some people thought was the key to fertility. Others relied for answers on the X-ray tests on animals being conducted at Johns Hopkins. Meanwhile, Margaret knew that in Scotland, F. A. E. Crew was making glandular tests on monkeys. She decided that a cross-fertilization of scientific minds would speed progress. Certainly the interchange of experience of those running birth control centers around the world would be helpful.

This was the background for another congress, the last international one that Margaret would plan for nearly two decades. For a site she returned to Switzerland, choosing Zurich, central for Euro-

pean delegates but removed from Geneva's intrigues and scenically refreshing. Here for five days at the end of summer in 1930, 130 scientists and clinic directors exchanged views. This Seventh International Birth Control Conference was an innovation, a meeting of professionals concerned with practical performance.

The opening session on current mechanical methods was led by Dr. Stone, director of the world's largest and leading clinic, whose six years' experience was uniquely reinforced by statistical records. Although the fifteen physicians currently attached to the bureau all relied chiefly on the Mensinga pessary, they knew it was not the final answer, since two-thirds of their patients had to be subsidized.

In Europe, the single most impressive clinic was Holland's new memorial to Dr. Aletta Jacobs. Posthumously, the nation was trying to achieve her medical standards. Elsewhere most birth control instruction was given by midwives with a wide diversity of methods in Austria, Belgium, Denmark, England, Germany, and Sweden. Some relied on intrauterine devices, others on suppositories or foam tablets.

From Japan came Dr. Majimi to tell how "Margaret Sanger's clear voice had penetrated stone walls," converting leaders to birth control, which was now taught in the health stations of the poorest quarters. There was also word from China that two Shanghai hospitals were training physicians and nurses in family limitation and that in Peking the modern Union Medical College was dispensing contraceptives. The Kuomintang government planned to use birth control as a weapon in fighting poverty.

Of all the programs, the most ideal seemed to be that of the USSR, as reported by Dr. Ruben-Wolf of Berlin. The German centers, to which she was still attached, suffered constant harassments, but the Soviet's, which Dr. Ruben-Wolf had visited four times, had developed the perfect plan. Those in need could have a skilled, cheap, rapid curettage at one of the large abortatoriums run with the precision of an assembly line. More basic, all dispensaries and gynecological clinics throughout the nation gave regular birth control instruction, publicized by posters, exhibits, films, and pamphlets. In Moscow, there was mass production of rubber pessaries, chemical compounds, and intrauterine devices. The sperm-

atoxin, which immunized women against pregnancy, was in the experimental stage

The latter subject was the main concern of the scientists. In the many-faceted discussion that followed, Dr. Taylor, of the department of animal genetics at the University of Edinburgh, gave an impressive paper. His laboratory tests on mice had shown the influence of sex hormones on both the sex cycle and fertility. This strengthened the belief that hormones were the key to effective contraception.

As a result of the congress, several German and Swiss universities added contraceptive techniques to their medical curriculums. Clinical staff workers raised their standards by an interchange of experience and more training at the superior institutions. But the great achievement, as Margaret had hoped, was the stimulus of scientific research, especially in the United States.

Toward the close of *My Fight for Birth Control*, the author writes that she had reached a place from which she could survey the international landscape and discern the harvest from seeds she had sown. From her Alpine height, she counted fifty birth control centers in the United States, all rooted in what she had planted in New York a few years earlier. Collectively, Europe boasted the same number, more than a third of which had sprouted from the seeds that she had scattered in Germany. Meanwhile, the Far East, where she had prepared the soil, seemed on the verge of the largest crop.

"One left the Conference," she wrote, "convinced that there was the beginning of a new era in human progress, a technique of racial help inaugurated without fanfare or trumpets, without consideration of remote political ideals, but aiming to place the weapons in the hands of the individual himself, whatever his environment, whatever the condition of his previous servitude."

There was another beginning at Zurich which would lead to Margaret's last great legal case. Dr. Majimi had shown a new type of pessary, samples of which Margaret ordered for the purpose of testing. Later the New York Customs notified her that they had barred and destroyed a package from Japan. This was in accordance with Section 305 of the Revenue Act, another Comstock legacy. Margaret promptly put in a second order, this time through the Baroness Ishimoto, to be sent to Dr. Stone. At the worst, Margaret fore-

saw a new judicial decision. If, as the famous Mr Dooley said, the Supreme Court followed elections, perhaps a lower court would follow public opinion.

Public opinion was moving fast, spurred by the positive action of organized women. In 1930 the National Council of Jewish Women officially endorsed birth control, followed at once by the vast General Federation of Women's Clubs. In the same year came the first church support, from the Unitarians, whose individual leaders had long been helpful. But the act that rocked Christendom was the endorsement in 1930 of the Anglican bishops at the Lambeth Conference. As the Very Reverend Dean Inge pithily put it, the bishops had notified the world that "Birth control is here to stay." The irreverent George Bernard Shaw said that the church was "belatedly trying to catch up with the twentieth century."

With accelerating speed, others were also trying to catch up. Right after the Zurich conference, New York's Academy of Medicine declared that "the public is entitled to expect counsel and information on the important and intimate matter of contraceptive advice." After mature study, started by Dr Dickinson, the academy endorsed birth control, sex education, and changes in legislation. Because of its prestigious position, the academy's stand was impressive, although other large medical associations, moving at a glacial rate, lagged behind most churches.

In 1931 a tidal wave began with the Presbyterians, followed by the Central Conference of American Rabbis, then the Universalists, the Methodists, and on the first day of spring, the Federal Council of the Churches of Christ, the central body of more than 20 million Protestants. "There is general agreement," said a remarkable report, "that the sex union between husbands and wives as an expression of mutual affection without relation to procreation, is right." There should be a new morality, the report continued, based upon knowledge and freedom, instead of ignorance.

"It's just what I would have written myself," Margaret Sanger told the press. Most of the press agreed with the *World-Telegram* which called it "a day of triumph for Mrs Sanger."