

## THE FIRST VICTORY

**F**OR two months after Peggy's death I was besieged with visiting advisers, who in all sympathy, begged me to give up the futile fight. Some of them had been to see the District Attorney, and he had agreed to be lenient if I would promise to cease all future activities and promise to be good. Committees of two and three, representing liberal groups and organizations, came, requesting me to give up the legal case and instead to take up the legislative work of changing the federal law. There would be help forthcoming from respectable sources (not just the poor working classes), promises of special trains to Congress, investigations, special commissions, and such a whoop and whack on Congress that victory would be in sight before the year was over. It was a tempting appeal. It seemed so sensible, so much easier than agonizing delays through the federal courts.

Then there was Samuel Untermyer, the famous lawyer I was to see him. He was interested in my case. Perhaps I could persuade him to represent me. I was ushered into

a charming room, filled with American Beauty roses, to await Mr Untermeyer. He was friendly, broad minded, sympathetic. Doubtless he had heard of my bereavement, and was ready to take the load of legal worry off my weary and tortured mind. We talked it out. His advice was to respect the law until it was changed and give up fighting the case.

There is no case to fight, he explained urbanely. You have broken the law, and there is nothing anyone can do or say to argue that fact away. We must prevent your going to jail, however, and I'll see what I can do.

It's not a question of my going to jail, Mr Untermeyer, I protested. It's the principle involved. This information is not obscene. The kind of articles I published in *The Woman Rebel* did not give information to prevent conception. Consequently, they cannot come under the obscenity statute.

Go to Congress and get your law changed! advised that astute and distinguished lawyer. It's the only way.

On all sides, advice was the same. Give it up! You haven't the slightest chance to win.

Only the far off voices of the poor mothers themselves seemed to shout. Keep on! Stand Firm! We're behind you, ten million strong!

After I had received Samuel Untermeyer's advice concerning the case, I made up my mind that his judgment of the case was final. But I could not accept his viewpoint. I did not believe that I was guilty in fact.

After my disappointing but clarifying interview with Mr Untermeyer, I decided to go into court alone and fight my own battle. It would be one woman against the United States Government. Come what might, it seemed to me that it was far better to stand alone than to let the issues involved be dragged down to furnish petty legal quibbles for men lawyers. After all, wasn't it first and foremost a woman's battle?

I sent a letter to Mr Harold Content the district attorney announcing that I was prepared to go on with the case and

asked him to put it on the court calendar as soon as possible. The case was called, and postponed to January 24.

I sent a letter to my good friends in England announcing my intention. I wrote: I decided to plead my own case without counsel, as the ideas I have sought to promulgate are not within the range of the psychology of men lawyers. I have personally had occasion to see the lamentable results of having questions involving great moral issues subordinated to the legal quibbles in which lawyers so much delight.

I had no legal training. I knew nothing of the procedure of the federal—or any other courts. I had neither education nor practice in public speaking. Mine was the valor of ignorance. However, I felt that I would be guided by the greatness of my conviction, the profundity of my feeling. I was going to speak out of the fullness of my heart. I was confident in my faith that any jury of honest men would acquit me of any wrong doing.

In the meantime, much of my time was taken up with those who wanted to point out to me the folly of this decision. How generous people are with advice! How prodigal of disconcerting counsel! In those radical, liberal, and feminist circles, where eloquence was suave and expression articulate, I was very little known, and condescendingly received. The *Woman Rebel* and its message was considered as one reckless, expressive gesture. Its editor had struck her single match of rebellion and defiance, but she could be of slight significance in the movement. With my sorrow, my manifold duties, my social shyness, I avoided meeting new people. My attitude thus created a certain reluctance among respectable folk who might otherwise have hastened to my aid.

Who is she? What does she look like? they asked each other, evidently picturing a militant, mannish Feminist, as caricatured in the American press ever since Susan B. Anthony's proclamation of 1880.

Indeed, I wanted support, but I could not take the initiative in asking for it.

One afternoon I was invited to show myself at a tea arranged by Henrietta Rodman in her Greenwich Village apartment. A group of Feminists and liberals had gathered to decide, evidently, whether I was worthy of their endorsements. Out of that meeting a movement was started to give a dinner in my honor at the Brevoort Hotel on the evening preceding my trial.

Alice Carpenter was the courageous instigator of that event. While I have never seen her since that inspiring night, I have thanked her in my heart a thousand times for the imposing array of enlightened and representative folk who gathered in the great dining room of the old Brevoort that evening.

Rose Pastor Stokes acted as chairman. Dr. Abraham Jacoby spoke, quite off the subject, it seemed to me. There were other speakers, some dealing with the trial of the morrow, others avoiding it. I was called upon to speak, and finally overcoming my nervousness, I arose and plunged into my maiden speech in defense of birth control. I had decided not to evade the issue.

Friends, it seems to me that this evening and this gathering are significant and important, not only because the idea of birth control has brought together workers of such diverse outlook and temperament, but especially because of the time chosen for it—the eve of my trial.

I realize keenly that many of those who understand and would support birth control propaganda if it were carried out in a safe and sane manner, cannot sympathize with nor countenance the methods I have followed in my attempt to arouse working women to the fact that bringing a child into the world is the greatest responsibility.

They tell me that *The Woman Rebel* was badly written, that it was crude, that it was emotional and hysterical, that it mixed issues, that it was defiant, and too radical.

Well, to all of these indictments I plead guilty! I know that all of you are better able to cope with the subject than I am. I know that physicians and scientists have a great tech-

nical fund of information, greater than I had, on the subject of family limitation

There is nothing new, nothing radical in birth control Aristotle advocated it, Plato advocated it, all our great modern thinkers have advocated it!

It is an idea that must appeal to any mature intelligence

Yet all this scientific and technical discussion has only had the effect of producing more technical and scientific discussion—all very necessary and very stimulating to that very small group of men and women who could understand it

But during all the long years this matter has been discussed, advocated, refuted, the people themselves—poor people especially—were blindly, desperately practicing family limitation, just as they are practicing it today

To them birth control does not mean what it does to us

To them it has meant the most barbaric methods It has meant the killing of babies—infanticide,—abortions,—in one crude way or another

Women, from time immemorial, have tried to avoid unwanted motherhood

We all know the tribe of professional abortionists which has sprung up and profited by this terrible misfortune

We know, too, that when the practice of abortion was put under the ban by the Church, an alternate evil—the foundling asylum, with its horrifying history—sprang up

There is no need to go into the terrible facts concerning the recklessness, the misery, the filth, with which children have been and still are being brought into the world

I merely want to point out the situation I found when I entered the battle

On the one hand I found the wise men, sages, scientists, discussing birth control among themselves But their ideas were sterile They did not influence nor affect the tremendous facts of life among the working classes and the disinherited!

How could I bridge this chasm? How could I reach these

people? How could I awaken public opinion to this tremendous problem?

I might have taken up a policy of safety, sanity and conservation—but would I have got a hearing?

And as I became more and more conscious of the vital importance of this idea, I felt myself in the position of one who has discovered that a house is on fire, and I found that it was up to me to shout out the warning.

The tone of the voice may have been indelicate and unlady like, and was not at all the tone that many of us would rather hear.

But this very gathering—this honor you have thrust upon me—is ample proof that intelligent and constructive thought has been aroused.

Some of us may be fit only to dramatize a situation—to focus attention upon obsolete laws like this one I must face tomorrow morning.

Then others, more experienced in constructive organization, can gather together all of this sympathy and interest which has been aroused, and direct it.

I thank you for your encouragement and support. My request to you tonight is that all you social workers—so much better fitted to carry on this work than I—that you consider and organize this interest.

This is the next most important step.

And only in this way can I be vindicated!

Let us put the United States of America upon the map of the civilized world!

I sank back into my chair, not so much gratified by the prolonged applause that greeted me as simply relieved that the dreadful task of public speaking was over at last. The suspense, the anticipation, the waiting for the ordeal had intensified my fatigue. But my attention was aroused to the keenest point when, to my surprise, I suddenly heard the voice of a woman standing on the floor almost in front of me, an

nouncing to the assemblage that she represented the National Birth Control League which was supported by adherents all over the United States (the adherents of my *Woman Rebel* obtained through our list, as a matter of fact), that this organization was going to stand behind Margaret Sanger in her ordeal, and that contributions and subscriptions were urgently needed

I was so dumbfounded that I was speechless

Shall I stand up and speak out? I asked myself Only ten days previously I had been informed that I need expect no support from that league Now that public opinion—enlightened, intelligent opinion, as represented by this brilliant gathering of two hundred men and women—was so evidently ready to support me, it was obviously the time to get on the band wagon

But perhaps, I decided in all justice, the committee had changed its mind, and they are now really coming to my support So I remained silent But in view of later developments, I have come to believe that it is always an error to permit any deception or evil report to pass unprotected The wrong that is then done will eventually have to be undone, and that is always a far more complicated problem

I never joined the National Birth Control League although I was later on urged and requested frequently to do so I never joined in any work with Mrs Dennett because I could not agree with her way of thinking Often, too, I regretted that our efforts could not have been combined She was older, had had far more experience in organization work, and was a capable office executive

I was much more of an agitator and perhaps a more stimulating speaker because I felt and knew more about the conditions of the poor mothers than she did Doubtless had we been able to work together, our combined efforts would have pushed the movement many years ahead That early experience had left a deep impression which later years have sustained and justified

Long before the Brevoort dinner, support and aid had come

from the most unexpected sources. The newspapers were taking an ever increasing interest. A photograph of myself and my two sons, taken after Peggy's death, had wide circulation and seemed to change the attitude of a cynical public. Looking back over those old clippings today, it is not hard to see that the newspapers were for me, but this interest was camouflaged by the impersonality of the news columns. Editorially, they were timid or adverse, so that to me it seemed they were, like all other conservative and reactionary forces, my opponents. I find in my files a letter from Jack Reed, then a youthful, ardent sub-editor of the *Metropolitan Magazine*. It brings to my mind the picture of that energetic, dauntless figure whose body now lies in a place of honor in Moscow. The letter is well worth presenting here for it supports my impression that underneath the surface the rank and file of American newspaperdom has always been sympathetic with the cause of birth control. Jack Reed's letter was dated January 12. It follows:

Dear Margaret

Here's a copy of the little thing I've been trying to get in the *Times*. They are very sympathetic with your case, and are going to cover it better than the other papers. But Birchall and Updegraff both told me that they are afraid that they can't print this even as a letter. *The Times does not dare use* the words *prevention of conception* in its news columns. (The underscoring is Jack Reed's). However, there is a chance of its going on the editorial page, and I'll know tomorrow.

I'm sending it to my friend on the *Day Book* too.

Have stirred up the *New Republic* too, but they can't get anything in until after the trial.

Luck

REED

On the morning of January 18, I appeared before Judge

Clayton in the Criminal Branch of the United States Criminal Court, prepared to conduct my own case. I was surrounded by so many sympathizers that the *Herald* at that time undisguisedly against the idea, described the atmosphere in the halls of the Federal Building as that of a Bohemian social function.

The women looked at their heroine, its story ran, and talked and talked and talked. Elsie Clews Parsons made the suggestion that twenty five women who had practiced birth control should stand in court with me and plead guilty before the law. Only one woman agreed to do it. Suddenly however, and without warning, my case was adjourned for two weeks.

As public sentiment grew telegrams and letters from all over America were sent to the judge and the district attorney in my behalf. Lawyers from various cities offered to come to New York to present the case free of charge. A letter signed by H. G. Wells, Gilbert Murray, and other distinguished Englishmen had been prepared by Dr. Stopes and sent to President Wilson.

To the President of the United States,  
White House, Washington, D. C.

Sir—We understand that Mrs. Margaret Sanger is in danger of criminal prosecution for circulating a pamphlet on birth control problems. We therefore beg to draw your attention to the fact that such work as that of Mrs. Sanger receives appreciation and circulation in every civilized country except the United States of America, where it is still counted as a criminal offense.

We in England passed, a generation ago, through the phase of prohibiting the expressions of serious and disinterested opinion on a subject of such grave importance to humanity, and in our view to suppress any such treatment of vital subjects is detrimental to human progress.

Hence not only for the benefit of Mrs. Sanger, but of humanity we respectfully beg you to exert your powerful

influence in the interests of free speech and the betterment of the race

We beg to remain, Sir,  
Your humble servants,

(Signed)

LENA ASHWELL

DR PERCY AMES

WILLIAM ARCHER

ARNOLD BENNETT

EDWARD CARPENTER

AYLMER MAUDE

PROF GILBERT MURRAY

M C STOPES

H G WELLS

The case was finally postponed until February 14. In the meantime, the story was played up by the newspapers from coast to coast. That I was prepared to go to court undefended by counsel made the matter more difficult for the court. One New York paper said: "Government officials appear to be at sea over the question of bringing her to trial. It is said that Mrs. Sanger does not deny the offense and is willing to go before a jury on the merits of the case."

Judge Clayton, I learned upon good authority, was receiving an average of forty letters a day demanding the dismissal of the charges against me.

On February 15, the New York *Sun* published in its news columns this summary of the situation:

Mrs. Margaret H. Sanger appeared at the Criminal Branch of the United States District Court yesterday to make her weekly demand that she be placed on trial for using the mails in her advocacy of birth control and other subjects which the Government considers improper. Because of the Government's reluctance to be used as an instrument in giving publicity to sex theories at this time, the Sanger case presented the anomaly of a prosecutor loath to prosecute and a defendant anxious to be tried.

The *Kansas City Star* characterized this trial as unique in the history of the United States.

Assistant United States Attorney Harold A. Content put the case over another week.

On February 18, the Government entered a *nolle prosequi* in the case. As reported in the press, Assistant District Attorney Content explained that the Government had decided not to continue the case because there had been many assertions that the defendant was the victim of persecution and that had never been the intention of the Federal authorities. The case was laid before the jurors as impartially as possible, and since they had voted an indictment, there was nothing that the District Attorney could do but prosecute. Now, however, as it was realized that the indictment was two years old, and that Mrs. Sanger was not a disorderly person and did not make a practice of publishing such articles, the Government had considered there was reason for reasonable doubt. This memorandum dismissing the case was signed by H. Snowden Marshall, United States District Attorney.

Victory and vindication! This dismissal stands as evidence of the power of public opinion and active protest.

Mr. Content said: "We were determined that Mrs. Sanger shouldn't be a martyr if we could help it. We have treated her with the utmost consideration. We took into account the fact that she never had been in the business of circulating obscene matter for profit, and that her nervous condition made a jury trial inadvisable."

Well, when an army marches up the hill and then marches down again, some good reason is always given.

It was a great satisfaction to read the courageous editorial published in the liberal evening paper, *The Globe*—now, alas, no longer in existence. Why was an indictment brought in the first place, queried *The Globe* and went on:

Are innocent persons to be harassed and then pardoned according to the fluent whims of a prosecuting officer? The facts are not in dispute. There was no discovery of new evidence. If the matter Mrs. Sanger sent through the mails was obscene two years ago, it is still obscene.

The quashing of the indictment settles nothing. The right of American citizens to discuss sociological ques

tions according to their convictions is just where it was before—subject to the mutton headed restrictions of some post office clerk and the omplaisant persecution of a federal district attorney. Nothing has been proved or disproved, not a single question has been decided, nor right established or protected, it is as risky as ever to discuss sociological matters that meet with the disapproval of post office clerks. The absurdity is presented of William Sanger despatched to prison because he was tricked by a detective into handing over a pamphlet, although repeatedly saying he was taking no part in his wife's propaganda, while the author of the pamphlet, who did not deny responsibility for its circulation, is allowed to go free. Surely here is no record calculated to increase respect for the majesty and impartiality of the law's administration.

There was much rejoicing and congratulating, but I could not consider it more than a moral victory. The law had not been tested. We were technically in the same position as ever. It looked as if a long battle lay ahead. I sent out the following letter to my friends and supporters:

To my Friends

My case was dismissed by Judge Clayton, U S District Attorney Marshall, and Assistant U S District Attorney Content on Feb 18th. They decided to acquit me instead of allowing a jury to do it.

This action on the part of the Government authorities was, I believe, the result of the interest you have shown in my case by the letters you have written to these officials and by the publicity you have given to the Birth Control cause. I thank you for your splendid support. I consider this acquittal by the U S Government almost as important as an acquittal by a jury (for an acquittal can only be used as a precedent in either case). We can now expect to continue to discuss the Birth Control issue without further difficulty from the Post Office Department.

My object is to establish Free Clinics in the various industrial districts throughout the United States, where a poor woman can go to be instructed in the methods to prevent conception and thereby preserve her health and enable her to care for the children to whom she has already given birth

Three hundred thousand babies die in the United States each year before they are one year old, and three hundred thousand mothers remain in ignorance of how to prevent three hundred thousand more babies from coming into the world the next year to die of misery, poverty and neglect. Is this attempt to stifle knowledge in accord with other Twentieth Century methods? Certainly not. I appeal to you, comrade and friend to help me place this knowledge into the hands of every woman who does not want more children than her health will permit and her husband's wage support

I am touring to the western coast, leaving New York City the first of April. I am sure there is interest enough in your vicinity to have a lecture. Write at once and tell me the capacity of the largest hall. Get together those who are interested and form a committee and write for dates. Let us make your town alive with interest on this subject, for it is the pivot round which all our social problems swing

You have no doubt from time to time received from me pamphlets on methods of birth control. You have not been asked to pay for these, but a small contribution now will enable me to reprint these and circulate them among other women who need them

Fraternally,  
(Signed) MARGARET H SANGER

This letter was sent to all the old subscribers of the *Woman Rebel* and to the thousands of men and women who had written to me since my return to the United States. The result was that hundreds of invitations came pouring in, by

telegram and letter, requesting me to address meetings in various cities and towns all over the country

That my plans for the future were definitely crystallized in my mind is evident in the following interview published in the *New York Tribune* in which I am quoted I intend to go right ahead with my work I am going to California next month to establish clinics there Upon my return I shall open them in New York Already I have the word of four prominent physicians that they will support me in the work

There will be nurses in attendance at the clinic, and doctors who will instruct women in the things they need to know All married women or women old enough to be married will be admitted free and without question

A splendid promise—but difficult to fulfill, as the future proved