

Chapter Fifteen

HIGH HANGS THE GAUNTLET

*"Let God and man decree
Laws for themselves and not for me,
Their deeds I judge and much condemn
Yet when did I make laws for them?"*

A. E. HOUSMAN



THE end of September, 1915, I set sail from Bordeaux I remember how interminable that voyage was across the dangerous, foggy Atlantic The shadow of the *Lusitania* hung over us The ship was absolutely dark, and tension crackled in the very air My own thoughts were black as the night and the old nervousness, the nervousness that came with a queer gripping at the pit of the stomach, was upon me, a dread presentiment and a foreboding were with me almost incessantly

When I succeeded in snatching a few hours' sleep I was startled out of unpleasant dreams One of them was of attempting to struggle through a crowded street against traffic, I was pushed to the curb and had to make my way cautiously The mechanical, automaton-like crowds were walking, walking, walking, always in the opposite direction Then suddenly in my dream the people turned into mice—thousands and thousands of them, they even smelled like mice I awakened and had to open the porthole to rid the room of that musty smell of mice

At last the lights of Staten Island, winking like specters in the dim dawn, signaled our safe arrival at quarantine As the ship sidled along the wharf at West Fourteenth Street on that gray October morning, a new exhilaration, a new hope arose in my heart

To see American faces again after the unutterable despair of

Europe, to sense the rough democracy of the porters and of the good-hearted, hard-boiled taxi-drivers, to breathe in the crisp, electric autumn air of home—all these brought with them an irresistible gladness. Because I wanted the feeling to linger, I refused a taxi, picked up my small bag, and walked away from the pier, looking about

At the first news stand I passed I caught sight of the words, "What Shall We Do About Birth Control?" on the cover of the *Pictorial Review*. It seemed strange to be greeted, not by friends or relatives, but by a phrase of your own carried on a magazine. I purchased it and, singing to myself, went on to a hotel where the children were brought to me. I cannot describe the joy of being reunited with them.

That evening I sat down at my desk and wrote several letters. I notified Judge Hazel and Assistant District Attorney Content that I was now back and ready for trial, and inquired whether the indictments of the previous year were still pending, I was politely informed that they were.

A note more difficult to compose went to the National Birth Control League, which had been re-organized in my absence under the leadership of Mary Ware Dennett, Clara Stillman, and Anita Block. To it had been turned over all my files, including the list of subscribers to the *Woman Rebel*. I asked them what moral support I could expect from the League, saying this would help to determine the length of my stay.

Mrs. Stillman, the secretary, invited me to call a few days later at her home, where an executive meeting was to convene. I went with keen anticipation, totally unprepared for the actual answer. The committee had met. Mrs. Dennett, Mrs. Stillman, and Anita were all there. Mrs. Dennett spoke for the group, the National Birth Control League disagreed with my methods, my tactics, with everything I had done. Such an organization as theirs, the function of which was primarily to change the laws in an orderly and proper manner, could not logically sanction anyone who had broken those laws.

After delivering this ultimatum, Mrs. Dennett walked to the door with me. Would I mind giving her the names and addresses of those socially prominent and distinguished persons I had found on my

European trip to be interested? Heartsick as I was over my reception, I was also amused at her shrewdness

Mrs Dennett was a good promoter and experienced campaigner, a capable office executive, an indefatigable worker for suffrage and peace, with a background that might have been invaluable I often regretted that we could not have combined our efforts Had we been able to do so the movement might have been pushed many years ahead

My fourth communication was to Dr William J Robinson, an emigre from the land of orthodox medicine, who was possessed of a sensitivity to current moods When he had realized that Will Durant's lectures had aroused interest in sex psychology, he had stepped in to speak to larger audiences, using a more popular approach, although, as far as I know, he had never publicly discussed the prevention of conception

Dr Abraham Jacoby, beloved dean of the profession, in accepting the presidency of the Academy of Medicine, had backed birth control, and through Dr Robinson's endeavors a small committee had later been formed to look into it From the reports that had come to me I could not discover whether any harmonious agreement that the subject lay within the province of medicine had been made To my inquiry Dr Robinson replied that the committee had met only once and he considered I could expect no support from them He enclosed a check for ten dollars towards the expenses of my trial

Here were two disappointments to face Both these organizations had seemed so well suited to continue progress one to change the laws, the other to take proper medical charge Neither had fulfilled my hopes and therefore I felt I had to enter the fray again My burning concern for the thousands of women who went unregarded could apparently find no official endorsement, birth control was back again where it had started I was convinced I had to depend solely upon the compassionate insight of intelligent women, which I was certain was latent and could be aroused

But these problems were suddenly swept aside by a crisis of a more intimate nature, a tragedy about which I find myself still unable to write, though so many years have passed

A few days after my arrival Peggy was taken ill with pneumonia

When Mr Content telephoned to say I had better come down and talk it over, I could not go. He was extremely kind, assuring me there was no hurry and he would postpone the trial until I was free. This allowed me to devote my whole attention and time to her.

Peggy died the morning of November 6, 1915.

The joy in the fullness of life went out of it then and has never quite returned. Deep in the hidden realm of my consciousness my little girl has continued to live, and in that strange, mysterious place where reality and imagination meet, she has grown up to womanhood. There she leads an ideal existence untouched by harsh actuality and disillusion.

Men and women from all classes, from nearly every city in America, poured upon me their sympathy. Money for my trial came beyond my understanding—not large amounts, but large for the senders—from miners of West Virginia and lumbermen of the North Woods. Some had walked five miles to read *Family Limitation*, others had had it copied for them. Women wrote of children dead a quarter of a century for whom they were still secretly mourning, and sent me pictures and locks of hair of their own dead babies. I had never fully realized until then that the loss of a child remains unforgotten to every mother during her lifetime.

Public opinion had been focused on Comstock's activities by Bill's sentence, and the liberals had been aroused. Committees of two and three came to request me to take up the purely legislative task of changing the Federal law. Aid would be forthcoming—special trains to Congress, investigations, commissions, and victory in sight before the year was over! It was tempting. It seemed so feasible on the surface, so much easier than agonizing delays through the courts. Many others advised me just as before that in pleading guilty I was choosing the best field in which to make my fight.

One of those to urge me towards a middle course was Max Eastman, who possessed an unusual evenness of temper and tolerance towards all who opposed him as well as a keen mind and keen imagination which followed hypotheses to logical conclusions. This soft-voiced, lethargic poet, mentally and emotionally controlled, had too great a sense of humor and ability in visualizing events in their proper perspective to advocate direct action.

Max made an appointment for me to see Samuel Untermyer, authority on constitutional law and a person to whom liberals turned because of the fight he had put up against the trusts, he might straighten out the legal aspects I found him enthroned in his luxurious office amid the most magnificent American Beauty roses—dozens and dozens and dozens With his piercing eyes and head too large for his frame, he appeared a disembodied brain Though the appointment had been made with difficulty—writing and telephoning back and forth through secretaries to be verified—time now was nothing to him He was so smooth, so courteous, so sympathetic, so unhurried, he seemed to understand and to be ready to lift the load of legal worry from my mind

Picking up the telephone, he said, "Get me Mr Content " Then, "Harold, come on over to my office and bring your record on Mrs Sanger "

When the District Attorney had arrived, Mr Untermyer's whole voice changed He spoke sternly to the young man "Why, Harold, what are you trying to do—persecuting this little woman, so frail and so delicate, the mother of a family? You don't want to put her behind bars, do you? She's doing a noble work in the world and here you are behaving like this! Are you representing the Government or are you merely prejudiced in your own behalf?"

Mr Content replied respectfully, "Well, Mr Untermyer, we don't want to prosecute Mrs Sanger, but we want her to promise to obey the law "

"Has she broken the law?"

"We have positive proof that she has violated it on a very large scale "

Mr Untermyer immediately assured him, "Why, of course, she'll promise not to break any more laws Is that all it is? You just quash that indictment and forget about it "

Mr Content left Mr Untermyer turned to me genially and said, "Well, you see? We've fixed that up "

"What's going to happen? The law will be the same, won't it?"

"Why, yes "

"What was that you said about a promise?"

"Oh, yes, write me a letter saying you won't break the law again "

"I couldn't promise that, Mr Untermeyer"

"What?"

"No, I couldn't do that The law is there Something must happen to it"

"The law may not be what it should be, but you'll never get anywhere by violating it It must be changed by legal methods, gather all your friends and go to Congress"

Again I stated my position The law specified obscenity, and I had done nothing obscene I even had the best of the Government as regarded the precise charge I had not given contraceptive information in the *Woman Rebel*, and therefore had not violated the law either in spirit or principle But I had done so in circulating *Family Limitation*, and that would inevitably be brought up I really wanted this, so that birth control would be defined once and for all as either obscene or not obscene

Mr Untermeyer took down one of his ponderous books and read over the section in question Again he said, "The evidence is that you have violated the law We don't separate the spirit from the letter It is all there It seems to me that pleading guilty would let you out of your troubles without loss of dignity You should consider yourself fortunate at the suggested outcome You can gain nothing by trial You cannot even get publicity in these days when the papers are crowded with war news and the big events of history are happening"

I still could not admit his interpretation You had to differentiate between the things mentioned in that law and actual obscenity, the courts would some day have to decide on this

"You have no case," Mr Untermeyer persisted "If you have broken the law, there is nothing anyone can do or say to argue that fact away We must prevent your going to jail, however I'll see what I can do"

"I'm not concerned with going to jail Going in or staying out has nothing to do with it The question at stake is whether I have or have not done something obscene If I have done nothing obscene I cannot plead guilty"

Mr Untermeyer was upset Instead of his former warmth I was aware of a curt and cold politeness I went from his office feeling I

had had an opportunity to make a powerful friend and had lost it by refusing to accept the legal point of view

Max also was decidedly angry His attitude was, "We tried to help you, and you declined help" He wrote formally

You could accompany your plea of guilty with a statement, both before the Court and for the press, which would make it a far more signal attack upon the law to whose violation you would be pleading guilty than a plea of not guilty It would do a thousand times more good At the same time it would satisfy your pride, or your feeling that you ought to be brave enough to stand up for what you think, or whatever it is that is making you refuse the advice of counsel

I would not plead guilty on any count They could not make me I felt deep within me that I was right and they were wrong I still had that naive trust that when the facts were known, the Government would not wilfully condemn millions of women to death, misery, or abortion which left them physically damaged and spiritually crippled

Clarence Darrow and other liberal lawyers from various cities generously offered to come to New York to present the case free of charge, but after my Untermeyer interview I was convinced that the quibbles of lawyers inevitably beclouded the fundamental issues, I had to move people and persuade them emotionally I had no practice in public speaking, mine was the valor of faith However, I was certain that speaking from the fullness of my heart I would be guided by the greatness and profundity of my conviction In spite of the old adage that "he who has himself for a lawyer has a fool for a client," I was confident that any jury of honest men would acquit me

I asked Mr Content to put my case on the calendar as soon as possible It was called for the end of November, then set for January 18th, then January 24th I used to go almost weekly to demand that it take place, always stressing the fact that I wanted a trial by jury One of the judges that I came before in these various courts had previously asked me in a personal letter to send him *Family Limitation*, and I had mailed it to him with my compliments The twinkle in his eyes was reflected in mine, we both knew that he as well as I had been technically breaking the law

As the New York *Sun* commented, "The Sanger case presents the anomaly of a prosecutor loath to prosecute and a defendant anxious to be tried" The newspapers were taking ever-increasing notice A photograph of myself and my two young sons circulated widely and seemed to alter the attitude of a heretofore cynical public At that time I thought the papers were against me, but looking over these old clippings today I realize this was merely the impersonality of the news columns Their editorial hesitancy made them appear, like all other conservative and reactionary forces, my opponents But the rank and file of American newspaperdom, though they must always have their little jokes, have always been sympathetic

They printed the letter to Woodrow Wilson, initiated by Marie Stopes It "begged to call the attention" of the President to the fact that I was in danger of criminal prosecution for circulating a pamphlet on birth control, which was allowed in every civilized country except the United States, that England had passed through the phase of prohibiting this subject a generation before, and that to suppress serious and disinterested opinion on anything so important was detrimental to human progress It respectfully urged the President to exert his powerful influence in behalf of free speech and the betterment of the race This letter was invaluable by reason of its signatories—Lena Ashwell, William Archer, Percy Ames, Aylmer Maude, M C Stopes, Arnold Bennett, Edward Carpenter, Gilbert Murray, and H G Wells, whose name was news If a group of such eminence in England could afford to stand by me, then the same kind of people here might be less timorous

As public sentiment grew, telegrams and letters showered upon Judge Clayton demanding the dismissal of the charges against me He piled them in wastebaskets and remarked in a bored tone to Mr Content, "Take these Sanger letters away" That I was preparing to go to court undefended by counsel was making the matter harder for them

My radical allies were, according to their habit, collecting money for my defense, but this had no effect on my private financial status My sister, Ethel, who was living with me, thought I ought to be

considering the matter One day she said, "I've a good case for you Wouldn't you like to take it?"

"What kind?"

"Maternity She expects to be delivered in a day or two—probably a Caesarian She asked for me, but I'd rather you had it "

"I'm not interested, thank you I've given up nursing "

"Well, Mrs Sanger," she remarked ironically, "would you mind telling me what you're going to do to earn your living?"

"I'm not interested in earning my living I've cast myself upon the universe and it will take care of me "

She looked at me sadly and with worried apprehension

Three days later Ethel received the anticipated summons On her way out she picked up the mail at the door In it was a letter from a California acquaintance of hers who did not know where I was but had her address "Will you please give the enclosed forty-five dollars to Margaret Sanger from her sympathizers?"

Ethel handed it to me with the resigned comment, "Well, here's your check from God "

The editor of the *Woman Rebel* had struck her single match of defiance, but she could be of slight significance in the forward march towards "women's rights" In Feminist circles I was little known With my personal sorrow, my manifold domestic duties, my social shyness, I avoided meeting new people My attitude thus created some reluctance among those who might otherwise have hastened to my aid Indeed, I wanted a certain type of support, but I could not take the initiative in asking for it

This was suddenly done for me One afternoon I was invited to a tea arranged by Henrietta Rodman, Feminist of Feminists, in her Greenwich Village apartment Wells was particularly sanctified among her group and I must be all right if he approved As a result of that meeting the suffrage worker, Alice Carpenter, set the wheels in motion for a dinner at the Brevoort Hotel to be held January 23rd, the evening preceding my trial I was to be given a chance to say my say, speak my piece before a gathering of influential people Although I did not see her until some years after, I thanked her in my heart many times for what she had done

In the ballroom were collected several hundred people Mary Heaton Vorse, Dr Mary Halton, Jack Reed, Dr Robinson, Frances Brooks Ackerman, Walter Lippmann, then of the *New Republic*, and Mrs Thomas Hepburn, the Kathy Houghton of my Corning childhood, all were there

As we were about to go in to dinner, Rose Pastor Stokes, the Chairman, took me aside and said, "Something very disturbing has happened We've just been talking to Dr Jacoby He has a speech ready in which he intends to blast you to the skies for interfering in what should be a strictly medical matter Remember he's greatly admired and he's speaking here tonight for the doctors We meant to have you come at the end of the program but now we're going to put you first so that you can spike his guns "

My trepidation was increased Nevertheless, I plunged into my carefully prepared maiden speech in behalf of birth control Fortunately I had already planned to upbraid the doctors who daily saw the conditions which had so moved me and yet made it necessary for a person like myself, not equipped as they were, to stir up public opinion It was like carrying coals to Newcastle, they should have been teaching me

I said I recognized that many of those before me of diverse outlooks and temperaments would support birth control propaganda if carried out in what they regarded as a safe and sane manner, although they did not countenance the methods I had been following in my attempt to arouse working women to the fact that having a child was a supreme responsibility There was nothing new or radical in birth control, which Aristotle and Plato as well as many modern thinkers had demonstrated But the ideas of wise men and scientists were sterile and did not affect the tremendous facts of life among the disinherited All the while their discussions had been proceeding, the people themselves had been and still were blindly, desperately, practicing birth control by the most barbaric methods—infanticide, abortion, and other crude ways I might have taken up a policy of safety, sanity, and conservatism—but would I have secured a hearing? Admittedly physicians and scientists had far more technical knowledge than I, but I had found myself in the position of one who had discovered a house was on fire and it

was up to me to shout out the warning. Afterwards others, more experienced in executive organization, could gather together and direct all the sympathy and interest which had been aroused. Only in this way could I be vindicated.

Since my charge had forestalled his, the venerable Dr. Jacoby either had to answer me or shift his ground. He chose the latter course and talked on the question of quality in population, which might perhaps have been construed as in my favor.

Many of the women present were comfortable examples of the manner in which birth control could enable them to lead dignified lives. Elsie Clews Parsons made the suggestion that twenty-five who had practiced it should rise in court with me and plead guilty before the law. But only one volunteered. What surprised me most was the voice of Mary Ware Dennett announcing that she represented the National Birth Control League and that that body was going to stand behind Margaret Sanger in her ordeal—subscriptions were urgently needed for the League.

The next morning when I arrived at nine o'clock at the Federal Court building more than two hundred partisans were already in the corridors. A great corps of reporters and photographers was on hand. The stage had been set for an exciting drama.

Judge Henry D. Clayton and Assistant District Attorneys Knox and Content arrived at ten-thirty, apparently feeling the effects of the publicity of the night before.

The moment Knox moved to adjourn for a week I was on my feet asking immediate trial, but Judge Clayton postponed the case. Everybody went home disappointed.

February 18th the Government finally entered a nolle prosequi. Content explained there had been many assertions that the defendant was the victim of persecution, and that had never been the intent of the Federal authorities. "The case had been laid before the grand 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 considerable doubt."

Well, when an army marches up the hill and then marches down again some good excuse must always be given

All my friends regarded the quashing of the Federal indictment a great achievement There was much rejoicing and congratulation, but they acted as though they were saying, "Now settle down in your domestic corner, take your husband back, care for your children, behave yourself, and no more of this nonsense Your duty is to do the thing you are able to do which is mind your home and not attempt something others can do better than you "

But I was not content to have a Liberty Dinner and jubilate I could not consider anything more than a moral victory had been attained The law had not been tested I agreed with the loyal *Globe*, which staunchly maintained, "If the matter Mrs Sanger sent through the mails was obscene two years ago, it is still obscene " I knew and felt instinctively the danger of having a privilege under a law rather than a right I could not yet afford to breathe a sigh of relief

The Federal law concerned only printed literature My own pamphlet had given the impression that the printed word was the best way to inform women, but the practical course of contraceptive technique I had taken in the Netherlands had shown me that one woman was so different from another in structure that each needed particular information applied to herself as an individual Books and leaflets, therefore, should be of secondary importance The public health way was through personal instruction in clinics

A light had been kindled, so many invitations to address meetings in various cities and towns were sent me that I was not able to accept them all but agreed to as many as I could It was no longer to be only a free speech movement, and I wanted also if possible to present this new idea of clinics to the country If I could start them, other organizations and even hospitals might do the same I had a vision of a "chain"—thousands of them in every center of America, staffed with specialists putting the subject on a modern scientific basis through research

Many states in the West had already granted woman suffrage Having achieved this type of freedom, I was sure they would receive clinics more readily, especially California which had no law

against birth control. The same thing would follow in the East. As I told the *Tribune*, "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 about to be married will be assisted free and without question."

A splendid promise—but difficult to fulfill, as events were to prove