

Dorothea Palmer Collection

Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. (WA17-22)
1936

PAGE 1

Bill of Particulars.

REX vs. PALMER
County Court House, Ottawa,
14th October, 1936.

(Hearing for argument re Bill of Particulars; present:
His Worship Magistrate L. Clayton.
A. W. Beament, Esq., K. C., for Defence.
Raoul Mercier, Esq., Crown Attorney pro tem.
John E. Fagan sworn as Shorthand Reporter.)

Mr. Mercier:
You have a copy of the information?

Mr. Beament:
I have of the original information.

Mr. Mercier:
In order to begin: my learned friend is asking for
certain particulars; I may say now, subject to changes
we may have after, I intend to have this information
amended to read:

"That Dorothy Palmer of the City of Ottawa within
the space of six months last past, to wit, between
the 1st day of August, 1936 and the first day of
September, A. D. 1936, at the Town of Eastview,
aforesaid, did unlawfully and knowingly and with-
out lawful justification or excuse:

"(a) offer to sell an article to one Mrs. Dorothy
Leblance which said article was intended or repres-
ented as a means of preventing conception."

The Court:
"(a)" is "offer to sell"?

Mr. Mercier:
Yes, your Worship.

The Court:
"Did unlawfully"?

PAGE 2

Bill of Particulars.

Mr. Mercier:
"(a) offer to sell an article to one Mrs. Dorothy Leblance which said article was intended or represented as a means of preventing conception."

And:

"(b) did advertise in the Town of Eastview, County of Carleton, in 1936."

Mr. Beament:
Two separate charges?

Mr. Mercier:
Yes, in order to prevent the word "or", and I might add we will specify a name in that instance; there is only one known instance. And:

"(b) in the Town of Eastview, County of Carleton, between the first day of August, 1936 and the first day of September, 1936, advertise means, instructions, drugs or articles intended or represented as a means of preventing conception,"

And:

"(c)" that the said Dorothy Palmer in the Town of Eastview, between the first day of August, 1936 and the first day of September, 1936, did publish an advertisement of a means of instructions or articles, as a means of preventing conception."

The Court:
"(b)" is "did advertise" and "(c)" is "did publish an advertisement"?

Mr. Mercier:
Yes.

The Court:
And "(d)"?

Mr. Mercier:
"Did have for disposal means or instructions

PAGE 3

Bill of Particulars.

Mr. Mercier:
and articles intended or represented as a means
of preventing conception."

All to be headed by:
"the said Dorothy Palmer".

Mr. Beament:
Four charges?

Mr. Mercier:
Yes.

The Court:
"Did offer to sell" and "did advertise"?

Mr. Mercier:
Yes, instead of saying "or".

The Court:
It gives a clearer defence.

Mr. Beament:
No; what we are charged with, I confess I don't know.

The Court:
This, I presume, will make it more clear?

Mr. Mercier:
This information was laid by the police officer who
laid the charge and it is amended to read a little

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer
collection. Examinations, volume 1: first count, the 21 women, Constable Martel,
Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

more clearly than that; after I have gone through with it; and I submit in view of the circumstances, subject to any objection from my learned friend and your Worship's ruling, to assure the accused of a fair trial. If the accused did not commit this offence or if the accused did not sell any means, subject to the defence, of preventing conception as enumerated in the indictment, she would have no reason to have any further particulars, and if she has sold anything – there is a case on that in Clerk's Criminal Cases, volume 8, page 69

PAGE 4

Bill of Particulars.

Mr. Beament:

I haven't been furnished with copies of these new offences.

The Court:

There is an application for amendment.

Mr. Beament:

I am not opposing the amendment; I was warned about it, but I think he had ample time to prepare a new information, so I need not rely too much on my memory to know what this lady is charged with.

Mr. Mercier:

This is the case of Regina vs. Stapleton and others: "The defendant is entitled..... enable him to get them."

Mr. Beament:

I don't know what this is amended to until I receive copies of the charges. My friend will admit I have been after him to give me copies.

Mr. Mercier:

I understand that.

The Court:

Couldn't you have had here today, Mr. Mercier, an amended information ready to enter into the record?

Mr. Mercier:

I might possibly have had that, but my learned friend will admit we discussed this informally. The charge is not amended materially.

Mr. Beament:

I am not surprised at the amendment but at not having the draft charges prepared.

Mr. Mercier:

It is all contained in this publication and advertising.

The Court:

PAGE 5

Bill of Particulars.

The Court:

Perhaps I don't know what you are asking.

Mr. Mercier:

I am not asking for anything; I have read the amended charge.

The Court:

You are not asking to have the charge amended?

Mr. Mercier:

I will ask that, but I take the opportunity today of telling him what; I will supply copies of the amended charge.

The Court:

You are supplying them today?

Mr. Mercier:

No, the police laid the charge and they will be there Friday.

The Court:

I think the point well taken: before we get to the particulars we should like to know what the charges will be.

Mr. Beament:

Perhaps we will take the charges up seriatim; different considerations may apply.

Mr. Mercier:

Changes must be made in upper court.

Mr. Beament

Yes, but we should have new informations, re-sworn.

Mr. Mercier:

I am telling - .

Mr. Beament;

What is the first?

Mr. Mercier:

PAGE 6

Bill of Particulars.

Mr. Mercier:

"That Dorothy Palmer at the Town of Eastview, County of Carleton, between the first of August, 1936 and the first of September, 1936, knowingly and without lawful justification and excuse, offer to sell a means of instructions, articles and means to prevent conception,"

Mr. Beament:

In the Town of Eastview, over a period of a month, we are told we are accused of offering to sell articles to prevent conception?

Mr. Mercier:

Yes.

Mr. Beament:

We deny categorically -- how can I know the defence unless I know what articles were offered for sale; secondly, the time should be more detailed, because if we made an offer to sell, a month is an absurd time; particularize and say the place where the alleged act took place.

Mr. Mercier:

I think that is unreasonable. Particulars may be asked to give the accused a fair trial, but are not needed in this case. Now, I have referred to Regina vs. Stapleton and in that it was held:

"That the Court will not order particulars to be furnished unless he has no knowledge of an over-taxed charge".

Mr. Beament;

Where the accused - ?

Mr. Mercier:

We are alleging serious acts, such as advertising.

PAGE 7

Bill of Particulars.

Mr. Beament:

By, "offer for sale"?

Mr. Mercier:

That is one particular person.

Mr. Beament:

If the Crown knows who, we are entitled to it.

Mr. Mercier:

The Crown just learned it.

The Court:

It is not in the proposed amended information.

Mr. Mercier:
There is only one person; I don't remember the name.

Mr. Beament
My learned friend offers to give the name?

Mr. Mercier:
Yes.

Mr. Beament:
And that person no doubt will know the date, place and what was offered to sell him or her.

Mr. Mercier:
It is not my custom to interview witnesses for the Crown before giving their evidence; if that person does know the date, there might be people there who might not remember the exact date in the month of August and, on the question of advertising -.

Mr. Beament:
We will leave that until we come to it.

The Court:
Yes; the first charge is: "offer to sell certain articles", and you state in your emended information you will set out the name of the person to whom this alleged

PAGE 8

Bill of Particulars.

The Court:
sale was offered?

Mr. Mercier:
Yes, because that name is available.

The Court:
That should be sufficient. "An article for preventing conception"; I don't think that is going to mislead you; you are not alleged to have offered books or groceries, but an article for means of preventing

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

conception. Those are very narrow in their application.

Mr. Mercier:

I understand it is up to the Crown to prove these articles can be used for that purpose, but surely my learned friend should not ask me the name of the doctor or his evidence or anybody who can possibly give evidence.

Mr. Beament:

I am not asking the names of witnesses but particulars of the offence; I am not trying to find out who the witnesses are except insofar as finding out in detail the offence with which I am charged so I can meet it.

The Court:

I think, Mr. Beament, alleging the name of the person to whom the offer to sell was made of these articles during the month of August should give you information upon which to base your defence.

Mr. Beament:

On the first charge my learned friend kindly pointed out the case - it is a decision of the Supreme Court of Canada.

The Court:

The Brodie case?

PAGE 9

Bill of Particulars.

Mr. Beament:

If you wish I shall read it.

The Court:

Yes.

Mr. Beament:

Well, if you have it?

The Court:
But maybe some particular thing?

Mr. Beament:
It is a judgment of Rinfret only; I read the judgment of the Court and I don't think perhaps it is necessary for me to read the more introductory portions of the judgment and I might, I think, also say this: some of these things I will read are perhaps dicta in relation to this particular case, but they are dicta to the whole Supreme Court of Canada. I don't think all is necessary in relation to the facts in this particular case to be considered. It is in Canada Law Reports, part 5, May 31, 1936, the Buck case: "The general provisions as to indictments....."

Mr. Mercier:
What page?

Mr. Beament:
191 to 196, about the middle of the page, where the statute is quoted:
"...some way or other."
There are two views.

The Court:
No, I don't think there is that diversion of views.

Mr. Beament:
I am reading this in relation to all the charges.

The Court:
But at the moment there is not such a wide divergence.

PAGE 10

Bill of Particulars.

Mr. Beament:
No. "" (continued on next page) ".... adequate."
Then it is in French, by Justice Bernier.

Mr. Mercier:
".... followed by trial.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Beament:

"It. is not possible it has now become our duty to decide the section Section 852 time, place and matter Section 853".

Section 853 obviously contemplates changes or the section covering the omission of details would be useless. ".... Section 855 no court objectionable".

The rest has application to the particular wording.

At the bottom of page 196 and page 197:

".... referred to in the charge each of these sub-sections begins with 'further'. I will say 'the person, place and thing' fair trial sub-section 'g' 'd', 'e', 'f' and 'g' 859 ' (page 198) '.... acts in general lift it from the general to the particular."

Of course, we are dealing with a case of conspiracy. I think from then on they simply apply those principles.

Mr. Mercier:

Except in the last paragraph:

"I do not want to depart with this appeal certain generalities page 200."

They add that also.

Mr. Beament:

That is a very strong judgment.

Mr. Mercier:

Undoubtedly.

The Court:

PAGE 11

Bill of Particulars.

The Court:

It clarifies it a great deal.

Mr. Mercier:

So far as this case itself is contained, - the section of the Code alleges a special act in itself; it is not a general act, but a special act of selling certain things.

Mr. Beament:

That is no more special than the act of murder.

Mr. Mercier:

Oh, yes, it is; it is much more general. As to particulars, I am perfectly satisfied to give any of them within reason but I should not be fettered in my prosecution of the case.

The Court:

That is so.

Mr. Mercier:

It is quite reasonable if a person offers to sell a certain person, if the Crown alleged this act was general I don't think I could offer any particulars; there may be thirty, forty or fifty witnesses.

The Court:

On the first count, "offering to sell"?

Mr. Mercier:

Not in this particular case.

The Court:

Let us dispose of this particular one; we have four.

Mr. Mercier:

I don't know what my learned friend wants any further; it is an article intended or represented to prevent conception; I don't suppose my learned friend wants me to produce the article before trial. I submit

PAGE 12

Bill of Particulars.

Mr. Mercier:

it is my duty to produce it at the trial and that I prove it can be used for that purpose. There is no doubt of that. If I do not prove that and that it was offered -- I submit we cannot give the whole theory of the Crown on this thing; we must prove certain acts were done contrary to that section and that they were done by the accused.

The Court:

My interpretation of that Brodie case is that it is very simple; I may be wrong, but my interpretation of the Brodie case is that on any count on indictment there should be not only allegation of the offence in the words of the Code or proper language equal to the wording of the section of the Code but there should be sufficient in the wording of the indictment to take the charge [xx] out of the general and specify the particular act alleged by the offence. Now, in specifying the particular act the Crown doesn't have to go into minute detail as to the specific act alleged.

Mr. Beament:

That is right.

The Court:

As long as it gives sufficient details so that the defence knows what it is charged with.

Mr. Beament:

It is the detail of the act.

The Court:

If it is felt the charge doesn't contain sufficient particulars it is for the defence to ask further particulars and for the Court to decide.

Mr. Mercier:

Yes, I agree to that; I am not more interested in

PAGE 13

Bill of Particulars.

Mr. Mercier:
fettering my learned friend than in fettering my prosecution.

The Court:
In this it is proposed the Crown amend it, that the accused between the first day of August, 1936 and the first day of September, 1936, did offer for sale articles for the prevention of conception to a certain person?

Mr. Mercier:
Yes.

The Court:
I think there is sufficient detail there to base your defence on that particular charge.

Mr. Beament:
I am entitled, I think, to particulars of those.

Mr. Mercier:
I have shown them to my learned friend.

Mr. Beament:
I have seen things taken from the lady; it was outside the date of this offence; the police on a certain date arrested this lady and found certain things which they rightly or wrongly seized; I think wrongly under all the circumstances, and now we are charged with an offence at an earlier date. I don't know what that has to do with it unless it is particulars of another offence.

The Court:
Your charge is that between these thirty-one days you are charged with selling?

Mr. Beament:
Offering to sell.

The Court:

PAGE 14

Bill of Particulars.

The Court:

Offering to sell to a certain person. Surely the defence knows whether there was any offering for sale in that period.

Mr. Beament:

But that assumes guilt on the part of the accused. If the Crown knows -- it must know what it was -- if we did offer to sell -- what objection can there be to the Crown [x] saying what. The Crown surely is not out to get an unfair prosecution?

Mr. Mercier:

I haven't done it in eleven months and I am not going to now. But if laws demand full particulars and the whole evidence I am not in it and I am not interested, but it is my purpose to be as fair as possible as to what particulars he may be entitled to. I submit there is no imputation this woman is guilty until proved, if she is. We allege she did sell something and this other case, the Stapleton case, it is made very clear there that the -- page 69 -

"The Court will not order particulars to be furnished in the absence of an affidavit he has been over-charged."

Mr. Beament:

That is an overt act and there is none here.

The Court:

Yes, it is.

Mr. Beament:

But in what?

The Court:

An article as a means of preventing conception.

Mr. Beament:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE 15

Bill of Particulars.

Mr. Beament:
I can't see it.

Mr. Mercier:
If a person attempted to utter a forged document it shouldn't be necessary to say it was a note or cheque and the date.

Mr. Beament:
Surely under Brodie that would be clearly a bad indictment.

Mr. Mercier:
To so-and-so.

Mr. Beament:
That would be a bad indictment, and it is an argument in my favour; I suggest the example my learned friend so gives is an excellent condition in my favour; an indictment of uttering a forged document to Smith on such a date.

The Court:
You have the time, place and person.

Mr. Beament:
But not the thing.

Mr. Mercier;
A certain instrument. In order to do that we any, "intended or representing as a means to prevent conception." Now, I intend to bring certain pamphlets.

Mr. Beament:
It was my friend was objecting to giving evidence.

Mr. Mercier:
I want to be reasonable.

The Court:
University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Please keep to the first charge; you are talking about pamphlets.

Mr. Mercier:

PAGE 16

Bill of Particulars.

Mr. Mercier:

I have seen the instrument which I am endeavouring to prove, that it was offered as an instrument intended to prevent conception.

The Court:

You couldn't say article or instrument?

Mr. Mercier:

Yes.

The Court:

That would be further particulars.

Mr. Mercier:

And not being a technician I don't know if my learned friend brings objection to the word "instrument"?

Mr. Beament:

I am trying to get it clear enough to give this lady a fair trial; I don't know any of the evidence, but I think he should be able to tell from entitlement or particulars superimposed on it what it is, but not the whole evidence of the Crown.

Mr. Mercier:

On that first one I don't think anything further can be given unless the whole evidence is given; I am willing to take a chance on it. I am willing to [accommodate] my learned friend as much as I can and as much as I decently can, but I certainly am not going to offer any particulars I am not ordered to except those I am willing to, because I think they are perfectly fair and give notice enough to the

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

person of what charged and where it was done.

The Court:

I think I will hold that the wording is as proposed will be sufficient for the Court in the indictment to

PAGE 17

Bill of Particulars.

The Court:

prevent any unfair trial on behalf of the accused, as far as the first count is concerned. Naming the person to whom the offer of sale is alleged to have been made, the place and time, the thing being an article intended to prevent conception.

Mr. Mercier:

The second is: "That Dorothy Palmer in the Town of Eastview between the first day of August, 1936 and the first day of September, 1936, did advertise means of instructions, medicine, drugs or articles intended or represented as a means of preventing conception."

This is an advertisement.

The Court:

What is an advertisement?

Mr. Mercier:

We allege she advertised. Add to that, if my learned friend wants:

"By means of a pamphlet."

Mr. Beament:

I am not drawing the Crown's informations for him; he promised to have them ready and we could discuss them.

Mr. Mercier:

I said we would discuss this in order to save time.

Mr. Beament:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

There is no basis for discussion; these informations apparently are not ready.

Mr. Mercier:

There is no question of particulars. I [accommodated] Mr. Berger for a time and then my learned friend wasn't

PAGE 18

Bill of Particulars.

Mr. Mercier:

ready.

Mr. Beament:

Let us clear that up once and for all. The first thing when I came in the Crown Attorney said, "I am going to amend the information." I said, "let me have the amended information and that hasn't been produced yet and my learned friend thinks I am bludgeoning him, delaying the case.

Mr. Mercier:

I am sorry if it is so but we said we would discuss a certain form of indictment.

The Court:

It would have been better to have it in writing; you have given it verbally and it can be changed.

Mr. Mercier:

It is being taken down and if my learned friend wants to proceed next Wednesday and Thursday, there is plenty of time to get that.

Mr. Beament:

It is intricate and an important case and my learned friend has had weeks to amend these informations.

The Court:

We have had the second count; then you said, "by means of a pamphlet": do you intend putting that in?

Mr. Mercier:

No, I went to know my learned friend's objections; I am perfectly willing to leave it as it is there.

Mr. Beament:

I am willing to also, because it is clearly so bad an indictment, under the Brodie case, it would never stand.

The Court:

PAGE 19

Bill of Particulars.

The Court:

I can't draw your indictments for you.

Mr. Mercier:

I am not asking your Worship to.

The Court:

All I could say - .

Mr. Beament:

Is that as read, - the second count?

Mr. Mercier:

Yes.

Mr. Beament:

I would like to have particulars of the person to whom this advertising was done and the means by which the advertising was carried out and times.

Mr. Mercier:

To several different persons in the Town of East-view by means of a pamphlet.

Mr. Beament:

I would like the particulars of this pamphlet.

Mr. Mercier:

I suppose I would have to give the pamphlet or cite it. There is another means, which would be laying twenty-five or thirty different charges against this woman. Of course, one of the defences on that is common good. I am taking this as a way of explaining my attitude.

The Court:

Just a minute, Mr. Mercier: you suggest Miss Palmer did between certain times advertise to several different persons at the Town of Eastview by means of a pamphlet?

Mr. Mercier:

Yes.

The Court:

PAGE 20

Bill of Particulars.

The Court:

There are particulars; I agree with the defence.

Mr. Beament:

I am applying for particulars, not to amend the indictment; I am only applying for particulars.

The Court:

The application for amendment is being made in open Court Friday.

Mr. Mercier:

The indictment will stand as it is; he can ask for certain particulars, but I would undoubtedly have to lay twenty-five or forty charges and then I could be more specific.

Mr. Beament:

If it is as read by the Court Reporter, but it would not be more difficult to give particulars now than in forty charges.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Mercier:
If he can prove it to the Court.

The Court;
I think there should be particulars as to the mode
and manner of advertising.

Mr. Beament:
And the person to whom the advertising was done.

The Court:
Probably you would have to separate them into multi-
tudinous acts.

Mr. Beament:
I don't think so.

The Court:
It is a separate act, each advertisement.

Mr. Beament:

PAGE 21

Bill of Particulars.

Mr. Beament:
Yes, it could be a separate offence, just so, if against
a newspaper which goes out to a million people, by
proving advertising; it takes two or three people to
prove publication.

The Court:
That is limiting the Crown in its prosecution; they
may wish to call in many people. If you specify certain
persons the indictment is limited to them.

Mr. Beament:
I am not speaking about the indictment.

The Court:
Particulars become part of the indictment.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer
collection. Examinations, volume 1: first count, the 21 women, Constable Martel,
Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Beament:
I am not arguing with the indictment.

The Court:
Shall be read into the record -- section 860 -- the particulars, as though in the indictment.

Mr. Mercier:
Now, has your Worship decided it should be said, "by means of a pamphlet"?

The Court:
I certainly think that should be in.

Mr. Mercier:
Then I should have been made to say to whom, where and when; I don't think I should have to enumerate all the witnesses who have seen this pamphlet or seen it published.

The Court:
I think that the mode and manner should be sufficient; that is all the particulars I would order as to particulars of advertising -- the mode and manner, which I

PAGE 22

Bill of Particulars.

The Court:
understand will be to several different persons, by means of a pamphlet.

Mr. Beament:
The pamphlet should be specified.

The Court:
I don't know how the Crown can specify the pamphlet.

Mr. Mercier:
Without reciting it.

Mr. Beament:

"Entitled so-.and-so." It is so clear that is in contemplation; unfortunately none of these cases have been reported under this section and there is no legislation in England on it.

The Court:

Which doesn't make it easy for the Court.

Mr. Mercier:

Or for the Crown.

Mr. Beament:

The Crown must specify.

The Court:

It is specifically set out in the Code particulars may be ordered as to passages in a book.

Mr. Beament:

And because of that it necessarily means particulars may be ordered of passages, it pre-supposes the identity of the book should be part of the charge.

The Court:

But section 869 doesn't state about information for means of preventing conception. 869 refers solely to section "a" of 867.

Mr. Beament:

PAGE 23

Bill of Particulars.

Mr. Beament:

Right.

The Court:

This charge, it seems to me, comes under section "c".
If it is the same thing, why not specify it?

Mr. Beament:

It is covered by two other sub-sections, by "a", further describing any document or words and further describing any person, place or thing referred to, in the indictment. It is 859,"e" and "g". If we went around exposing a pamphlet as suggested it should be easy to describe that pamphlet with sufficient particularity that it can be identified. I don't suggest the wording in full but surely he can say a pamphlet published by so-and-so, entitled so-and--so, and the pamphlet's first words and last words being so-and-so; something to identify it. But, under this, he could bring in any document of any kind.

Mr. Mercier:

My learned friend doesn't mean that surely it must be a pamphlet as specified; something must be left for argument.

Mr. Beament:

I can understand the reluctance of the Crown to let us know what we are charged with.

Mr. Mercier:

The Crown is not reluctant to let you know what you are charged with. She is charged with a certain offence, having done such-and-such a thing. Evidence will be produced there of that and that can't be an unfair trial because the accused can deny ever seeing

PAGE 24

Bill of Particulars.

Mr. Mercier:

those or every having done it.

Mr. Beament:

There my friend pre-supposes guilt.

Mr. Mercier:

I do not pre-suppose guilt. A person is charged with a certain offence.

Mr. Beament:

If you are accused of showing these women something you are either innocent or guilty. If guilty, you should know what it is.

The Court:

In the case of Rex vs. Stapleton -- I haven't read it -- it is only an excerpt, but the editors of this book take it from the case, and I don't know whether it is clear in this case or not, but it is alleged to hold:

"In a later case, before the English Court of King's Bench, this doctrine was indirectly confirmed; and, it was held, that, on a special count alleging overt acts, the Court will not order particulars to be furnished, in the absence of an affidavit by the defendant denying knowledge of the acts charged, and of sufficient information to enable him to meet them. 'The general principle,' said Lord Coleridge, 'applies only to this extent, to give such information as is sufficient to enable the defendant fairly to defend himself when in Court; but, on the other hand, not to fetter the prosecutor in the conduct of his case.'"

Now, the Crown alleges to prove overt acts of advertising by means of [x] pamphlets to several individuals in the Town of Eastview, between such-and-such dates,

PAGE 25

Bill of Particulars.

The Court:

means to prevent conception by means of information contained in the pamphlets.

Mr. Beament:

It doesn't allege any overt act.

The Court:

Of advertising.

Mr. Mercier:
That section of the Code describes -

The Court:
The particulars will be: the pamphlet to certain persons, without describing the persons, - the pamphlet as a means of preventing conception.

Mr. Beament:
How can you swear it was unless you know the person to whom this pamphlet was supposed to be shown; how can you know unless the particulars are given. I don't know why or how it can be supposed the defence can grope around in the dark to find out what they are charged with and the very breadth of the whole thing makes it increasingly important the defendant should know what she is up against; I haven't the faintest idea how to defend this lady.

Mr. Mercier:
She is charged with advertising certain things to prevent conception; surely that in itself is sufficient; advertising to certain people the means.

Mr. Mercier:
That I would commit murder in Ottawa in January, 1937, with an axe.

Mr. Mercier:
And thereby kill so-and-so.

Mr. Beament:

PAGE 26

Bill of Particulars.

Mr. Beament:
You haven't said that; that is what you should say.

Mr. Mercier:
It is not comparable to a charge of murder; this is general and public and if we can't prove it the case is dismissed.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

The Court:

I think perhaps I would like you, if at all possible, to specify the nature of the pamphlet and that is as far as I will order particulars.

Mr. Mercier:

That would be ordering the Crown to make a resume of the pamphlet.

The Court:

Can't you specify some short entitlement; has it a title?

Mr. Mercier;

Yes, my learned friend has seen it.

The Court:

Set out the entitlement of the pamphlet.

Mr. Mercier:

I have no objection to letting my learned friend have a copy.

The Court;

Not the same thing, but set out: a pamphlet entitled so-and-so as a means of preventing conception, to several persons.

Mr. Mercier:

I submit I shouldn't have to go that far, but if your Worship orders it, I must abide with that decision.

The Court:

I will order that.

Mr. Mercier:

PAGE 27

Bill of Particulars.

Mr. Mercier:

I want to be especially fair and certainly the accused will get a fair trial to which she is entitled.

The Court:
What about the third count?

Mr. Mercier:
It is to publish an advertisement.

Mr. Beament:
Does the Crown really seriously submit this woman published an advertisement?

Mr. Mercier:
Publication and distribution.

Mr. Beament:
Isn't that covered by advertising? He says publication and advertising have [synonymous] meanings.

The Court:
Section 207(a):
"The defendant exposed to public view an obscene book,"

rather than publishing.

Mr. Beament:
It is the only place in law publishing has that somewhat technical meaning and I suggest here the word publishing is meant in non-technical sense, or otherwise it would be given as the same meaning as advertising.

The Court:
At the bottom of the page itself, Section 861, it expressly declares -.

Mr. Beament:
That is blasphemous libel.

The Court:

PAGE 28

Bill of Particulars.

The Court:

"No count for publishing a blasphemous, seditious obscene or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other printed or written matter, shall be deemed insufficient on the ground that it does not set out the words thereof."

Selling or publishing obscene books or pamphlets, as though they deem the word publishing in the sense of publishing and exposing is confined to libel.

Mr. Beament:

Unless those words are intended to apply to a person who prints books, not a person doing the publishing or [advertising]. This will be long enough without conflicting it with information which in fact has no foundation of any kind. If you can convict me of the first two charges you will do good.

The Court:

There is the question what publishing means.

Mr. Beament:

All these counts arise out of the same circumstances and multiply many times and it doesn't get any better.

Mr. Mercier:

According to the information I have I could swear out two hundred warrants in Eastview and Ottawa.

The Court:

In view of Section 861, that offhand seems to me to limit the application of the word publishing.

Mr. Beament:

If you can't convict on advertising you can't convict on publishing.

Mr. Mercier:

PAGE 29

Bill of Particulars.

Mr. Mercier:
We will drop that.

The Court:
"d "?

Mr. Mercier:
"Have for sale means or articles intended as a means of preventing conception.

Mr. Beament:
The same dates?

Mr. Mercier:
Yes. I think it is reasonable and I think the Crown is going far enough; the thing is general; it is a general offence, not a special one. There are a number of offences the Crown alleges were committed. If there were only one offence to the Crown's knowledge, undoubtedly there would be no charge at all.

Mr. Beament:
I formally apply for particulars of the articles we are alleged to keep for sale.

Mr. Mercier:
What particulars he wants - ?

Mr. Beament:
Describe them; you say we had certain articles for sale. You say articles generally suitable for -.

Mr. Mercier:
Or represented as a means of preventing conception.

Mr. Beament:
There are many ways of preventing conception.

Mr. Mercier:
We will just prove they are means of preventing con-

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

ception.

Mr. Beament:

PAGE 30

Bill of Particulars.

Mr. Beament:

I want to know what the articles are. You can prevent conception with anything from a spade to a sponge, properly applied.

The Court:

I don't think I will order any further particulars.

Mr. Mercier:

Your Worship will make up the order and I can have a copy in the morning?

Mr. Beament:

The Crown Attorney should furnish me with them sometime tomorrow with the amended informations and particulars.

The Court:

I don't think there are any particulars in the first count.

Mr. Mercier;

"did offer for sale,"

The Court:

And the name of the person to whom the offer was made. I will order particulars of mode and manner of advertising and entitlement of pamphlet; those are the only particulars I am ordering. I can't very well make that order until the information has been amended. On Friday you will apply for leave to amend in those three counts and then you can ask for particulars.

Mr. Mercier:

The fact is, if I am going to amend the informations I might amend them too to include the particulars.

Mr. Beament:

If all the particulars within his Worship's order are included.

Mr. Mercier:

PAGE 31

Bill of Particulars.

Mr. Mercier:

I want tomorrow to prepare the information containing the three counts and I will show my learned friend a draft copy and if it meets with his approval or there are further suggestions,- I will be amenable.

The Court:

If you want to include in your amended information the particulars I have ordered here today it will save my preparing an order and having Mr. Beament ask for an order and having it read into the record.

Mr. Mercier:

Then we can withdraw this one (the original information) and prepare a new one?

Mr. Beament:

Yes.

The Court:

And arraign the accused on the other three.

Mr. Mercier:

And with notice to my learned friend.

(Adjournment made to 16th October. 1936).

- - - - -

PAGE 32

Amended information.

REX vs. PALMER

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Eastview, 16th October, 1936.

(Accused arraigned on amended information; present:
His Worship Magistrate L. Clayton.
Raoul Mercier, Esq., Crown Attorney pro tem.
A. W. Beament, Esq., K. C., for Defence.
John E. Fagan as Shorthand Reporter).

The Court:

Mr. Mercier: what is the situation this morning in
this case?

Mr. Mercier:

We are prepared to withdraw the information before the
Court now and have the accused charged under the
amended information, with this exception: in paragraph
"a" Dorothy Leblanc should be substituted for Dorothy
Mouaseau. I was informed yesterday that was the
name and I am informed this morning he did not give
me the correct name, through a mistake.

The Court:

What should be the correct name?

Mr. Mercier:

Dorothy Leblanc.

The Court:

Better arraign the accused on this new information.

Chief Manion: (reads amended information):

"Canada,)	
Province of Ontario,)	General Form of
Town of Eastview,)	Information on Oath.
To Wit:)	

The information and complaint of Constable Emile
Martel of the Town of Eastview, taken upon oath

PAGE 33

Amended information and arraignment.

Chief Manion:

before me, the undersigned, one of His Majesty's

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer
collection. Examinations, volume 1: first count, the 21 women, Constable Martel,
Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Justices of the Peace, in and for the Town of Eastview, at the said Town of Eastview, this 15th day of October in the year of our Lord one thousand nine hundred and thirty-six who said that he is informed and verily believes that Dorothy Palmer of the City of Ottawa within the space of six months last past, to wit, between the 1st day of August, 1936 and the first day of September, A. D. 1936, at the Town of Eastview, aforesaid, did unlawfully and knowingly and without lawful justification or excuse;

(a) offer to sell an article to one Mrs. Dorothy Leblance which said article was intended or represented as a means of preventing conception.

(b) did advertise to several persons in the said Town of Eastview, by means of a pamphlet entitled: 'Birth Control and some of its simplest methods:' and also 'Le Controle de la natalite et quelques unes de ses methodes les plus simples,' instructions, drugs, medicine or articles intended or represented as a means of preventing conception.

(c) did have for disposal means or instructions represented or intended as a [x] means of preventing conception,

contrary to subsection (c) of section 207 of the Criminal Code of Canada in such case made and provided.

(sgd.) E. Martel.

Taken and sworn before me the day and year and at the piece above mentioned;

PAGE 34

Arraignment.

Chief Manion:
(sgd.) R. Mannion,
J. T., Eastview,"

- - - - -

The Court:
You wish to proceed with election and plea
this morning?

Mr. Beament:
I understand we adjourn without plea until Wednesday.

Mr. Mercier:
Quite satisfactory.

The Court:
And the first information is withdrawn?

Mr. Mercier:
Yes, and replaced.

The Court:
The first one is withdrawn and this one now stands.
If satisfactory, I will set Wednesday morning at ten
o'clock in this court room.

Mr. Mercier:
Satisfactory.

Mr. Beament:
I want to formally apply for particulars of the article
offered Mrs. Leblanc and particulars of the place where
the offer was made. That is with reference to
the first sub-portion of the charge and particulars of
names and places. Count "b": particulars of
the names of persons to whom and places at which the
alleged advertising took place. Count "c": par-
ticulars of the means or instructions which the accused
is said to have had for disposal.

Mr. Mercier:

PAGE 35

Arraignment and Further Particulars.

Mr. Mercier:

As to the instructions, I may call your Worship's attention: they are contained in particulars already understood and agreed to be given: the title of the pamphlet. I am not prepared to supply any more unless ordered.

Mr. Beament

In respect to "c" it is not given.

Mr. Mercier:

The instructions, he said.

Mr. Beament:

That is charge "b".

Mr. Mercier:

If I understand correctly the meaning of "c" it is: "did have for disposal means or instructions represented or intended as a means of preventing conception." I said, insofar as instructions were concerned, it would stand as in clause "b".

The Court:

That you can satisfy that point, Mr. Mercier, by giving particulars of the instructions and if the same as clause "b" then there is no reason why that can't be included in the count. As it stands: "did have for disposal means or instructions" is not particularized. If the same as Count "b", I suppose there is no reason why it cannot be included.

Mr. Mercier:

If the instructions are the same under the same section of the Code. It is almost vexatious. The accused should have a fair trial; there is no doubt of that. My learned friend is fully apprised.

PAGE 36

Further Particulars.

Mr. Beament:

The purpose of particulars is: (a) knowing what the accused is charged with; and (b) limiting the prosecution.

Mr. Mercier:

If someone is accused of selling liquor, we must say to whom?

Mr. Beament:
No doubt.

Mr. Mercier:
In any case I will supply any particulars you order but not unless ordered by the Court. I am perfectly willing to stand on the charges as they are now; I might say also for the purpose of the record, unless there is an affidavit supplied by the defendant that he has no knowledge of this - ?

The Court:
As regards clause "c" that might be particularized to the extent you mention, Mr. Mercier, and I would order particulars as to means or instructions, to be supplied the defence. As for as clause "a" and clause "b" are concerned, I think there is sufficient information and particulars in that to enable the accused to prepare a fair defence.

Mr. Mercier:
Then I might ask for particulars of the particulars asked by my-learned friend?

The Court:
No, the accused asks particulars of means or instructions the accused had for disposal.

Mr. Mercier:
How am I to know what will satisfy my learned friend as

PAGE 37

Further Particulars.

Mr. Mercier:
to particulars of particulars?

The Court:
You supply the particulars and if not satisfactory to the accused he can apply to me and if I rule they are satisfactory, that is all. If I rule not satisfactory you can supply more. That is the only particulars, as I said.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Mercier:
By letter?

The Court:
Written, to form part of the record and a copy supplied to him.

Mr. Beament:
Attached to the information.

The Court: (to accused).
Same bail; appear here Wednesday morning at ten o'clock.

(Hearing adjourned).

- - - - -

(The particulars later supplied were as follows:
"Particulars as to paragraph "c":

"The 'means' therein referred to are the exhibition to certain persons in the Town of Eastview of rubber articles, tubes of jelly and other articles of similar nature which were alleged to be intended or represented as a means of preventing conception.

"The 'instructions' therein referred to are the instructions contained in the pamphlet referred to in paragraph 'b'.")

- - - - -

(page A-1 follows).

Dorothea Palmer Collection

Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. (WA17-22)
1936

PAGE A1

Mrs. Dorothy Lebland
Count "a".

REX vs. PALMER

Eastview, 21st October, 1936.

(Hearing of evidence on Count "a"; present:
His Worship Magistrate L. Clayton.
The accused.
Raoul Mercier, Esq., Crown Attorney pro tem.
P. W. Wegenest, Esq., K. C. and A. W. Beament, Esq., C., for the Defence.
John E. Fagan sworn as Shorthand Reporter.)

The Court:
Read the charge to the accused:

Chief Mannion: (reads information)

"Canada,)	
Province of Ontario,)	General Form of
Town of Eastview,)	Information on Oath.
To Wit:)	

The information and complaint of Constable Emile Martel of the Town of Eastview, taken upon oath before me, the undersigned, one of His Majesty's Justices of the Peace, in and for the Town of Eastview, at the said Town of Eastview, this 15th day of October in the year of our Lord one thousand nine hundred and thirty-six who said that he is informed and verily believes that Dorothy Palmer of the City of Ottawa within the space of six months last past, to wit, between the first day of August, 1936 and the first day of September, A. D. 1936, at the Town of Eastview, aforesaid, did unlawfully and knowingly and with-

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

out lawful justification or excuse:

(a) offer to sell an article to one Mrs. Dorothy

PAGE A2

Mrs. Lebland.

Chief Manion:

Leblance which said article was intended or represented as a means of preventing conception.

(b) did advertise to several persons in the said Town of Eastview, by means of a pamphlet entitled: 'Birth Control and some of its simplest methods:' and also"

Say it in French?

Mr. Mercier:

Yes:

"Le Controle de la natalite et quelques unes de ses methodes les plus simples,"

Chief Manion:

"instructions, drugs, medicine or articles intended or represented as a means of preventing conception.

(c) did have for disposal means or instructions represented or intended as a means of preventing conceptio,

contrary to subsection (c) of section 207 of the Criminal Code of Canada in such case made and provided.

(sgd.) E. Martel.

Taken and sworn before me the day and year and at the place above mentioned:

(sgd.) R. Mannion,
J. P., Eastview."

- - - - -

The Court:

Dorothy Palmer, on this charge you have the option to be forthwith tried by me without the intervention of a Jury, or to remain in custody or under bail, as the

PAGE A-3

Mrs. Lebland
Plea.

The Court:

Court decides, to be tried in the ordinary way by the Court having criminal jurisdiction. How do you wish to be tried?

Mr. Wegenast:

I appear for Miss Palmer, with Mr. Beament. We plead not guilty and elect summary trial by your Worship.

Mr. Mercier:

I appear for the Crown.

(John E. Fagen sworn as Shorthand Reporter.).

- - - - -

Mrs. Dorothy Lebland, duly sworn, deposed:

To the Court:

Q. Your address?

A. 22 Catherine Street.

Q. Eastview?

A. Yes.

To Mr. Mercier:

Q. Mrs. Lebland, you are a married woman?

A. Yes, sir.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Living in the Town of Eastview?

A. Yes.

Q. Do you know the accused, Miss Dorothy Palmer?

A. I do.

Q. Do you remember when you met Miss Palmer?

A. Some time in August.

Q. Under what circumstances?

A. She gave me a box.

Q. Miss Palmer did what?

A. She gave me a box of goods.

Q. Where was this: in your home?

PAGE A-4

Mrs. Lebland.

To Mr. Mercier:

A. It was.

Q. How did it come Miss Palmer went to your home?

A. I don't know.

Q. Miss Palmer came to your home and did you answer the door?

A. I did.

Q. Did any conversation take place when she came into your home?

A. Yes.

Q. What was that conversation?

A. She asked if my husband was working; I said "yes"; she asked if I had a hard time getting along, and asked would I take the article she gave me and I took it from her.

Q. What was that article?

A. To prevent family.

Q. I produce to you this article: do you recollect seeing this before?

A. No.

Q. What sort of article was it you say Miss Palmer gave you?

A. It was in a box.

Q. I produce this box - ?

A. (No reply).

Mr. Beament:

I object: that is clearly leading. I know what my friend has: it was a box taken into his possession a month or so after the date of this offence.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Mercier:
I submit I can produce anything to the witness.

The Court:

PAGE A-5

Mrs. Lebland

The Court:
You have just a box with some articles in it?

Mr. Mercier:
Yes your worship; I produce a box to the witness asking if she can identify it.

Mr. Beament:
And a box which I know cannot be a box in question: it is a box my learned friend showed me that came into his possession.

The Court:
It can be put in as an exhibit.

Mr. Mercier:
I don't want to put it in as an exhibit, but to show the articles; if she saw anything like it before.

Mr. Beament:
It is leading, like a plan.

The Court:
Plans are admissible.

To Mr. Mercier:
Q. Will you describe this box she gave you?

A. A box with a tube in it.

Q. What was in the tube?

A. Three safes.

Q. Have you seen anything like this before?

A. Yes.

Q. It was an article similar to this Miss Palmer showed

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

you?

A. Yes.

Q. An envelope with three of these?

A. Yes.

Q. Was there any question of the price of these?

PAGE A-6

Mrs. Lebland

To Mr. Mercier:

A. No.

Q. At any time?

A. No, that was given to me.

Mr. Mercier:

This will be Exhibit 1-A, an envelope.

The Witness:

A. I only saw her once.

The Court:

Chief Mannion may act as clerk of the Court.

To Mr. Mercier:

Q. Is that all you ever received?

A. Yes.

CROSS EXAMINATION

To Mr. Wegenast:

Q. Mrs. Lebland, this is your signature?

A. Yes, it is.

Mr. Wegenast:

This is exhibit -.

The Court:

What is it?

Mr. Wegenast:

It is an application for contraceptives.

The Court:
Exhibit 2-A: is there a date on it?

Mr. Beament:
There are dates on it.

Mr. Wegenast:
On the back, your Worship: August fourth; 1936.

The Court:
You are just putting it in as her signature?

PAGE A-7

Mrs. Lebland.

Mr. Wegenast:
She identifies her signature and I want to ask some questions about it.

To Mr. Wegenast:
Q. Now, Mrs. Lebland, I see the name of Dr. [Gowan] here?

A. He is my doctor.

Q. Did you have any conversation with him about this?

A. I did.

Q. And you came to Miss Palmer after a consultation with Dr. Gowan?

A. Yes.

Q. Now, I see here some particulars: will you tell me whether you gave those to Miss Palmer?

A. (No reply).

Q. Your husband is a blacksmith?

A. Yes.

Q. And his income is about forty-five dollars per month?

A. Yes.

Q. Your age is twenty-five?

A. Yes.

Q. Your husband's age is twenty-nine?

A. Yes.

Q. You have one child living?

A. Yes.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. At this time that child was a year and a half old?

A. Yes,

Q. You had one miscarriage?

A. Yes.

Q. Since this child was born?

PAGE A-8

Mrs. Lebland

To Mr. Wegenast:

A. Before the child was born.

Q. Now, I think you are mistaken, Mrs. [Lebland]: I wish you would just think a minute: whether this article you speak of was given to you by Miss Palmer or whether it wasn't sent [to] you by mail from Kitchener?

A. It was sent to me.

Q. You had a talk with Miss Palmer, when you gave her this application?

A. Yes, I did.

Q. Did you think you were doing anything wrong?

A. No, I didn't.

Q. Do you think so now?

A. No.

Mr. Mercier:

I don't know what the thoughts of the witness have to do with this.

Mr. Wegenast:

I am cross examining.

Mr. Mercier:

Cross examination has a lot of latitude.

The Court:

It is a matter of law for the Court to decide.

Mr. Wegenast:

I hadn't in mind the legality, your Worship.

To Mr. Wegenast:

Q. Did you think you were doing anything morally wrong?

A. No.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Do you now?

A. No.

Q. You didn't pay anything for this?

A. No, I didn't.

PAGE A-9

Mrs. Lebland

To Mr. Wegenast:

Q. Did Miss Palmer offer to sell it to you?

A. No, not that article.

Q. Did she offer to sell you any article?

A. I understood when she first came in she told me I could have that article but the other article she was supposed to sell, but it was my mistake.

To the Court:

Q. What was that other article?

A. The first one you showed me.

Q. Can you describe it?

A. It is the round thing.

Mr. Mercier:

Q. This article here?

A. Yes.

To Mr. Wegenast:

Q. You say you misunderstood her?

A. Yes.

Q. She didn't offer to sell you that?

A. No.

The Court:

Exhibit 3-A.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. What did you mean when you say you misunderstood?

A. I thought she was going to sell that on account of my husband working, but she was giving it.

Q. How did you understand she was selling it to you?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. When she came in she asked if my husband was working and I said "yes," and I thought if my husband was working I had to pay for it.

Q. Was there any question about the price of this

PAGE A-10

Mrs. Lebland.

To Mr. Mercier:

article?

A. No.

Q. How were you supposed to get this article, if you would get it at all?

A. Through my doctor.

To Mr. Wegenast

Q. She told you as a matter of fact if you wanted that you had to go to your doctor?

A. Yes.

To Mr. Mercier:

Q. You stated to my learned friend you had met Miss Palmer once?

A. Yes.

Q. Just one time?

A. Yes.

Q. You stated also you had gone to see your doctor?

A. Yes

Q. And, if I understood correctly you stated you had seen Miss Palmer after seeing your doctor?

A. Miss Palmer came to my home and asked would I see my doctor and the doctor would give her the message.

Q. He would give Miss Palmer the message?

A. Yes

Q. Did you see her afterwards?

A. No, I didn't.

Q. So then you signed this application and history card had you receive Exhibit No. 1: this envelope?

A. No.

Q. Did you get it from Miss Palmer?

A. I got it first and later on, a couple of weeks after, I got the box.

PAGE A-11

Mrs. Lebland.

To Mr. Mercier:

Q. So when Miss Palmer went to visit you [,] you got nothing?

A. No.

Q. I must have misunderstood you when I understood you to say she gave you this when she went to see you?

A. (No reply).

Q. What conversation took place when you signed this application?

A. (No reply).

Mr. Wegenast:

This is new.

Mr. Mercier:

No, this document was in; submitted in examination in chief.

The Court:

This has reference to a talk.

Mr. Wegenast:

If I have my chance.

To Mr. Mercier:

Q. What conversation took place?

A. She asked could I afford to have a family and I said "no", and she said she would give it to me not to have a family.

Q. She asked certain questions?

A. Yes.

Q. And filled in the answers herself?

A. Yes.

Q. After that you signed the document?

A. Yes.

Q. Did you know what you were applying for?

A. Yes.

Q. What?

PAGE A-12

Mrs. Lebland

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

To Mr. Mercier:

A. A box with three safes.

Q. That is all you received?

A. Yes.

Q. Had you invited Miss Palmer to go to your place?

A. No.

Q. She just went there as a visitor?

A. Yes.

RE-CROSS EXAMINATION

To Mr. Wegenast:

Q. Just to get the record straight; you got more than these three safes?

A. Yes, I got a tube.

Q. Of contraceptive jelly and nozzle?

A. Yes.

Q. You saw Dr. Gowan?

A. Yes.

Q. Before you saw Miss Palmer?

A. Yes.

The Court:

Before she saw Miss Palmer?

Mr. Mercier:

I would like to know which is correct.

The Court:

I would like to have that point straightened out.

To Mr. Wegenast:

Q. You saw Dr. Gowan before Miss Palmer came to your house?

A. Yes, I saw Dr. Gowan first.

Q. How long after you saw Dr. Gowan was it she came to your house?

PAGE A-13

Mrs. Lebland.

To Mr. Wegenast:

A. A couple of weeks.

Q. A couple of weeks later?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

Q. If you saw Miss Palmer, you saw Dr. Gowan again?

A. Yes.

Q. And he was to give a certain message to Miss Palmer?

A. Yes.

Q. All right.

Mr. Wegenast:

That is all.

(Witness retired).

- - - - -

PAGE A-14

Dismissal of Count "a".

Mr. Mercier:

Your Worship: I submit we clearly fail on this first count; there is no evidence of offering for sale and I ask that the count be dismissed.

I might say for the purposes of the record it is contrary to the information received by me.

The Court:

There is no evidence of any offering for sale produced by the Crown. The first count is dismissed. Proceed with the second.

Chief Mannion:

It has been read.

- - - - -

(page B-1 follows).

Dorothea Palmer Collection

Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. (WA17-22)
1936

PAGE B-1

Mrs. Gilberte Lafleur.

REX vs. PALMER

Mrs. Gilberte Lafleur, duly sworn, deposed:

To the Court:

Q. Do you speak English?

A. A little bit.

Q. What is your full name?

A. Mrs. Gilberte Lafleur.

Q. Is Gilberte your maiden name?

A. Yes.

To Mr. Mercier:

Q. Mrs. Lafleur, you reside in the town of Eastview?

A. Yes.

Q. What is your address?

A. 30 Catherine.

Q. Do you know the accused, Miss Palmer?

A. Yes.

Q. When did you meet Miss Palmer?

A. Sometime in August.

Q. Under what circumstances and how did you meet Miss Palmer?

A. She came to my house as a visitor.

Q. Miss Palmer came to your house as a visitor?

A. Yes.

Q. Had you requested her to go to your house?

A. No.

Q. Sometime during the month of August Miss Palmer went to your residence?

A. Yes.

Q. Was there any conversation when she came in?

A. Yes.

Q. Do you remember what she told you?

A. It was for the birth control, you know; she asked

PAGE B-2

Mrs. Gilberte Lafleur.

To Mr. Mercier:

if I got a big family; I said nine, and she asked if it was enough, so I took the parcel; I wanted it myself; she didn't ask me to take the parcel.

Q. You are talking about a box?

A. Yes.

Q. What happened about the box: what did you do: did she show you a box or offer it?

The Court:

"I asked for it."

The Witness:

A. I took it myself; she said "take it," and I took it with my own consent.

To Mr. Mercier:

Q. Miss Palmer offered you a box and you accepted it with your full consent?

A. Yes.

Q. After you talked about birth control?

A. Yes.

Q. What was the conversation about birth control after you got this box?

A. She said if I need some I could have some for nothing; if people cannot afford to have those they give them to people who can't afford a big family.

Q. What were the explanations given: you had a conversation with Miss Palmer before this box was offered you and you accepted with your consent. Before this box was offered you there was some conversation?

A. Yes.

Q. You said Miss Palmer told you these boxes would be

PAGE B-3

Mrs. Gilberte Lafleur

To Mr. Mercier:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

given to people who could not afford to have big families?

A. Yes.

Q. Was anything else said?

A. She just showed me how to.

Q. She just showed you how to what?

A. I can't say that in English.

Mr. Wegenast:

I am satisfied to have her say it to your Worship in French and have Mr. Mercier repeat it.

The Witness:

A. She showed me how to use it.

To Mr. Mercier:

Q. She showed you how to use what?

A. The tube.

Q. Answer in English the best you can: you needn't be nervous. She showed you how to use what, Mrs. Lafleur?

A. The tube.

Q. I see a box here addressed Mrs. G. E. Lafleur, 30 Catherine, Eastview, Ontario, which I will put in as an exhibit, your worship, from 410 King street west, Kitchener, Ontario, Canada postage nine cents paid, August 19th, No. 877.

The Court:

Exhibit 1-B in this count. The exhibits in the previous (first) count will start at 1-A.

To Mr. Mercier:

Q. I show you this box, Mrs. Lafleur: what do you say as to this box?

A. It is my box.

PAGE B-4

Mrs. Gilberte Lafleur

To Mr. Mercier:

Q. That you received?

A. Yes.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. After the visit from Miss Palmer?

A. Yes.

Q. And Miss Palmer showed you how to use what is in this box?

A. It was in the bag; she showed it quick.

Q. What do you mean she showed it quick, just exactly how did she show you?

A. She got a parcel in the bag; she just turned the

B. key.

Q. At the bottom of this tube?

A. Yes, and it was out.

Q. Is that all?

A. Yes.

Q. She showed you how to use it?

A. Yes.

Q. You received also an envelope in this box?

A. Yes.

Q. Was this in your box when you received it?

A. Yes.

Q. It was in the box and known as liquid latex, and together with this you also received a slip that also was in your box, which reads as follows:

"The following contraceptive supplies will be mailed to properly recommended people, at prices shown, if payment is sent with order to: Parents' Information Bureau, 410 King St. W., Kitchener, Ont., or Miss A. S. Weber, 410 King St. W., Kitchener, Ont.

PAGE B-5

Mrs. Gilberte Lafleur

To Mr. Mercier:

1 - 4-oz. tube of contraceptive jelly, .35 each or 3 for \$1.00.

1 - Nozzle made to attach to jelly tube - .35 each or 3 for \$1.00.

2 - 4-oz. jelly tubes end 1 nozzle - \$1.00

1 - highest grade pessary - .50.

Good quality condoms - .25 per dozen.

Condoms will be sold to patients only, and no

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

more than six dozen per year. Send money orders - do not send silver."

That also was in your box?

A. Yes.

Q. Was this in your box also?

A. Yes.

Q. A slip, "Parents Information Bureau yourself", to which is attached two copies of Exhibit 2-A.

The Court:

Yes.

To Mr. Mercier;

Q. Did you receive any other literature?

A. No.

Q. Have you ever seen these [pamphlets] before?

A. No.

Q. You have never seen them?

A. No.

Q. Did you pay anything for that?

A. No, not a cent.

Q. Did you know about these things before meeting Miss Palmer?

A. No.

Q. It was as a result of information received from her you used it?

PAGE B-6

Mrs. Gilberte Lafleur

To Mr. Mercier:

A. Yes

Q. And you say Miss Palmer told you it was for birth control?

A. Yes

Q. Was any explanation added to that: did she just tell you it was for birth control?

A. She asked me first if I had a big family and I said nine kids, and we laughed, and I said we get along fine and she asked did I care to take this box.

Q. What did she tell you about that box?

A. It is hard to tell, you know.

Q. Why is it hard to tell: she told you something about that box: you might tell the Court what it was Miss Palmer told you?

A. She told me it was to stop getting kids.

Q. Is your husband working?

A. Yes.

Q. What is his occupation?

A. Pressman.

Q. Where?

A. Mortimers.

Q. Has he steady employment?

A. Yes.

Q. For how long?

A. Thirty years.

Q. What is his average salary?

A. Forty a week.

CROSS EXAMINATION

To Mr. Wegenast:

Q. This was sent by mail?

A. Yes.

PAGE B-7

Mrs. Gilbert Lafleur

To Mr. Wegenast:

Q. Miss Palmer didn't leave it there with you?

A. No.

Q. And you didn't pay anything for it?

A. Not a cent.

Q. Now, is this your signature, Mrs. Lafleur?

A. Yes.

Q. That is your signature?

A. Yes.

Q. I suppose we can mark this?

The Court:

Exhibit 2-B.

To Mr. Wegenast:

Q. You have nine children living?

A. Yes.

Q. The last one is not very strong or wasn't when Miss Palmer was there?

A. It is never sick.

Q. It is not as strong as the others?

A. They are all the same.

Q. And you have had four abortions -- abortements -- enforced coucher -- ?

A. Just one.

Q. Just one: it says four here?

A. Just one miscarriage; it is a long time.

The Court:

What is the date of that application?

Mr. Wegenast:

11th August, 1936. This is case No. 35781.

To Mr. Wegenast:

Q. You had a talk with a friend about Miss Palmer?

A. Yes.

Q. Who was it?

PAGE B-8

Mrs. Gilbert Lafleur.

To Mr. Wegenast:

A. Mrs. Mousseau.

Q. And you know Mrs. Mousseau gave your name to Miss Palmer?

A. No, I gave a card to Mrs. Mousseau.

Q. And who told Miss Palmer about you?

A. I don't know.

Q. Now, we have here, Mrs. Lafleur, that you have been using abortives: I don't know whether I can explain that to you: medicaments pour faire abortments?

A. Oui, oui.

Q. Vous vous en etes servie?

A. Justement.

Q. She admits she uses abortives. It says here the last baby wasn't strong?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. It was a big fat baby, nine and a half pounds.

B. They are all strong.

Q. Nine of them?

A. Yes.

Q. Down from the age of fifteen to nine months?

A. Pardon?

Q. One is fifteen?

A. Sixteen.

Q. Down to the baby?

A. Just eleven months.

Q. You had another baby still born - it died at two months?

A. Between the first one.

Q. That makes ten children altogether?

A. Yes.

Q. Now, you didn't think you were doing anything you shouldn't do?

A. No.

Q. It was not morally wrong?

PAGE B-9

Mrs. Gilbert Lafleur

To Mr. Wegenast:

A. No.

Q. In consulting Miss Palmer?

A. No.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. All your children are healthy?

A. They always have been.

Q. Did you have four abortions, Mrs. Lafleur?

A. Just one.

Q. There are four marked here, also that the last baby is not strong?

A. Oh, no, it is strong.

Q. It is exhibit No. 2-B.

The Court:

Is that all for this witness?

Mr. Mercier:
Yes, your Worship.

The Court:
Thank you.

(Witness retired).

Exhibit 2-B filed:
"Application and history card. Name - Mrs. G. Lafleur.
Date - Aug. 11, 1936.
Case No. - 35781, French.
Street - 30 Catherine. City - Eastview. Province -
Ont.
Nationality - French. Religion - R. C.
Date of marriage - October, 1919.
Husband's occupation - printer.
Income - \$73. per month. On relief - no.

PAGE B-10

Mrs. Gilberte Lafleur

Exhibit 2-B (continued):
Wife's age - 38.
Husband's age - 49.
Family physician - Dr. Couture, Laurier ave., Ottawa.
No. of living children - 9.
Ages of living children - 15 - 14 - 13 - 12 - 11 -
- - - 9 months.
No. of dead children - 1.
No. of miscarriages - . Give dates - .
Ages of children at death - 2 months.
No. of abortions - 4.
Give dates - 1928 - 1929 - 30.
Health of children - good.
State contraceptives used previously: none.
Date of last menstrual period - July 26, 1936.
Check reasons for) Economic - X
desiring contraceptive) Physical
information) Desires proper spacing of
children
) Other reasons

Physical condition of husband - good.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Physical condition of wife - good.

If pregnant - date of term - not when contacted.

(Typed in red on card): 8-19-36 Lr. to worker re sterilization. R.G.

Instructions to social workers - Write name and address very plainly in ink on reverse side.

Check contraceptives desired:

Contraceptive jelly and nozzle: V .

OR Pessary and contraceptive jelly: .

Application:

I herewith make application for birth control information and supplies and claim that I am entitled to receive same in view of my circumstances.

PAGE B-11

Mrs. Gilberte Lafleur

(Exhibit 2-B - continued):

Please send English, Polish, Ukrainian, French (sent) booklet (mark language desired).

Referred by

Name

Address

Applicant sign here (sgd.) Mrs. G. Lafleur.

Social worker sign here - (sgd.) Dorothea Palmer.

Family physician sign here - Dr. Couture, R. C., not contacted.

I recommend size () pessary.

The signature of the social worker is not necessary if the application is signed by the family physician.

The size of the pessary must be ascertained by the family physician. Patient must go to the doctor's office to be fitted if pessary method is desired.

Literature on contraception will be sent to the family physician on his request.

([x] written in red ink) : 8-19-36, J. N. & C. (n), D. B.

Remarks (home conditions, size and type of res., how kept; general observations): Home very clean and children appear well cared for.

This mother was much in need of our help. Has been using abortives. Last baby not strong and I believe because of this reason grateful

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

and appreciated.

Send application to The Parents' Information Bureau,
410 King St. W., Kitchener, or Miss A. S.
Weber, 410 King St. W., Kitchener."

- - - - -

Dorothea Palmer Collection

Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. (WA17-22)
1936

PAGE C-1

Mr. Martel.

Constable Emile Martel, duly sworn, deposed.

To Mr. Mercier:

Q. Constable, you are a police constable in the employ of the Eastview Police Force?

A. I am.

Q. Do you know the accused, Miss Palmer?

A. Yes.

Q. And you have investigated an alleged breach of Section 207 of the Criminal Code?

A. I did.

Q. Will you tell His Worship the result of any investigation you made?

A, On Wednesday, August 26th, 1936, at the hour of 12:06 p.m. I received a telephone call at the Eastview police station.

Q. As a result of that what did you do?

A. As a result of that I proceeded to the home of a women, Mrs. Albert Brault.

Mr. Beament:

B-r-a-u-l- t.

The Witness:

A. Mrs. Brault, residing at 28 Catherine Street Eastview. I interviewed Mrs. Brault. After interviewing Mrs. Brault I proceeded to the home of Mrs. George Lafleur, residing at number 30 Catherine Street Eastview.

Mr. Mercier:

Q. Is that the last witness?

A. Yes. I interviewed Mrs. LaFleur and as a result of my interview I was handed a box that was shown in evidence.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

The Court:
Exhibit 1-B.

PAGE C-2

Mr. Martel.

To Mr. Mercier:

Q. Exhibit 1-B, Mrs. Lafleur's box. You received this box from Mrs. LaFleur - then what did you do?

A. I took it.

To the Court:

Q. Was it containing anything at the time?

A. The same as here.

Q. The same as is there?

A. Small booklet, tube, small envelope.

To Mr. Mercier:

Q. It had the same contents as are there?

A. Yes

Q. As a result of a conversation with Mrs. LaFleur what did you do?

A. I proceeded next to the home of Mrs. Oscar

B. Grecco, residing at 43 Catherine Street, Eastview.

To Mr. Beament:

Q. How do you spell that name?

A. G-r-e-c-c-o. I interviewed Mrs. Grecco and as a result of my interview --.

To Mr. Mercier:

Q. You received that box number 3-B?

A. (No reply)

The Court:
3-B.

To Mr. Mercier:

Q. With the contents?

A. The tube and --.

Q. The contents will be identified later?

A. (No reply)

The Court:
Exhibit 3-B, addressed to Mrs. O. Grecco,
43 Catherine Street, Eastview.

PAGE C-3

Mr. Martel.

To Mr. Mercier:

Q. What did you do after that?

A. As the result of the interview with Mrs. Grecco and receiving this box, I proceeded to the home of Mrs. Dagenais, 31 Ceder Street. I received a box from Mrs. Dagenais.

Q. Is that the box there? Never mind -- after leaving there what did you do?

A. I proceeded then to the home of Mrs. A. Alderic Burton (LeBreton)

Mr. Beament:

Was the Dagenais box put in?

Mr. Mercier:

He cannot find it.

The Witness:

A. 53 St. Charles Street, Eastview. After having an interview with Mrs. Burton I was handed this box with its contents.

The Court:

Is that an exhibit?

Mr. Mercier:

Yes. All of them.

The Court:

Exhibit 4-B.

The Witness:

A. As a result of this interview with Mrs. Burton I then proceeded --.

Mr. Mercier:

Just a minute - I see in this box a pamphlet entitled in French "Le Controle de la Natalite."

PAGE C-4

Mr. Martel

To Mr. Mercier:

et quelques-unes de ses Methodes les plus Simples". Was that in the box?

A. Yes.

Mr Mercier:

This is an English translation.

Mr. Wegenast;

Is it a good translation?

Mr. Mercier:

Fair: I will read it for the record, it is entitled, "Birth Control and some of its Simplest Methods".

On the inside cover:

"If further information on Birth Control or Sterilization is desired it can be obtained by writing to the following centres:

Parents' Information Bureau,
410 King Street, Kitchener, Ontario.

Birth Control Clinic,
12 Dundonald Street, Toronto, Ont.

Parents' Clinic,
1023 Feliesier Street, Windsor, Ont.

Birth Control Clinic,
1050 Gilford Street, Vancouver B.C.

American Birth Control League,
515 Madison Avenue, New York, N.Y.

Birth Control International Information
Centre, Parliament Mansions, London, S.W.1.
England.

BIRTH CONTROL

The Desperate Need for Knowledge.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE C-5

Mr. Martel

To Mr. Mercier:

At this very moment the appealing and often desperate cry is going up from actually millions of sick and suffering mothers for information that will bring them relief from the intolerable burden of bringing into the world more children than they can care for properly. Hundreds of thousands of mothers die yearly because of their unfitness for child bearing. Millions of infants under one year of age die annually because of over-crowding, or malnutrition, due to poverty, or to lack of vitality inherited from weak and overburdened mothers. Such conditions as these ought not to exist.

Every child has the right to be wanted and to be born into a world of love, and care and sufficiency.

Where the mother's ill-health makes her unfit for further pregnancy, or where financial conditions are such as to make it impossible to feed and clothe and to bring up more children, then it is assuredly right to practice birth-control. That a weak and sickly Woman, unfit for pregnancy, should have to keep on bearing children, should have to add to her own ill-health, multiplying her [labours] and increasing her poverty and sorrow, is a positive wrong. Every woman has a right to be the mistress of her own body and it is for her alone to determine when she shall become a mother. THE KNOWLEDGE OF BIRTH-CONTROL METHODS IS A FUNDAMENTAL RIGHT OF EVERY WOMAN. Without it, she is unable to space her

PAGE C-6

Mr. Martel

To Mr. Mercier:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

"children, which may otherwise come so frequently as to wear her out. For lack of this knowledge tens of thousands of women go down to untimely death, and homes are left desolate and little children motherless.

This booklet tells of several methods from which parents can make their choice. The best of them will be found highly effective if used intelligently AND ALL THE TIME. CARELESSNESS ON A SINGLE OCCASION MAY RESULT IN UNDESIRE PREGNANCY. There is no contraceptive that is fool-proof. Used intelligently, however, some of the methods will come very close to 100 per cent in effectiveness.

DIFFERENT METHODS OF CONTROL

WITHDRAWAL: This is a quite common practice but it is mentioned here only to condemn it. It is unsatisfactory to both parties, but particularly to the wife, whose climax may be approaching just as her husband withdraws. This may result in a nervous tension that may keep her awake and restless for hours. On the other hand, the wife may be in dread lest her husband should not withdraw quickly enough. Anxiety is present at a moment when there should be absolutely no anxiety. It is a process that is hard on the nerves and health, and frequently fails.

Douching or washing out of the vagina IMMEDIATELY after the intercourse has some value, but it frequently fails. A douche bag holding about two quarts should be supported three feet, but not more, above the nozzle in order to get

PAGE C-7

Mr. Martel.

To Mr. Mercier:

"the right pressure for proper douching. On inserting the nozzle hold the lips of the vagina

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

tight until you feel the water stretching the passage, then release it. Repeat several times. This stretches out any folds in the membrane in the vagina where sperms might be lurking.

For douching use:

- (a) Two quarts of warm weak soapy water made with coconut oil soap or some other GOOD soap. Or
- (b) Two quarts of warm water in which a teaspoonful of powdered Alum has been dissolved. Or
- (c) Two quarts of warm water with 2 tablespoonfuls of household vinegar.

DO NOT USE STRONG G M I C I D E S LIKE B I C H L O R I D E OR MERCURY, CARBOLIC ACID OR LYSOL, EXCEPT ON A DOCTOR'S ORDERS. THEY ARE NOT SAFE FOR GENERAL USE.

SUPPOSITORIES: which contain a spermicide (something that kills the male sperm) and which are introduced into the vagina before intercourse, are a very common form of contraceptive: but should not be used if found irritating.

A formula recommended by Dr. Marie C. Stopes is as follows:

Cocoa Butter (best grade)	1/2 lb.
Borax	5 drams
Salicylic Acid	1 dram
Quinine bi-sulphate	1 1/2 drams.

PAGE C-8

Mr. Martel

To Mr. Mercier:

"Any competent prescription drug-store could make this, and would charge probably about two dollars. It can, however, be made at home. Mix the last three ingredients together very intimately. Then melt cocoa butter over a slow fire, and stir the mixture into it with a wooden spoon. Stir very thoroughly and, taking it off the fire, keep

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

on stirring until it begins to stiffen. Let it cool in a level compact mess end cut it into thirty pieces. Before intercourse put a piece up the vagina as far as your fingers can reach. IT SHOULD BE THERE FIFTEEN OR TWENTY MINUTES BEFORE INTERCOURSE, so that it may be thoroughly melted. Countless thousands of such suppositories are sold in drug stores every week. They are fairly effective, but cannot be absolutely relied on. With a young wife who has not had any children they would be more certain than with a mother of several children. A douch after intercourse would, of course, add to their effectiveness.

CONTRACEPTIVE JELLIES: These are obtainable in many drug.-stores where they are sold under a variety of names ostensibly for the treatment of certain disorders of the vaginal passage such as leucorrhoea. The jelly comes in tubes with a glass or hard rubber nozzle in a box. A 2 oz. tube costs about \$1.00, and has about 20 applications. Most tubes have a key at the end which when turned presses out the jelly.

INSTRUCTIONS FOR USING JELLY: Remove the cap from the nozzle. Screw the nozzle on the tube, and fill

PAGE C-9

Mr. Martel.

To Mr. Mercier:

"the nozzle with jelly, Insert the nozzle three inches, but no more. Then squeeze a level teaspoonful of jelly into the vagina by giving the key on a jelly tube 1 1/4" X 6" barely a 1/4 turn. The application should be made within twenty minutes before intercourse. A douche has no value when contraceptive jelly is used, and may wash out the jelly which kills the male sperms. A douche is occasionally desirable for cleanliness, but when jolly is used a douche should not be taken for at least 12 hours after intercourse. Contraceptive jelly is about 90%

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

efficient for mothers who have had only one or two children. The efficiency lessens with increasing number of children, and in such cases condoms should be used as well as jelly, or the mother should be fitted with a pessary.

If pessaries are fitted properly by a physician or competent nurse they are almost 100% effective, when used as instructed.

CONDOMS: The safest of all contraceptives devices is the condom or French Letter of Safe – a very thin rubber sheath used by the man. Some men object to this method, but where the wife's health, perhaps even her life, may be at stake, no reasonable man will refuse to take advantage of something that is sure and safe.

It is, of course, necessary that each one be perfect. Test by putting water in them, and see if there is any leak when gentle pressure is applied.

PAGE C-10

Mr. Martel.

To Mr. Mercier:

"Condoms should be rolled up on 2 fingers and then rolled on so 1" is left loose, but without any air in it. Vaseline may be rubbed on the outside of the condom or preferably contraceptive jelly, as Vaseline rots the rubber in time. After intercourse is over, the condom should be dropped in clean water immediately. The condom should be washed carefully later, all Vaseline removed, then dried carefully and powdered on both sides and left flat in a box with some powder. If condom breaks or slips off a douche of 2 quarts of water and 4 tables spoons vinegar should be taken at once, as directed on page 6.

RUBBER CAPS OR PESSARIES: are intended chiefly

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

for mothers who have had several children, and must be fitted by a doctor, but can easily be placed in position by the wife alone after receiving instructions from the doctor. See your family physician or some other doctor who can give the necessary instructions. Pessaries fitted properly and used properly with contraceptive jelly are almost 100% efficient.

INSTRUCTIONS.

"Wash pessary with soap and water before using. While the pessary is still wet, smear the upper aide and around the rim with jelly, using in all 1 teaspoonful. The side of the pessary which has the jelly in the centre must be placed directly over the opening to the womb. Before intercourse insert pessary as directed by the doctor.

PAGE C-11

Mr. Martel.

To Mr. Mercier:

"If the pessary, with the jelly in the center, has been put in place properly, as directed, you should be able to feel the small hard muscle at the mouth of the womb through the pessary. The pessary should not be removed for at least 8 hours after intercourse, and 12 hours is better unless a douche is taken. If the pessary is removed in less than 8 hours a douche should be taken immediately, half of the solution before removing the pessary and the other half immediately after. Follow instructions on page 5 re method of douching. After the pessary has been removed wash in soap and water, rinse it in clear water, dry thoroughly on both sides and dust with cornstarch, and place in container used for this purpose only. Never use Vaseline or greasy substances on the pessary. Use contraceptive jelly only. Keep the pessary away from radiator or other heat.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Pessaries cannot be fitted properly for patients whose organs have been injured by frequent child-bearing and are therefore not in a normal position. We recommend contraceptive jelly used preferably with condoms for such cases.

VINEGAR TAMPON: Take a piece of cotton batting about 3" long, 1 1/2" wide, and about 1/2" thick. Tie a double thread, preferably silk, around the middle of this piece of cotton, and leave the thread long enough so that about 9" double will hang free. Soak the cotton in a solution of equal parts of vinegar and water and

PAGE C-12

Mr. Martel

To Mr. Mercier:

"and then squeeze out gently. It may be easier to insert the cotton tampon if a little Vaseline is spread over it. In case a tampon soaked in vinegar and water is found irritating, a paste made by whipping together two parts lard and one part vinegar can be used on the tampon instead of vinegar and water. Hold the wet cotton between finger and thumb, and push it up into the vagina as far as you can place it with your fingers. Allow the end of the 9" double thread to hang out of the vagina so that cotton batting can easily be removed. The cotton should be inserted just before intercourse, and should be left in place at least 8 hours thereafter. Do not use a tampon a second time. Vinegar tampons are not as efficient as pessaries or contraceptive jelly. When cotton batting is not available, a piece of perfectly clean soft linen or cotton rag seven or eight inches square, crimped up, could be used instead. The tampon cannot be lost in the vagina and can be removed with fingers if necessary.

RUBBER SPONGE PESSARIES (for mothers) are a good substitute for the tampon and are also a

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

reasonably good substitute for pessaries in cases where the mother cannot be fitted with a regular pessary. Rubber sponge pessaries can be made by hand out of any fine texture rubber tissue sponge that can be purchased in a drug or department store. A sponge about 5" long by 3 1/2" wide and 1 1/4" thick costs about 20 cents, and is

PAGE C-13

Mr. Martel.

To Mr. Mercier:

"large enough to make two pessaries. The sponge should be cut with a sharp scissors into the hollow cup shape, as shown on the illustration, and the wall of the pessary should be about 1/3" thick. , large women can use a pessary measuring 2 1/2" to 2 3/4" across the full width. A smaller women should make the pessary 1/2" smaller.

Sew a silk thread securely into the bottom of the sponge pessary and allow about 9" to hang free. Be sure to boil the pessary before using it the first time. It is of the utmost importance that the pessary be thoroughly washed after being used, and kept in an antiseptic solution consisting of 15 drops of Lysol or a tablespoonful listerine or a tablespoonful boracic acid dissolved in a cup of water. When the pessary is to be used, squeeze it out thoroughly and soak in olive oil. Then press the edges together and push pessary as far up the vagina as your fingers reach. Let the edges go up first and let the string hang out. The pessary should be left in the vagina at least 8 hours after the intercourse and then removed and washed thoroughly.

"THE SAFE PERIOD" According to the book called "The Rhythm" by Dr. Leo Letz and evidently approved by the Catholic church, the general information is given that "the safe period" for the average women is about 9 or 10 days before, and about 6 or 7 days after the commencement of

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

the menstrual period. This information is likely of uncertain value to the average woman, and less reliable for women whose menstrual periods

PAGE C-14

Mr. Martel.

To Mr. Mercier:

"are irregular. Anyone interested in "the safe period" can obtain more detailed information by securing a copy of "The Rhythm" from the Catholic Truth Society, 67 Bond St., Toronto, or by ordering same from almost any book store.

STERILISATION. There are circumstances in which it is absolutely wrong for parents to risk having any more children. In some cases further pregnancy endangers the life of the mother. In other cases there may be the danger of transmitting physical handicaps or diseases which are an injustice to innocent children. A family in which one or both parents are more or less mentally deficient should also guard against further child-bearing, not only because of the danger of transmitting mental disease, but also because even normal children, in homes of mentally deficient parents are handicapped.

A sterilization operation is the only known method that is 100% effective in preventing pregnancy. Only one parent needs to be sterilized, to avoid further pregnancy. The operation of sterilization in both a man and a woman consists merely of cutting and tying back tubes which in a man are very near the surface, and in a woman are deeper and require an operation which keeps her in the hospital for about two weeks. An operation to cauterize and seal off the tubes at the entrance to the uterus is at present being tried out, and if it proves satisfactory, will make the sterilization of females as simple as that of males. The sterilization of a man is very simple, as it can be performed in a few

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE C-15

Mr. Martel.

To Mr. Mercier:

"minutes, and does not keep him from work for more than a day or two. Sterilization properly performed has no undesirable or injurious effects mentally or physically, and does not involve the removal of any organs.

IT DOES NOT INTERFERE IN ANY WAY WITH THE SEXUAL FUNCTIONS OR THE NORMAL RELATIONSHIP EXISTING BETWEEN A MAN AND HIS WIFE. Medical information on sterilization can be obtained in Dickinson & Bryant's book, "Control of Conception".

In California over 8,000 cases have been sterilized, and a report of a survey made by the HUMAN BETTERMENT FOUNDATION of Pasadena, California, given the following information:

1. Sterilization has one effect only -- it prevents parenthood.
2. It in no way unsexes the party sterilized.
3. It does not increase but diminishes immorality.
4. Sterilization is approved by the families of the patients sterilized, and also by medical staffs, probation officers and social workers.
5. Sterilization permits handicapped people to marry and live happily without the responsibilities of children.

There is a rapidly growing conviction in the minds of thoughtful people that this effective measure of relief, for those people who need it, ought to be more available and used more frequently. It relieves the parents of all

PAGE C-16

Mr. Martel.

To Mr. Mercier:

"further anxiety or trouble with other contra-

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

captives for the balance of life".
I will file both English and French versions;
both as one exhibit.

The Court:
Exhibit 5-B.

Mr. Beament:
The French version came from box 4-B.

Mr. Mercier:
Yes, it will be 5-B.

Mr. Wegenast:
What box?

Mr. Mercier:
It is the Burton box, addressed as LeBreton.

Mr. Beament:
The English pamphlet is a translation of the French.

Mr. Mercier
The French is a translation of the English.

Mr. Beament:
Is just the French pamphlet put in as an
Exhibit from it?

Mr. Mercier
I have read both and they are fairly accurate.

To Mr. Mercier:

Q. Proceed?

A. After interviewing Mrs. Burton I was given this
box; then I proceeded to the home of Mrs. Hector
Goneau, 57 Main Street, but she is now at 39 1/2
Montreal Road. The address on this box is 57 Main
Street. After having an interview with Mrs. Goneau
I was handed this box containing --.

PAGE C-17

Mr. Martel.

To Mr. Mercier:

Q. Just the box and contents?

The Court:

Exhibit 6-B.

The Witness:

A. After interviewing Mrs. Goneau then I proceeded to the home of Mrs. William Murphy, residing at 42 1/2 Beechwood Eastview.

To Mr. Mercier:

Q. You did the same thing and got a box?

A. (No reply).

The Court:

7-B

The Witness:

A. And Mrs. Legare, and after an interview, I was handed this box.

The Court:

8-B

To Mr. Mercier:

Q. The box and contents?

A. Then I proceeded to the home of Mrs. Deslaurier, 10 1/2 Beechwood Avenue. After an interview with her I was given this box with its contents.

The Court:

Exhibit 9-B.

To Mr. Mercier:

Q. And then from there?

A. To the home of Mrs. Arthur Maheux, 59 Cedar Street, Eastview.

Chief Manion:
10-B.

PAGE C-18

Mr. Martel.

The Witness:
A. I also got a box from Mrs. Leo Maheux, 43 Cedar Street, Eastview.

The Court:
11-B.

The Witness
A. I then proceeded to Mrs. George Desjardins, 36 Cedar Street.

The Court:
10-B.

The Witness:
A. I then proceeded to the home of Mrs. A. Louiseize, 3 1/2 Cedar Street.

The Court:
13-B.

The Witness
A. I then went to the home of Wilfred. Sareault, 4 Cedar Street, Eastview

The Court:
14-B.

The Witness:
A. I then went to the home of Mrs. Henri St. Amour, 22B Cedar Street.

The Court:
15-B.

The Witness:
A. I also got a box from Mrs. Sylvester Douire,
University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

1 Elmwood Street.

The Court:
16-B.

Mr. Wegenast:
Is that Eastview?

Chief Manion:
Yes.

The Witness:
A. Mrs. A. Pherand, 72 Beechwood Avenue.

PAGE C-19

Mr. Martel.

The Court:
17-B.

The Witness:
A. Mrs. Arthur Gervais, 148 Vernon Street.

The Court:
18-B

The Witness:
A. Mrs. Theo Groulx, 162 Vernon Street.

The Court:
19-B.

The Witness:
A. Mrs. Romeo Richer, 27 Cedar Street, Eastview.

The Court:
20-B

To Mr. Mercier:

Q. All on the same date?

A. No, different dates.

Q. All of course, in the course of the months of August and September?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. All these boxes were received in August.

Q. And you collected them?

A. In August and September.

Q. Have you them all in now?

A. Yes.

To the Court:

Q. What part of September?

A. Beginning September 6th.

To Mr Mercier:

Q. After you collected all these boxes what did you do?

A. I took possession of them, brought them into the police station, and on the 14th day of September, 1936, I received a telephone call.

Q. As a result of that what did you do?

PAGE C-20

Mr. Martel.

To Mr. Mercier:

A. As a result of that I proceeded to the home of a woman, Mrs. Mouseau, 242 Marier Road, Eastview. I came into the house and I had been given a description.

Q. Tell us what you did when you got into that house?

A. The accused, Miss Palmer, was coming out from the front room, ready to go. I asked the accused her name. She gave it as Dorthea Palmer, age 27, single, residing at 192 Queen Street, Ottawa, employed with the Parents' Information Bureau at Kitchener, Ontario.

Mr. Wegenast:

Your Worship, I think we have got to the point where we should raise the admissibility of this evidence.

Mr. Mercier:

If my learned friend will wait a minute, until we get the statements.

The Court:

He is giving statements.

Mr. Mercier:
So far, the name, address, age and occupation.

Mr. Wegenast:
You have now the connection with the Parents' Information Bureau.

The Court:
The point is well taken.

Mr. Wegenast:
I am entitled to cross examination, I think.

To Mr. Mercier:
Q. Yes: after you obtained the names, age and address?
A. The accused asked if any objection.

PAGE C-21

Mr. Martel.

To Mr. Mercier
Q. Tell the court all you know of the statements, by whom and actually what you did?
A. I asked the accused if she had any objection to coming to the police station and she said, no.
Q. Go on?
A. She then came to the police station accompanied by me. She stated she had no objection to walking on the street with me.
Q. Why did she say that?
A. I asked if she had any objection to walking on the street with me and she said none. We arrived at the Eastview police station about, 2:25 p.m. I told her she was coming here to be questioned.
Q. Yes?
A. When we came to the station the Chief was away at lunch. The Chief arrived at about the hour of 3:50. He had a conversation with the accused. The information and warrant were then made out. The warrant was then read to her.
Q. The accused was told what she was charged with?
A. She was warned.

To the Court:

Q. By whom

A. Chief Manion.

To Mr. Mercier:

Q. Is this the warrant read to her?

A. Yes.

The Court:

Exhibit 21-B charging her with an offence under 207.

To the Court:

Q. What is the date of the warrant?

A. 14th September.

PAGE C-22

Mr. Martel.

To Mr. Mercier:

Q. After the warrant was read to her what was done?

A. She was then placed under arrest. After, she, on her own free will, without being questioned – she made a statement.

Q. She was warned before that statement?

A. Yes.

To The Court:

Q. What was the nature of the warning?

A. (No reply).

To Mr. Mercier:

Q. Yes, what was the nature of the warning?

A. The warrant was read to her and she was then asked: "Do you want to say anything in answer to the said charge. You are not obliged to say anything but whatever you will say will be taken down in writing and may serve in evidence".

Q. Any promises made?

A. None.

Q. Any threats?

A. No threats.

Q. And was anything else said before the statement was made?

A. No she just started to talk.

Q. You said she made the statement of her own free will: what do you mean by that?

A. She said she did expect to have trouble.

Mr. Mercier:
Strike that out.

To Mr. Mercier:

Q. That is all that was said before the statement was made?

PAGE C-23

Mr. Martel.

To Mr. Mercier:
A. Yes.

To The Court:

Q. Who was present?

A. Her, the Chief and myself.

Mr. Mercier:
My learned friend can now cross examine.

CROSS EXAMINATION

To Mr. Beament:

Q. Constable, when you first got to the police station you had to wait some hour or so for Chief Manion?

A. Not some hours, about three-quarters of an hour.

Q. You got there about 2:40?

A. Yes and the Chief came at 3:50.

Q. [An] hour and ten minutes, and during that time Miss Palmer asked could she phone for her solicitor?

A. She did not.

Q. Did she ask to use the phone at all?

A. No, not to me.

Q. Was she alone with you?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

Q. She did not ask anybody, if not you?

A. No.

Q. Did she ask the Chief?

A. No.

Q. In your presence?

A. No.

Q. At no time?

A. No.

PAGE C-24

Mr. Martel.

To Mr. Beament:

Q. Suppose she had refused to come to the police station what would you have done?

A. (No reply).

The Court:

It is a supposititious question.

To Mr. Beament:

It goes to the root of it.

Mr. Mercier:

The evidence of the officer is that he asked the accused to walk with him to the police station. She did and he did and what she might have done --.

Mr. Beament:

I wanted to test the veracity of this evidence.

The Court:

By asking what he would have done if such-and-such circumstances arose -- how that tests has veracity I don't see -- how a hypothetical question --.

Mr. Beament:

We propose to prove the officers did bring pressure to bear on this woman. How they got her here to the police station is one element.

The Court:
Yes, but you are asking a hypothetical question.

Mr. Mercier:
It should be cross examination on what he did,
not thought.

Mr. Beament:
No, on his attitude when he picked this woman up –
that is relevant.

PAGE C-25

Mr. Martel.

Mr. Mercier:
But not to ask what he would have or might
have done under a different set of circumstances.

The Court:
I see what Mr. Beament is after: I think it
can be attacked in another way.

Mr. Mercier:
The officer has made a statement: he is being
cross examined on that statement and it would
be most improper and irrelevant to ask what
he might have done.

The Court:
I do not quite entirely agree with Mr. Mercier;
I think it is relevant: what was the intention
of the officer when he approached Miss Palmer?

Mr. Beament:
Exactly, the attitude is relevant: whether
there was improper pressure brought to bear.

Mr. Mercier:
What he would have done if he did not do what
he did?

The Court:
That is round about.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer
collection. Examinations, volume 1: first count, the 21 women, Constable Martel,
Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Beament:

It must be round about. In asking a witness "Are you telling the truth" -- the cross examiner is entitled to go round about.

The Court:

Any evidence given now by the witness what he would have done under a certain set of circumstances, if a, b, c had happened -- when that evidence is given a month or so after the incident occurred, it is not very weighty evidence because the accused may not have consider-

PAGE C-26

Mr. Martel.

The Court:

ed those circumstances happening as a matter of fact, and what he thinks now he would have done under those circumstances might not be the same as at that time.

Mr. Beament:

But that goes to the weight of the evidence, not the relevancy.

The Court:

I will allow your examination.

Mr. Mercier:

Subject to my objection?

The Court:

Yes.

To Mr. Beament:

Q. If Miss Palmer had refused to come with you to the police station what would you have done?

A. On complaints received I would have laid a charge and brought her here by warrant.

Q. You had no warrant at the time?

A. No.

- Q. You would have taken her here by force?
 A. No, I had her name and address.
 Q. And you would have come and laid a charge on the previously alleged offences?
 A. Yes.
 Q. But in relation to the Maheax or Mousseau offence that may have occurred that day?
 A. No, the others.
 Q. Then you brought her back to the police station?
 A. Yes.
 Q. And waited for Chief Manion?
 A. Yes.

PAGE C-27

Mr. Martel.

To Mr. Beament:

- Q. When he came what happened - had you any conversation with her during this hour and ten minutes?
 A. She did talk.
 Q. Did you warn her?
 A. What she said did not concern this business.
 Q. It was just a pleasant afternoon in the police station - what happened when Chief Manion arrived?
 A. He asked her name and address, what she was doing, and in reply to her answers the information was typed out.
 Q. Before the information was laid all Chief Manion knew was the name and address?
 A. Yes, and what she was doing.
 Q. What she was doing?
 A. Yes, occupation.
 Q. That is all he knew?
 A. That is all she said.
 Q. Yes, then the information was typed?
 A. Yes, and the warrant.
 Q. Who was the informant?
 A. I was.
 Q. Then the information was sworn?
 A. Yes.
 Q. By whom?
 A. A J.P.
 Q. Who?

A. Begin.

Q. Where was he?

A. In his office.

Q. Was he there all the time?

A. In his office, as clerk.

PAGE C-28

Mr. Martel.

To Mr. Beament:

Q. He hadn't been in the police station?

A. No.

Q. What happened?

A. He signed the information and the warrant and I came back and gave the warrant to Chief Manion and he executed the warrant.

Q. Yes, did he read the warrant?

A. Yes, charging her with the offence. After the warrant was read she was given the usual warning: he touched her on the shoulder.

Q. You look at that book when you say "after the warrant was read she was given the usual warning; he touched her on the shoulder"?

A. Yes.

Q. Did you make a note in that book at the time of what Chief Manion said?

A. Yes.

Q. You wrote it down in full?

A. Yes, sir.

Q. Let me see the book.

A. No - if the court wants to.

Q. It is alleged to be a contemporaneous note: it is not in correct order.

A. (No reply)

Mr. Beament:

I say it is alleged to be a contemporaneous note and it is not in chronological order.

He can only refer to it on that ground; he cannot read evidence; he can refer to notes made at the time.

Mr. Mercier:
If the officer reads anything from notes made at

PAGE C-29

Mr. Martel.

Mr. Mercier;
that time he can refresh himself from his notes –
it is what he says was done at the time.

Mr. Beament:
I don't believe it.

The Court:
It is up to you; you said "I don't believe
him".

Mr. Beament:
I want to know why it is not in [chronological]
order in his note book.

Mr. Mercier:
I submit that if the officer recollects and
swears positively--

The Court:
It is a question of circumstances under which
the notes were made.

Mr. Beament:
Yes, and he will not let me refer to his note-
book to see if it is in correct order.

Mr. Mercier:
Notes need not be taken in a certain rank,
it is not signed.

Mr. Beament:
My learned friend does not express my point as
well as I would like to have it expressed. I am
not objecting to the sufficiency. I have no
doubt when he read, it was what was written in
this notebook, but I am entitled to test whether

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer
collection. Examinations, volume 1: first count, the 21 women, Constable Martel,
Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

or not it is a contemporaneous note and one thing that may have some bearing is the order in which it is kept in his notebook -- as to whether it is kept chronologically. If made at the time it was

PAGE C-30

Mr. Martel.

Mr. Beament:
on the 14th of September.

Mr. Mercier:
My learned friend might find out if the book was kept in chronological order.

To The Court:

Q. You said they were contemporaneous?

A. I went to investigate the case; they were marked in the back of the book, the names and addresses, and this is the warning.

Q. I am not going to examine the book but there appears to be some notes in one part of the book and some in another.

A. (No reply.)

Mr. Beament:

This document has been produced and referred to by the officer and he refuses to show it to me.

To the Court:

Q. Have you any objection to Mr. Beament seeing that?

A. Yes, Your Worship.

Mr. Beament:

I think it improper for the Crown to refer to documents and not let the Defence see them.

The Court:

I think, Mr. Beament, you are entitled to see the notes to which he is referring, but not to go through that whole book. The notes to which he was referring to refresh his memory you

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

(Constable Martel) must show Mr. Beament, but not the whole book.

Mr. Beament:

In a case before Justice Kerwin in Kingston in

PAGE C-31

Mr. Martel.

Mr. Beament:

which I was engaged a traffic police officer produced a notebook and the same question as to whether it was a contemporaneous note arose. His Lordship ruled the parties were entitled to see the whole notebook over the objections of the police officer just to see if it was contemporaneous - in [chronological] order. I am sorry it is not a reported case but I was in it.

Mr. Mercier:

If that question is gone into it should be established fully how the officer keeps his book. In answer to question if the notes were made at the time he says yes.

The Court:

Let me see the book. (Constable Martel shows the book to the Court). I can see there are matters in that book that do not concern this case.

Mr. Beament:

It is not the substance but the dates I want.

The Court:

There are matters there that do not come into this case.

Mr. Beament:

No other than the dates known in the book may have some bearing on the question on which we are asking the ruling.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

The Court:

Anything in the book relative to this case is open to inspection as notes to which the constable was helping his memory, but anything in that

PAGE C-32

Mr. Martel.

The Court:

book with no reference to this case, need not be produced.

Mr. Beament:

Anything, A. relative to the case and B. anything relevant to the [credibility] of the witness is open for discussion on cross examination and the arrangement of the entries in this book may not be relevant to the charge against the accused, but are relevant to the [credibility] of the witness.

The Court:

I order the Constable to show you any references in that book dealing with or having reference to this case.

Mr. Beament:

Not any other references such as dates in the book unless they deal with this case?

The Court:

Unless you can show me the reported cases.

Mr. Beament:

I don't know of any, except the one I was in.

Mr. Mercier:

I know of none.

To Mr. Beament:

Q. Now, where is the first entry in that book with reference to this case?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Right there.

Q. What you were hiding from me was an entry with reference to this case?

A. Yes, you wanted to see this.

Mr. Mercier:

If it is something not given in evidence.

PAGE C-33

Mr. Martel.

Mr. Beament:

Surely we are entitled to cross examine this witness on anything in this case?

The Court:

No, it is exclusively the admissibility of this evidence: Later on it may be anything.

Mr. Beament:

Q. Let me see the first entry, I want to see what is the date?

A. (No reply).

Mr. Mercier:

If it is information or a name the officer has received he is absolutely right in not showing it.

The Court:

You want to see the chronological order of the entries?

Mr. Beament:

It makes it impossible for me to establish these entries were made contemporaneously unless I can see the manner in which they are entered in this book.

Mr. Mercier:

The officer certainly is not obliged to give you any information as to where he obtained his information: that is well established.

Mr. Beament:

If Your Worship rules I might see any entries with regard to this case.

The Court:

That might ask the Crown to disclose its whole case
I want to be fair to the accused and all the parties

PAGE C-34

Mr. Martel.

Mr Beament:

I submit under the guise of not disclosing this case the Crown cannot withhold evidence to which the accused is entitled. It may be this will result in the disclosure of some evidence the defence could not get at this stage but could get at a later stage. But surely that is less ill than to take away from the accused the right to which she is entitled, namely, the right to test the credibility of this witness of an important matter.

To the Court:

Q. Constable, you were going to show Mr. Beament a certain entry?

A. Yes.

Q. Now what is that entry?

A. In connection with the warning given to the accused, after her arrest.

Q. And is there anything in that took prior to that entry relevant to this case?

A. Yes, Your Worship.

Q. How many entries: and on how many pages are there entries?

A. Ten.

Q. Prior to the entry you were going to show Mr. Beament?

A. Yes -- prior to the entry how many pages concerning this case?

Q. Yes -- prior to the entry you were going to show Mr. Beament?

A. That is the first page, Your Worship.

Q. The entry you were going to show Mr. Beament was the first page?

A. Yes.

Q. There is nothing in the book ahead of that page,

PAGE C-35

Mr. Martel.

To the Court:

towards the front of the book?

A. In connection with this case?

Q. Yes?

A. No.

Q. You swear that under oath?

A. Yes. I swear that under oath.

To Mr. Beament:

Q. Constable, all those entries appearing in the book after the entry you were willing to show me, took place prior in point of time to that entry?

A. After.

Q. The first entry was in August, 26th?

A. That is my affair.

Q. You showed that to me as being an entry in connection with this case?

A. That is right.

A. It is dated August 26th?

A. Yes.

Q. This warning was given on what date?

A. September 14th.

Q. All these entries to which you referred -- you referred to them continuously when putting in exhibits?

A. Yes.

Q. All those entries were made sometime in August?

A. Yes.

Q. They all appear later on in the book than the entry?

A. (No reply)

The Court:

You asked if all entries relevant to these exhibits were made in August?

Mr. Beament:
Yes.

PAGE C-36

Mr. Martel.

The Court:
Yes. I understood him to say the majority of these exhibits he obtained early in September.

To the Court:
Q. You had those entries in the book before you got the exhibits?
A. Yes.

Mr. Beament:
I have August 26th: he said he started on that date, called up so-and-so and no other date is mentioned. The only date he mentioned was Wednesday, August 26th.

The Court:
I asked him when and he said August and early September.

Mr. Beament:
I call attention to these entries. They are August 26th and the warning appears in point of fact in an earlier piece in the book, filled in in crabbed hand -- by hand. I contend this is not a contemporaneous note.

Mr. Mercier:
My learned friend might ask the witness' explanation why this was done that way.

Mr. Beament:
I want to find out first what was done before why

To Mr. Beament:
Q. Did you make a contemporaneous note on the date the accused was arrested?
A. I took notes.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Right then in the book at the time or shortly after?

A. Shortly after.

PAGE C-37

Mr. Martel.

To Mr. Beament:

Q. You were referring to the notebook when giving evidence with regard to her arrest?

A. Yes.

Q. Show me the notes?

A. Well, Your worship, it is a personal question again and in connection with the informant I don't want to show these. I will show the court if you wish.

Mr. Beament:

It is a clear case, Your worship; this witness continuously referred to his notes throughout his evidence.

To the Court:

Q. You refreshed your memory from certain notes?

A. Yes, I am willing to show the court.

Mr. Mercier:

He refreshes his memory from certain notes and gives evidence. My learned friend wants to find out when the accused was warned: let him base his questions on that. I submit the court should know first if it is marked in the book, when, and if not found in its place, why it is not in its place.

The Court:

I would like to know that point.

Mr. Beament:

I come to a clear point of argument. I ask him to produce only notes dealing with the lady's arrest. He admits he has them; and said he made them at the time or very shortly after and he refers to

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

them.

The Court:

He objects because they refer to the informant.

PAGE C-38

Mr. Martel.

To the Court:

Q. I want to know why matters of informants are mixed up with matters from which you have refreshed your mind?

A. I am willing to show the date of arrest and statements.

To Mr. Beament:

Q. It appears to me there are certain notes of the day in question on which the accused was brought to the police station from which you refreshed your memory?

A. Yes.

Q. It also appears intermingled with those notes are other notes?

A. Yes.

Q. How do you come to have those notes intermingled with what went on that day if you have chronological order in your notes on what went on?

A. There was a space left at the bottom of my note book and I entered the warning that was given her in that space.

Mr. Mercier:

Q. When did you enter it?

A. At the time it was said.

To the Court:

Q. Then the notes do not read [chronologically]?

A. I took notes of it Your Worship, and entered them.

To Mr. Beament:

Q. These are not your original notes?

A. I have the original notes.

To the Court:

Q. In the book?

A. Yes, now I will show the court the time, maybe the

PAGE C-39

Mr. Martel.

To the Court:

date was not -- but the time.

Q. When was that note entered in the book?

A. On September 14th, 1936, at the hour of 4:45.

Q. At 4:45?

A. Yes.

To Mr. Beament:

Q. Have you got a note of that?

A. Yes.

To the Court:

Q. That would be almost an hour after Chief Manion arrived?

A. Yes.

The Court:

There is something to work on, Mr. Beament.

Mr. Beament:

Yes, this started at about two.

The Court:

She was in the office until about 3:50 when Chief Manion arrived and asked her name, age, occupation; the warrant was typed and the information, and they were sworn.

To the Court:

Q. And that took to 4:45 p.m.?

A. Yes.

Mr. Beament:

That covers approximately two hours.

The Court:
There was nothing until Chief Manion arrived.

Mr. Beament:
She was taken into custody.

The Court:
That is the question.

PAGE C-40

Mr. Martel.

Mr. Beament:
My friend's arguments presently suppose this witness's statements must be accepted without question.

Mr. Mercier:
No.

The Court:
No.

Mr. Beament:
This witness' evidence leads up to a confession or admission and he has referred to notes and I want to see the notes dealing with this matter.

The Court:
He has stated this warning was written in a blank space at the bottom of the page where there was other writing.

Mr. Beament:
Yes, and we are entitled to the whole story of whether he told the truth: the information was sworn and a warrant issued - we are entitled to the whole story. He has been allowed to read it.

The Court:
It was not read.

Mr. Beament:

He read the warning verbatim and refers to notes on the whole story and admits he did so. Are we to understand the witness using notes in a circumstances of this kind -- the defence are precluded from seeing those notes?

The Court:

No, I certainly think you are entitled to see the notes to which he refers.

PAGE C-41

Mr. Martel.

Mr. Beament:

That is what I am asking for.

The Court:

You asked before for the whole book. You are certainly entitled to see those.

To the Court:

Q. If there are other things on the page not referring to this matter you can cover them up but the notes you referred to in refreshing your memory, you must show Mr. Beament. How you can manage it is up to you?

A. (No reply).

Mr. Mercier:

Mr. Beament is not entitled to anything else.

Mr. Beament:

I am only looking at September 14th.

Mr. Mercier:

That is all I want you to look at.

(The witness shows part of book).

To Mr. Beament:

Q. This brings us up to the arrival of Chief Manion?

A. Yes.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. What happened then - now the witness refuses to show further notes: he has the book clutched firmly in his left hand?

A. Does the Court order I should show them.

To the Court:

Q. You used those notes to refresh your memory?

A. Yes

Q. Any notes you used to refresh your memory you must show to Mr. Beament?

A. All to the statements in writing.

Q. No, we have not come to the statement yet, but up to there?

PAGE C-42

Mr. Martel.

To the Court:

A. (Witness shows book).

To Mr. Beament:

Q. Without showing the statement show how far it continues in the book. I want to see it in relation to the warning -- just count the pages if you will? If you are so coy about it?

A. Nine pages.

Q. Where is this alleged warning in relation to this statement?

A. At the bottom of the page.

Q. Five or six pages ahead?

A. No, the next page to it; it is two pages to September 14th.

Q. And the warning does not appear before the beginning of the statement?

A. No.

Q. I suppose you have been a policeman a long time?

A. Yes.

Q. And often present when people are arrested and warned?

A. Yes.

Q. Do you always take notes when a person is arrested and accused?

A. Yes.

Q. And you always copy the warning in full?

A. No.

Q. That is the usual warning?

A. Yes.

Q. You don't usually copy it in full?

A. No.

Q. Have you ever copied it out in full?

A. Sometimes.

Q. Have you ever, except on this occasion?

A. No.

PAGE C-43

Mr. Martel.

To Mr. Bement:

Q. And it is not in [chronological] position -- do you still maintain it was put in at the same time as given the accused?

A. Yes.

Q. And it is the only time you have ever put it in full?

A. It is not in full. Do you wish to say anything

B. in relation to the charge: you are not obliged to

C. say anything, but whatever you say" --

Q. And you left out: "may be taken down and used against you"?

A. (No reply)

Mr. Mercier:

"Used in evidence".

To Mr. Beament:

Q. And you ran out of the page?

A. Yes.

Q. And you say it does not appear in correct order in your notes?

A. I took the notes.

Q. It does not appear in correct order in your notes?

A. No.

Q. But you put it in there so when, I suppose, you came to Miss Palmer's trial: "this was the warning given"?

A. I put it in as the warning was given.

Q. I am talking about this particular warning: wasn't it put in there so you could come down here and refresh your memory?

A. Yes.

Q. And in order to refresh your memory would you have to say it was made at the time the warning was given?

A. No.

PAGE C-44

Mr. Martel.

To Mr. Beament:

Q. How long have you been a police officer?

A. Thirteen years.

Q. Have you ever been examined on admission and confessions before?

A. Yes.

Q. And you don't know the entry must be made at the time?

A. Yes, or a short time after.

Q. Did you know it or did you not?

A. I did know it.

Q. You did know that and you entered it in full for the first time in your life?

A. Yes.

Q. All right.

RE-DIRECT EXAMINATION

Mr. Mercier:

Q. Then the warning was read before any statement was given by Miss Palmer?

A. Yes.

Q. And the warning -- you swear positively -- the warning as stated by you to this court was given Miss Palmer before she made any statement?

A. Yes.

Q. Step out and we will call Chief Manion?
(Witness temporarily retired).

RE CROSS EXAMINATION.

(Witness recalled)

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Beament:

There is one question if I may have Your Worship's indulgence, I would like to ask Mr. Martel.

PAGE C-45

Mr. Martel.

The Court:

What is the question?

Mr. Beament:

I want to know when he took this bag from Miss Palmer?

Mr Mercier:

Mr. Martel is not through giving his evidence.

Mr Beament:

I know.

The Court:

Does this lead to the admissibility of this voluntary statement?

Mr. Beament:

Yes, we submit they had all the information from her before the charge was laid if their chronology is correct.

Mr. Mercier:

I don't know whether this refers to any statement voluntary or not.

To Mr. Beament:

Q. That bag?

A. Yes.

Q. We won't put it in as an exhibit now?

A. Yes.

Q. Was it Mrs. Mouseau?

A. Yes.

Q. Did she carry it to the station?

A. Yes.

Q. It got out of her custody sometime?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes. We took possession after the warrant was read.

Q. Before or after she made a statement?

A. After.

PAGE C-46

Mr. Martel.

To Mr. Beament:

Q. And you had not seen the contents of the bag until after she made the statement?

A. I did not.

Q. Had the bag been opened in your presence?

A. After she was arrested, yes.

Q. And before the statement was made?

A. As she made her statement.

Q. During the statement?

A. During the statement.

The Court:

All right.

(Witness temporarily retired)

PAGE C-47

Chief Manion.

Chief Richard Manion, duly sworn, deposed.

The Court:

This examination is limited solely to the admissibility of this statement.

To Mr. Mercier:

Q. You are Chief of Police of the town of Eastview?

A. Yes, sir, I am.

Q. You were present on the 14th of September in your office when Miss Palmer was there?

A. Yes. I [came] in on the 14th of October.

Q. September?

A. September, rather.

Q. About what time?

A. About 3:45.

Q. In the afternoon? And when you came in who did you

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

see?

A. The accused.

Q. And who else?

A. Constable Martel.

Q. Where were they?

A. A women by the name of Mrs. Blackburn --

Q. Mrs. Blackburn was in your office at the time?

A. Yes.

Q. What happened after you came in?

A. After I came in I interviewed Mrs. Blackburn.

Q. In the presence?

A. Of both Martel and the accused. This interview took possibly 20 or 25 minutes.

Q. Was Mrs. Blackburn there in [connection] with this case?

A. She had nothing at all to do with it.

Q. While this investigation took place Miss Palmer was in your office?

A. Yes.

PAGE C-48

Chief Manion.

To Mr. Mercier:

Q. It lasted about 25 minutes?

A. Yes.

Q. And after you had this conversation or interview with Mrs. Blackburn, did she go?

A. She left the office and Miss Palmer gave me her name as Dorathea Palmer.

Q. And?

A. I asked her occupation: and she said she ran a bookstore at the corner of Bank and Queen. She said she was asked to accompany an officer from 242 Marier Road and readily consented.

Q. She told you that she was asked to accompany an officer and readily consented?

A. She readily consented, "I will show you what I am doing" and upon that she opened that bag and said, "this is what I am exhibiting to the various houses".

Q. That will be exhibit 22-B, a bag containing -- were these in the bag?

A. Yes.

Q. One box and contents, and certain cards?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. (No reply).

To the Court:

Q. You are telling us what happened in [chronological] order?

A. Yes.

To Mr. Mercier:

Q. And certain illustrations?

A. Yes, she further added, "I always carry a box with me for the purpose of demonstrating. I am fully protected under Section 107", she said, of the Criminal Code.

PAGE C-49

Chief Manion.

To Mr. Mercier:

Q. Had she been warned at this time, officer?

A. No warning, it was a statement leading up to her arrest. I asked her if she was conversant with section 207 of the Criminal Code, to which she replied, "I am given to understand by the people that hired me that I was fully within the meaning of that section", referring to section 207.

Q. Go on?

A. To which I replied; "You may be, but as far as I am concerned there is a breach of section 207 of the Criminal Code transgressed right here". Whereupon I left her to obtain the form of warrant which I typed myself also the form of charge – exhibit 21-B - this warrant was subsequently handed to me by Constable Martel after being signed. Whereupon I read the warrant fully to the accused.

Q. What does the warrant say: what is the charge?

A. "THAT she, the said Dorothy Palmer between the first day of August, 1936 and the first day of September, A. D., 1936, at the Town of Eastview aforesaid, did unlawfully and knowingly, and without lawful justification or excuse, did offer to sell, or publish

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

an advertisement of, or have for sale or disposal, a means of instructions, and articles, intended or represented as a means of preventing conception."

PAGE C-50

Chief Manion.

To Mr. Mercier:

Q. You read this warrant to the accused?

A. Yes.

Q. After that what happened?

A. I immediately warned her in the following words: "You are not obliged to make a statement unless you so desire. If you do make a statement it may be taken down in writing and may be used as evidence".

Q. After that?

A. The accused then stated -- .

Q. Were there any promises laid out to Miss Palmer?

A. No promises.

Q. Any threats?

A. No threats. She was very pleasant, in fact the whole interview was exceedingly pleasant.

Miss Palmer:

Thank you.

To M. Mercier:

Q. You then took the statement?

A. Yes.

Q. At that place?

A. Yes.

CROSS EXAMINATION

To Mr. Beament:

Q. You heard Martel's evidence?

A. Yes.

Q. You were here when he made it?

A. Yes.

Q. You heard him say after you arrived you got from her, her name, address and occupation?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

PAGE C-51

Chief Manion.

To Mr. Beament:

Q. You heard him say, having got her name, address and [occupation], there was no further conversation until after the warrant was obtained and read?

A. I don't recollect.

Q. Martel said after Manion arrived about 3:50 he asked her name and address and occupation and then the information and warrant were made out and then no further conversation took place until after the warrant was read?

The Court:

You may be right: I don't recollect.

Mr. Beament:

We will have the notes read.

(Reporter reads notes)

"Q. And you waited for Chief Manion?

A. Yes.

Q. When he came what happened -- had you any conversation with her during this hour and ten minutes?

A. She did talk.

Q. Did you warn her?

A. What she said did not concern this business.

Q. Just a pleasant afternoon in the police station - what happened exactly when Chief Manion arrived?

A. He asked her her name and address and what she was doing and in reply to her answers the information was typed out.

Q. Before the information was laid all Chief Manion knew was the name and address?

PAGE C-52

Chief Manion.

(Reporter reads notes)

"A. Yes, and what she was doing.

Q. What she was doing?

A. Yes, occupation.

Q. That is all he knew?

A. That is all she said.

Q. Yes, then the information was typed?

A. Yes, and the warrant."

To Mr. Beament

Q. You heard that?

A. Yes.

Q. Is that correct?

A. No.

Q. Is that all that was said?

Mr. Mercier:

Let him answer.

To Mr. Beament:

Q. I am asking if you asked her her name and address and occupation and if that is all was said?

A. I would not be answering the truth.

Q. You heard Martel say that?

A. Yes.

Q. Was Martel's evidence in that correct?

A. He might have errored.

Q. Was the evidence he gave correct?

A. Not as far as my conversation with the other women was concerned.

Q. You agree with his evidence?

A. In some materials, I was in 25 minutes.

Q. I am making no point about Mrs. Blackburn; from the moment or as soon as you began to take up business with Miss Palmer Martel said you asked her name, occupation and that is all was said and the

PAGE C-53

Chief Manion.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

To Mr. Beament:
information was laid.

Mr. Mercier:
Martel said there was no talk.

Mr. Beament:
In cross examination we find out what the talk was.
This is proper cross examination. My learned
friend keeps talking all the time in my left ear.

The Court:
Go ahead, Mr. Beament.

To Mr. Beament:
Q. So, Martel was not telling the whole story?

A. It is the evidence I have given.

Q. It is what really happened?

A. Yes.

Q. In other words, instead of stopping short,
laying the information, reading it, you did have a
certain conversation with her?

A. Very short, as soon as she came to the breach
of section 207.

Q. First of all you told us she opened this bag –
[Exhibit] 22.-B.

A. Yes.

Q. And she gave you a short resume of what was in
the bag?

A. Yes.

Q. And she told you as far as the appliances were
concerned they were carried for demonstration purposes.

A. Quite correct.

Q. And she told you she was going around place
to place with these?

A. Yes.

PAGE C-54

Chief Manion.

Mr. Beament

Q. And she felt she was saved by the saving clause

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer
collection. Examinations, volume 1: first count, the 21 women, Constable Martel,
Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

of 107 - erroneously?

A. Quite right.

Q. Obviously section 207?

A. Yes.

Q. She explained all this before the information was laid?

A. Yes.

Q. And you had it before the information was laid?

A. I had it before the information was laid.

Q. You had the information from her before you laid the information?

A. I had the information it was laid upon.

Q. You did not lay it?

A. I was responsible, partly mapping it out.

Q. You are quite clear the bag was open at that time?

A. Yes, she opened it shortly after she gave me the name and address.

Q. Martel swears it was opened after the warning was read?

A. (No reply)

Q. The first time the bag was opened: she had it in her possession up to the time after the warning was given and then for the first time it was opened, is that correct?

A. She had the bag in her possession up to and including the warning being read.

Q. Is that correct: Martel swore the first time the bag was opened was when making the statement after the warrant was read and you warned her?

A. (No reply)

PAGE C-55

Chief Manion.

To Mr. Mercier:

That is improper: was it correct as Martel swore. You should ask accurately what was said and done.

Mr. Beament:

I can understand when two police officers tell, diametrically opposed stories and I think it is proper for me to call to the attention of one police

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

officer what the other said in his presence.

The Court:

Not whether he agrees.

Mr. Beament:

Martel swore the first time the bag was opened was after the warning was read.

The Witness:

A. I do not agree with that.

To Mr. Beament:

Q. You said the bag was opened by Miss Palmer very shortly after she had given you her name and occupation?

A. Yes.

Q. And before you gave the warning?

A. Yes.

Q. Three things came -- the information, the reading of the warrant and the warning?

A. Yes.

Q. That is correct?

A. Yes.

Q. But before that there was some conversation and the opening of the bag and some further conversation after the warning: is that correct?

A. Yes.

Q. You did not keep any note of this?

A. A mental note.

PAGE C-56

Chief Manion.

To Beament:

Q. You did not make any written note of the matter?

A. I did not.

Q. Did you see Constable Martel's notes before he brought them into the court?

A. As a matter of fact I instructed him to make those very notes.

Q. With which you now disagree? If his notes are the same as his evidence, you disagree?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Mercier:

That is improper: he cannot be asked if he agrees with Martel's notes.

The Court:

The proper way is for this witness to tell us what happened and the other witness to tell us what happened and see what we are going to believe. Naturally if he tells a different story you cannot believe the other witness told a whole story.

Mr. Beament:

No further questions.

The Witness:

A. I have not completed my evidence.

The Court:

This is just -- .

To Mr. Beament:

Q. Was Mrs. Blackburn there when this was going on?

A. No.

Q. She left before this started?

A. Yes.

(Witness temporarily retired)

PAGE C-57

Admissibility

ADMISSIBILITY OF STATEMENT

Mr. Mercier:

That is all the evidence we are prepared to submit as to obtaining a statement. I think the statement should be admitted in evidence.

The Court:

What do you say?

Mr. Beament:

I can hardly imagine more unsatisfactory evidence than given here. It is impossible for them to say: we have one keeping notes, if those notes are accurate the Police Chief is inaccurate; it seems to me it would be very dangerous to accept statements of that kind.

The Court:

The onus is on the Crown in proving warning was given: it is to prove any statements made were made voluntarily and the giving of warning is merely to help them satisfy the onus placed on them.

Mr. Mercier:

There were no promises or threats -- it was a pleasant afternoon.

The Court:

There is no legal necessity to give a warning: it is simply to help the Crown show the statement was made voluntarily.

Mr. Beament:

It is a rule of law.

The Court:

Yes, to help the Crown. The whole question is not whether a warning was given but whether the statements were made voluntarily.

PAGE C-58

Admissibility.

Mr. Beament:

And judges have established it is better to give as warning in the form they have laid down.

Mr. Mercier:

There is sworn evidence a statement was given and there is no influence of hope, fear or threats.

The Court:

I have no hesitation on the evidence here, although there is a certain degree of conflict in the evidence what happened up to the time the warning was given. I am satisfied the Crown had discharged the onus placed on it that her statement was voluntary.

She voluntarily accompanied the police to the station, kept the bag in her possession until warned, made statements, and there was no threat made or favour offered.

Mr. Beament:

Better put Miss Palmer in.

The Court:

I thought you were resting.

Mr. Beament:

If Your Worship feels it is sufficient perhaps we will put Miss Palmer in.

The Court:

Adjourn until 2:15 for lunch.

PAGE C-59

Miss Palmer.

Miss Dorothea Palmer, duly sworn, deposed.

To Mr. Beament:

Q. Miss Palmer, you are the accused?

A. Yes.

Q. On the 14th of September last [year] you were at the home of Mrs. Mousseau in Eastview?

A. Yes.

Q. Is that correct?

A. That is right.

Q. And there, after having had certain conversation with Mr. and Mrs. Mousseau, you met Constable Martel, who gave evidence this morning.

A. Yes.

Q. When did you first see Constable Martel?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Leaving the house, he was on the steps outside talking to Mr. and Mrs. Mousseau.

Q. What happened?

A. He asked me to step inside.

Q. Did you tell him your name?

A. Yes.

Q. You stepped inside?

A. Yes, into Mrs. Mousseau's house.

Q. What happened then?

A. He asked me to go to the Eastview police station, Chief Manion wanted to ask me a few questions.

Q. What happened then?

A. We came down.

Q. Do you remember what time that was?

A. Roughly, two or two-fifteen.

Q. You came in with Constable Martel?

A. There was no one there, two or three men were running in and out; Chief Manion was not there.

Q. You remained there with Constable Martel?

A. Yes.

PAGE C-60

Miss Palmer.

To Mr. Beament:

Q. Did anything happen while you were alone with Constable Martel?

A. I asked what happened and if there was a [possibility] of being held and he said he did not know and I asked to use the telephone and he said not until Chief Manion would arrive: that was about all.

Q. Was there any suggestion of a charge?

A. No.

Q. When you asked to phone was it suggested you were being held on a charge?

A. No.

Q. You say at that time Chief Manion was not at the station?

A. No.

Q. He subsequently arrived?

A. Since the Sergeant said an hour I presume it was an hour when he arrived.

Q. When he arrived what took place?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. He was busy with a woman for sometime and when she was gone he told me he had a few complaints and I asked the Chief again if there was a possibility I was going to be held there as I had business and he said no, he wanted to know what I was doing and I said would it be possible I would be held until six o'clock and he said no and I said, "Very well I can explain that".

Q. Was there any conversation with the Chief about telephoning?

A. I asked to phone and he said in a while, and when he said I was not going to be held I did not bother about the telephone.

PAGE C-61

Miss Palmer.

To Mr. Beament:

Q. And then he asked you what you were doing?

A. I said I was a social service worker; I was going to women I felt needed help and I talked to them about certain kinds of contraceptives.

Q. You had this bag, Exhibit 22-B, with you?

A. Yes.

Q. What happened?

A. It was at that time I said, "I teach contraceptive methods".

Q. He said do you carry that in your bag?

A. I said "Yes, do you wish to see it: I will be glad to show it to you and show you what I am doing". He said he would: I opened the bag, showed him the methods under which I operated; how parents were referred to us, and the whole method. It took perhaps an hour at least.

Q. There was no charge up to this time?

A. No, I fully expected, after telling my story I would be allowed to go.

Q. Then what happened?

A. Chief Manion said he was afraid he would have to talk to the Crown Attorney, I said could I telephone and he said after he talked to the Crown Attorney. He left the room.

Q. Chief Manion left the room?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

Q. He did telephone the Crown Attorney?

A. Yes, he was gone 20 minutes or so and he said, "I have talked to the Crown Attorney; I am afraid you will be held on \$500.00 bail" and he said he would make a warrant and he made it out and said he would technically arrest me and he read the charge.

PAGE C-62

Miss Palmer.

To Mr. Beament:

Q. From the warrant?

A. Yes and then he gave the warning -- he said "I am going to warn you" and I said it is a little late.

Q. After all this investigation?

A. Yes, well after.

Q. Was there any investigation after he read the warning?

A. He knew everything.

Q. He knew everything then?

A. No, I don't think so; on the work -- .

Q. On the methods of your work?

A. No, just on the telephone again.

Q. There was some conversation about bail?

A. Yes. He told me \$500.00 bail.

Q. And you phoned to make arrangements?

A. Yes, I phoned to make arrangements.

Q. Was there any conversation with regards to the facts of the offence, with relation to the charge?

A. Yes, he said it was too bad I had not found I was with out the law.

Q. This was after the warning?

A. Yes, and it was also mentioned before the warning.

Q. And you answered questions from him frankly before the warning?

A. Yes.

Q. And at the time he told you you were not going to be held?

A. Yes, and I gave the story thinking I was not going to be held.

PAGE C-63

Miss Palmer.

CROSS EXAMINATION

To Mr. Mercier:

Q. When you made certain statements to Chief Manion did you do so willingly?

A. Yes, certainly.

Q. Was any promise or threat made to you?

A. No, but if there was a possibility I was going to be held I would want to wait until I could speak to my counsel.

Q. That is what you say now - I am informed that when Martel saw you at Mousseau's place, he asked you whether you cared to have him walk with you because he could ride on his bicycle?

A. I said it was not necessary.

Q. You did gladly walk with him?

A. Yes, absolutely.

Q. And when you got here, when Chief Manion asked you these things there was no question of your arrest?

A. There was: I asked Chief Manion if I was going to be held here and he said I was not going to be held.

Q. And you answered his questions before Chief Manion told you you were going to be arrested -- you answered certain things before Chief Manion said you were going to be arrested?

A. I did not tell Chief Manion anything until I was quite sure I was not going to be held.

Q. That is your evidence?

A. Had Chief Manion told me what he knew at the time I would not have told him anything.

Q. How can you say Chief Manion knew at the time you

PAGE C-64

Miss Palmer.

To Mr. Mercier:

were going to be held?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. It was quite evident.

Q. Why?

A. He must have known as Chief Officer.

Q. Why would he have known he was going to arrest you?

A. The fact that he was there at all would point to that fact.

Q. You came here very willingly?

A. Yes.

Q. You were not forced here?

A. No.

Q. When Martel asked you to come here you could have gone away?

A. I would not try that issue.

Q. You could have gone?

A. I did not know that.

Q. When Martel asked you could he ride his bicycle and meet you at the station?

A. Yes.

Q. You could have gone?

A. Yes.

Q. You did come to the station?

A. Absolutely.

Q. There was no question of your being arrested when you gave certain information to Chief Manion?

A. I would not have given him any information if I had thought I would be arrested.

Q. You were warned?

A. After the story was all told.

Q. And you did not say anything about this story until you were warned?

A. It was given.

PAGE C-65

Miss Palmer.

To Mr. Mercier:

Q. Did you say anything about your story after you were warned?

A. Not any more than I have already said.

Q. As much?

A. No, after I was warned there wasn't anything more to say.

Q. You say after the two officers -- after saying they warned you -- you make a statement -- you did not make any statement?

A. I said I had told my story.

Q. Did you repeat it afterwards?

A. No, I may have gone over the points again.

To the Court:

Q. Miss Palmer, you just said you may have gone over certain points?

A. (No reply)

RE-DIRECT EXAMINATION

To Mr. Beament:

Q. Did you repeat any of it?

A. I may have done so; Chief Manion said it was too bad I was outside the law: we may have discussed it.

To the Court:

Q. Did you go over certain points of your story after you were warned?

A. I did not.

Q. Did you say you did not?

A. I may have.

(Witness temporarily retired).

PAGE C-66

Chief Manion.

Chief Richard Manion. Already duly sworn, recalled, deposed further.

To Mr. Mercier:

Q. After you warned Miss Palmer I understand she made a certain statement to you?

A. Yes.

Q. Do you remember what that statement was?

A, (No reply).

Mr. Beament:
I object to the admissibility of this statement.

Mr. Mercier:
I have no reason to fore-see that.

(Witness temporarily retired)

PAGE C-67

Admissibility.

ADMISSIBILITY OF STATEMENTS - Argument

Mr. Beament
I suggest the evidence the police must be looked on with a certain degree of suspicion. It is perfectly clear they tell absolutely different stories. It is a matter for Your Worship, but the onus is on the Crown to establish the voluntary nature of this statement.

Miss Palmer's statement - and I suggest it is a statement worthy of believe and a reasonable statement in all the circumstances possible - she was deceived by the police in making this statement.

Now, it was perfectly clear the police had at this time when she came to the station made up their minds to lay a charge against her - that they had collected all the evidence necessary in that regard. That is obvious from the fact that the charge as sworn to by Martel related to the fruits of his investigation in the month of August and did not relate to any of the circumstances contemporaneous in her arrests.

I think what is inevitable from the evidence of any of the three witnesses who have given evidence on this is that the minds of the police were thoroughly made up as to the facts on which they were proposing to charge her and also on matters in respect to the charge they proposed to lay.

That being the case, what happens. Martel's evidence must be disregarded almost in its entirety.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

It is clearly not reliable, quite apart from great disagreements with Manion's -- his demeanour in the box was unfavourable and not frank and from it one would not be prepared to justify the truth of his statements.

PAGE C-68

Admissibility.

Mr. Beament:

That Chief Manion obtained a substantial statement from Miss Palmer before laying the charge and warning her is clear from his own testimony. It is clear Martel was not agreed, but that is another reason to reject Martel's testimony. I suggest, bearing in mind, the intent of the police to lay this charge and the course the interview took, namely, an attempt to extract, and the extraction of an admission from this lady -- the charge could have been laid on men's rea, and he was quite aware of that difficulty from his evidence in the box today -- the Chief just goes ahead. After looking at this lady he goes ahead and obtains a statement.

Now that statement obtained was voluntarily given because she was willing to give it if the facts were as represented, but the facts represented by the police were very far from what was intended by to police and had the facts been such as represented to her, she swears -- and it is reasonable - she would have made no statement without the advice of counsel.

We have here a very reprehensible kind of case: getting a person in first, lulling the person into a sense of security, saying we are asking this for information -- no charge will be laid -- although their minds were made up to lay a charge -- waiting until they have extracted a statement and then laying the charge they intended to lay -- and then laying the charge they always intended laying -- the accused's

PAGE C-69

Admissibility.

Mr. Beament:
rights were violated and I think it is on these grounds the statement should not be let in. Your Worship is no doubt familiar with the Seabrooke case and the extent to which courts will properly go to protect an accused against police imposition.

The Court:
I have read it, but in that case it was decided mainly on the point all the constables and parties present were not heard from on the question of the admissibility of the evidence: that was the gist of the case there.

Mr. Beament:
The statement was finally excluded.

The Court:
Yes, because there was not enough evidence to admit it.

Mr. Mercier:
On this point there is not a tittle of evidence to show the police had made up their minds to arrest this woman before they did. The evidence points to the contrary.

They had not made up their minds and these admissions are clearly admissible.

There is this other point: she came here willingly, and here is the evidence of the two police officers who swear positively they gave her a warning and after it was issued she made a statement we intend to put it in. Her answer to this is that she may have said something and the officers are positive

PAGE C-70

Admissibility.

Mr. Mercier:
she did say what the Crown purposes bringing
in as evidence.

Then, the law is pretty well stated on
these matters of admission. It is a question
of whether voluntary or not, and the judge or
magistrate hearing the case must find if there
was any influence of hope or fear and the judge,
to summarize]the authorities, must take into
consideration age, appearance, character and
intelligence of the witness. "....." -- there
are also cases here -- the case of Little
Deer, CCC Page 75 and Coleridge -- and numerous
other authorities.

It is for your Worship whether the confession
was given voluntarily -- the weight of the author-
ities is that if there was such fear or circum-
stances surrounding the making of that statement --
if they were such that the accused might have
said something that was not true and which might
prejudice her case -- .

You have the positive evidence of the two
police officers: they warned this accused and
it was after this warning of the accused she
made a statement to them and the accused herself
says she may have said something to them; she
does not remember.

Mr. Beament:
Shortly, in reply, with regard to the Seabrooke
case, Your worship remembers the accused was
brought in when the police had in their minds
the intent to charge him with murder but they
told him it had something to do with a cheque.

PAGE C-71

Admissibility.

Mr. Beament:

And under that false representation under which he was held they questioned him. That was also one of the grounds on which the Court of Appeals decided and if I recollect, Mr. Justice Jeffrey, the second time rejected police [testimony] as to admissions.

I want to say, too, the statement cannot be voluntary if induced by deceit and would like also to call your attention to the rules laid down by judges and I think it is fair to say those rules are now considered to be a fair criterion in order to make statements admissible.

Rule 2 is; "Whenever a police officer has made up his mind to charge a person with a crime he must first caution him".

In this case not only was the caution not given but this lady was told she was not going to be charged.

That the police officers' minds were made up to lay a charge is established because they had secured their information previously.

I call your attention to No. 4 of the same rule: "If the prisoner wishes to volunteer any statement it is desirable a caution should be administered.....".

Mr. Mercier:

In the Seabrooke case my interpretation is that there is no question of the police officers having made up their mind. There were five officers there: they told him he would be charged with uttering a false document and then they knew he could be charged with this murder.

PAGE C-72

Admissibility.

Mr. Mercier:

However, there is the sworn evidence of the police officers here.

The Court:

As I have remarked before the whole question of any admissibility of any statement made by any accused revolves upon the question whether that statement was made voluntarily.

The onus is on the Crown to show that there was no threat used in obtaining any statement or no promises of obtaining better treatment; no hopes held out of any lenient sentence and the onus is on the Crown to show in all respects the statement was voluntarily made by the accused.

After that onus is satisfied the statement is admissible.

Now, in this case, Miss Palmer was asked by Martel to come to the police station because Chief Manion wanted to ask her some questions.

She came voluntarily. She waited in the police station some time for Manion to appear and when he finally appeared he disposed of another matter first then asked her as to her name, address and occupation and proceeded to ask her some questions up to a certain point. At a certain point in the questioning of the accused Chief Manion left the room apparently to get in touch with the Crown Attorney. And information and warrants were made out and signed and the warrant was handed to Chief Manion and he read the warrant to Miss Palmer and gave her the customary warning the police give when questioning accused.

PAGE C-73

Admissibility.

The Court:
further conversation took place between
Manion and Miss Palmer.

In the questioning before the warrant was made out or the warning read Manion states that Miss Palmer undertook to show him exactly what she was doing, she opened her bag and displayed its contents and when she got to the point where she thought was within section 207, fully protected, he stopped her and the warrant was made out.

It is apparent the police had been up to that time making certain investigations. The police in any case have to make a considerable number of investigations before they make up their minds an offence has been committed and a certain person is to be the one charged with a certain offence.

Chief Manion in this case questioned Miss Palmer in the light of the investigations which the police had carried out. At a certain point in the questioning he stopped any further statements by the accused and an information is sworn out. Miss Palmer says she was informed by Chief Manion she was probably not to be held. She was not informed that she would be charged. She did not say anything about that; she said she was told she would probably not be held. As a result of the questioning Manion put to her he makes out the charge after consultation with the Crown Attorney.

It does not seem to me up to that point the police had made up their minds to arrest Miss Palmer

PAGE C-74

Admissibility.

The Court:

and until that point is reached by the police any statements made by the accused are voluntary. When the police have made up their minds to arrest a person then to properly satisfy the onus placed on them they should give that warning.

There were no threats made, promises offered or hopes held out to her. I will hold the statements she made were made voluntarily and I will admit them as evidence.

PAGE C-75

Chief Manion.

CHIEF RICHARD MANION, already duly sworn, deposed.

To Mr. Mercier:

Q. Chief, after warning Miss Palmer, she made a certain statement to you?

A. Yes.

Q. You personally did not take it down in writing?

A. No.

Q. Will you tell His Worship what that statement was?

A. Miss Palmer stated:

"I am sorry I came into Eastview. I really expected trouble, but I didn't expect trouble from the police. I expected trouble from the clergy.

"Now that I am arrested, I am glad that the matter has come to a show-down. I may be the goat in the proceedings but I feel confident that Mr. Kauffman, who lives in Kitchener, a very wealthy man, will see me through.

"I have been complimented by Mr Kauffman's representative, who hired me sometime in April, when I took Miss Todd's place.

"I am glad I have those communications, which are received from Mr. Kauffman's representative, and I will produce them when the time comes in court.

"I may be imprisoned for two or more months, but I can assure you that the moment I am liberated I will go back to the same work.

"I am doing this for the service of women in general. Some of the homes I have visited and some of the women I have spoken to are almost distracted, having children from year to year.

PAGE C-76

Chief Manion.

To Mr. Mercier:

"I have visited those homes who have been recommended to me by women who I come in contact with, and in all cases I carry samples for demonstrating purposes.

"Some of the women who I have visited, particularly in Eastview, are very ignorant regarding the use of those instruments; therefore you can readily understand I have got to demonstrate."

That is the benefit of the statement.

Q. As far as you can recollect?

A. Yes, mentally, without notes.

The Court:

Is that all of Chief Manion's evidence?

Mr. Mercier:

Yes.

The Court:
Any questions?

Mr. Wegeneat:
If we had known what that statement was, we could have saved a good deal of time for Your Worship.

Mr. Beament:
Yes, if we had known.

(Chief Manion retired)

PAGE C-77

Constable Martel.

CONSTABLE MARTEL, already duly sworn, recalled, further deposed:

To M. Mercier:

Q. I understand you have taken some notes of Miss Palmer's statements?

A. Yes sir.

Q. When were they taken?

A. At the time for words were spoken.

Q. Will you tell his Worship what they are?

A. I have heard the evidence Chief Manion has given, and will further add:

Q. You might read it a little faster. The reporter can take it down faster?

A. After the accused was arrested and duly warned, she made the following statement:

She expected trouble in Eastview, as she knew the majority of people here were Catholic. She didn't expect any trouble from the police but from the clergys.

Now that she was arrested she was glad it was over, as her mind was more at ease. She says, when she was escorted to the police office, she thought it

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

was to be warned only. "Now that I am arrested, I am glad it is over. I may be the goat but I am sure Mr. Kauffman, who is a very wealthy man, will see me through because he is interested in poor mothers who have large families.

"I had been told by Mr. Kauffman's representative I was well within the law. I was only contributing to the happiness of the mothers who were in many cases becoming desperate.

"Mr. Kauffman complimented me on the good work

PAGE C-78

Constable Martel.

To Mr. Mercier:

I was doing on many of his letters to me, which I am glad I kept, as I expected trouble sooner or later.

"Those letters I will be glad to show when the time comes.

"I may get a few months in prison, but in view of the desperate condition I have seen in the homes I have visited, I most certainly would do the same thing over again the moment I am liberated.

"A woman should be the master of her own body and should be the one to say if she wants to become a mother.

"I don't sell anything: I merely go to homes which have been recommended to friends of women who may be interested.

"I always carry a box with me for demonstration purposes. A box as you see."

(This box was shown with the contents.)

Mr. Mercier:
Box, Exhibit 22-B, -- it is contained therein?

The Court:
The box is contained in the bag, Exhibit 22-B.

To Mr. Mercier:

Q. Go ahead?

A. She also mentioned the contents of the box: tube, jelly and nozzle, condoms for male and female and instruction leaflet. "Many of the women I have spoken to were totally ignorant. I had to go fully into the matter of how the jelly and the condoms were to be used."

PAGE C-79

Constable Martel.

To Mr. Mercier:

She always asked if she intended to be pregnant, in which case she did not recommend the use of the articles.

She also said, being a nurse, she was sure the use of the articles did not cause abortion.

Q. Is that all?

A. Yes, sir.

The Court:
Any questions?

Mr. Wegenast:
No, your Worship.

Mr. Mercier:
I thank you.

(Witness retired)

Dorothea Palmer Collection

Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. (WA17-22)
1936

PAGE D-1

Mrs. Jennie Grecco

Mrs. Jennie Grecco, duly sworn, deposed:

To the Court:

Q. Your address?

A. 43 Catherine.

Q. In the town of Eastview?

A. Yes, sir.

To Mr. Mercier:

Q. Speak up: do you know Miss Palmer?

A. No, I never see her before she was at my place.

Q. You never saw her before she went to your place?

A. No.

Q. When was she at your place?

A. Yes, sir.

Q. When?

A. In August.

Q. Do you know when in August?

A. Around the middle of the month.

Q. How did Miss Palmer come to go to your place?

A. She told me somebody sent her to my place.

Q. Now, did she talk with you when she was sent to your place?

A. Yes, sir.

Q. What did she say to you when she was sent to your place?

A. She talk about those boxes.

Q. What did she say?

A. She asked could she talk to me: I said "I don't talk much English; I got work to do." I didn't want to be bothered with the box.

Q. Did she tell you what was in the box?

A. Yes.

Q. Did she show you what was in the box?

PAGE D-2

Mrs. Jennie Grecco.

To Mr. Mercier:

A. Yes, she showed me the box she got in her bag.

Q. A box similar to that?

A. Yes, she had a box in her bag.

Q. Box, Exhibit 22-B. What did she show you in that box?

The Court:

Ask her what she was shown.

To Mr. Mercier:

Q. What did she show you?

A. Jelly.

Q. With a key, described to her as jelly -- was there anything else in the box?

A. A tube and key, that is all.

Q. That is all Miss Palmer showed you -- did she tell you anything about these?

A. She asked if I wanted to go to hospital, me or my husband.

Q. For what purpose?

A. For an operation, if I wanted to be operated; I would be two weeks or if I didn't want to go, she asked if my husband would go.

Q. She suggested either you or your husband go to the hospital for an operation?

A. Yes.

Q. Did she say what sort of operation: what kind of operation?

A. Yes.

Q. What?

A. I told her I had nine kids living and two dead, and she said, "you are young yet, you might get more; why not get operated; you might have more."

PAGE D-3

Mrs. Jennie Grecco.

To Mr. Mercier:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Did you reply to that?

A. I told my husband and he said, "don't be bothered with that."

Q. Is your husband working?

A. No.

Q. I produce this box, Mrs. Grecco, Exhibit 3-B: do you remember seeing that before?

A. Yes, that is mine; that is the one I gave to Mr. Martel.

Q. How did you get that?

A. The mailman came with the box.

Q. How did the mailman come to send you that?

A. The mailman came; he was at my place with that box; he give it to me.

Q. What did you do with it?

A. I put them away so I don't want the children to see them.

Q. You didn't want your children to see that?

A. No.

Q. How old are your children?

A. The oldest boy is seventeen.

Q. Any girls?

A. Yes, two.

To the Court:

Q. How did you come to receive this box?

A. Pardon?

Q. Why did you get the box?

A. She told me she was going to send me that box – Miss Palmer.

To Mr. Mercier:

Q. What did you say when she said that?

A. I didn't say anything. She said, "you will get that box by mail."

PAGE D-4

Mrs. Jennie Grecco.

To Mr. Mercier:

Q. Did you sign anything?

A. I signed a paper but I don't read English; I don't know what it is.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Was that paper explained to you in French?

A. I didn't read the paper.

Q. Was it explained to you?

A. I just see the paper; that is all.

Q. You just saw the paper?

A. Yes.

Q. Did you see your doctor?

A. No.

Q. Were you told to see your doctor?

A. No.

Q. Did Miss Palmer tell you to see your doctor?

A. No. she didn't.

Q. You just got this box after you signed something?

A. That is all.

Q. Why did you sign this?

A. She told me I had to sign this.

Q. She said you had to sign this?

A. Yes.

Q. Did she tell you why you had to sign this paper?

A. No.

Q. What made you believe she had authority to make you sign this?

A. After she said if I signed it I would get the box.

Q. You said Miss Palmer told you you had to sign this?

A. Yes.

Q. What made you sign it: because she told you you

PAGE D-5

Mrs. Jennie Grecco.

To Mr. Mercier:

had to sign it?

A. She told me to sign this paper.

To the Court:

Q. Do you sign papers for every stranger who personally comes into your house?

A. She told me to sign it because I had work to do.

To Mr. Mercier:

Q. Your reply is that you signed the paper to get rid of Miss Palmer?

A. I didn't want to be bothered with those boxes.

Q. All right.

CROSS EXAMINATION

To Mr. Wegenast:

Q. You knew what the boxes were for?

A. No, but she explained.

Q. So you wouldn't have any more children?

A. Yes.

Q. You have nine?

A. Yes, and two dead.

Q. Any miscarriages?

A. No.

Q. Any abortements?

A. Two still born.

Q. You didn't think you were doing anything wrong in talking to her?

A. No.

Q. How long have you been married, Mrs. Grecco?

A. Sixteen years.

Q. You are on relief?

A. Yes.

PAGE D-6

Mrs. Jennie Grecco.

To Mr. Wegenast:

Q. You are on relief now?

A. Yes.

To the Court:

Q. So you have had eleven children in sixteen years?

A. (No reply).

To Mr. Wegenast:

Q. Two not born alive and nine born alive?

A. Yes, eleven altogether.

To the Court:

Is that all?

Mr. Mercier:

That is all, unless my learned friend--. All those exhibits are in with their contents and advertising?

The Court:

Yes.

(Witness retired)

PAGE D-7

Mrs. H. Dagenais.

Mrs. Hermenline Dagenais, duly sworn, deposed:
Interpreter Rosario Hebert sworn:

To the Court:

Q. What is your name?

A. Hermenline Dagenais.

Q. Address?

A. 31 Ceder street.

To Mr. Mercier:

Q. Where do you live?

A. 31 Cedar street.

Mr. Mercier (to interpreter):

Just put the questions as I give them and give her answers as she gives them?

The Interpreter:

Yes.

To Mr. Mercier:

Q. Do you know Miss Palmer?

A. I am not kind of sure it is her. I won't say yes when I am not sure.

Q. All right.

CROSS EXAMINATION

To Mr. Wegenast:

Q. Mrs. Dagenais, you have had twelve children,

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

living?

A. Yes.

Q. And three children, dead?

A. Yes.

Q. And you have had two miscarriages?

A. Yes.

Mr. Wegenast:

Is abortement the same?

Interpreter:

PAGE D-8

Mrs. H. Dagenais.

The Interpreter:

It is the same as miscarriage and abortion.

Mr. Wegenast:

Miscarriage is up to three months; after that is abortion. Now, ask this witness:

To Mr. Wegenast:

Q. Were they more than three months?

A. No.

Q. So they were miscarriages, and your last child is about a year old?

A. Yes.

Mr. Mercier:

Are you putting that card in as an exhibit?

Mr. Wegenast:

I can I am only using it as a memo.

To Mr. Wegenast:

Q. Your husband is out of work?

A. He is working at present.

Q. But he was not working when Miss Palmer called on you?

A. It was a week then he was started work.

Q. Before that he was unemployed for how long?

A. Since last fall.

Q. What income did he have from last fall until the time Miss Palmer saw you?

A. Only that week's earnings.

Q. Do you think you did anything wrong?

Mr. Mercier:

She told me she didn't know if she knew Miss Palmer at all.

The Court:

I think you have raised the point it was Miss Palmer.

PAGE D-9

Mrs. H. Dagenais.

Mr. Wegenast:

I would assume your Worship would think it was.

The Court:

This witness said she didn't know; she wasn't sure.

Mr. Wegenast:

I think my learned friend was very fair.

To Mr. Wegenast:

Q. When she was talking to the young lady, did she think there was anything, morally wrong about discussing the matter with her?

A. I did not.

Q. The eldest child is twenty-two or three now?

A. Twenty-two.

To the Court:

Q. How long have you been married?

A. Twenty-four years.

Mr. Wegenast:

That is all.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. Did you sign anything?

A. Yes, I signed a card.

Q. That card should be produced. (Card produced).

Does she recognize that signature? Is her name written there anywhere?

A. Yes.

Q. What did you sign this for?

Mr. Wegenast:

I wouldn't have given that to my learned friend

PAGE D-10

Mrs. H. Dagenais.

Mr. Wegenast:

if I knew it would start this.

Mr. Mercier:

This document is used and produced.

The Court:

It is not produced; counsel can use any document for reference in asking questions.

Mr. Mercier:

This person states she has signed the document.

The Court:

Is that in cross examination?

Mr. Wegenast:

No.

Mr. Mercier:

This is re-examination. I can bring it within that. My learned friend has been using a card, with certain information on the card, signed by this woman. I ask for the production of it. Any document in court should be produced if the signature of the witness is on it.

The Court:

Defence counsel might have left that in his office and written down the details.

Mr. Wegenast:

We have copies here; if my learned friend is thinking of parties it is different, but these are witnesses.

The Court:

I don't think, it card has been raised in cross examination.

Mr. Beament:

It has been identified.

PAGE D-11

Mrs. H. Dagenais.

The Court:

I don't think we will admit it as an exhibit.

Mr. Mercier:

It is arising out of cross examination, your Worship; my learned friend has asked Mrs. Dagenais if she thought she was doing something wrong.

Mr. Beament:

Morally wrong.

Mr. Mercier:

By signing this card.

The Witness:

A. It was only to see what it was; I had no chance to read whatever it was on account Mr. Martel came and got it.

Q. When this lady came to see you did she tell you what you were signing?

A. She told me it was concerning family.

Q. What conversation did you have with this lady?

A. Not very much on account she couldn't speak French and I couldn't speak English.

Q. And this lady who went over to visit you: what did she say when she came into your house?

A. All I understood was that it was for family, because I do not understand English.

Q. Did the lady tell you what it was or what her occupation was?

A. She told me she was a nurse.

RE-CROSS EXAMINATION

Mr. Wegenast:

May I ask your Worship's indulgence: it arises out of my learned friend's examination.

PAGE D-12

Mrs. H. Dagenais.

To Mr. Wegenast:

Q. The lady asked some questions?

A. If she did, I did not understand them.

Q. How do you think the lady knew you had twelve children?

A. It is easy to be understood; I understand a little

B. but not enough to keep up a conversation.

Q. All right.

(Witness retired).

PAGE D-13

Mrs. B. Burton.

Mrs. Bertha Burton (LeBreton), duly sworn, deposed:

To the Court:

Q. Your first name?

A. Bertha Burton.

Q. Address?

A. 53 St. Charles.

To Mr. Mercier:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. I produce to you Exhibit 4-B?

A. Yes.

Q. Have you ever seen that before?

A. Yes, I had that box at home.

Q. With its contents?

A. Yes, all you see in it was there.

Q. A tube and key?

A. Yes.

Q. Some literature advertising condoms and jellys?

A. Everything is there.

Q. And a nozzle?

A. Yes.

Q. And a box of what we shall call liquid latex? For the purposes of this inquiry?

Mr. Wegenast:

Is that a new name -- oh, yes, it is marked on It

The Court:

Let me see the box.

To Mr. Mercier:

Q. How did you come to get this?

A. I don't remember seeing that lady's face before; I was never at home if she passed.

Q. Did you ever sign anything to get that?

A. No, I have never signed anything.

PAGE D-14

Mrs. B. Burton.

To Mr. Mercier:

Q. Did you ever request these?

A. I saw certain persons this lady saw, and I said I would find it funny if she came at home, to see what she was giving away.

Q. You were curious?

A. Yes, everybody say it.

Q. You don't know the accused?

A. I never saw her before.

To the Court:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. You never saw her before today?

A. At home neither. I was not at home when she passed.

Mr. Beament:

If she called.

To Mr. Mercier:

Q. Was anybody else at home?

A. A young girl.

Q. It is marked August 29th?

A. I don't know the date, but I received it about that time.

Q. You had a young lady there about August twenty-ninth?

A. Yes, Mrs. or Miss Hudon.

Q. Did you sign anything at any time to get this tube?

A. I didn't sign anything at all; if I had been at the house I might have, but I didn't sign it myself.

CROSS EXAMINATION

To Mr. Beament:

Q. Mrs. LeBreton, when were you married?

A. Ten years ago.

PAGE D-15

Mrs. B. Burton.

To Mr. Beament:

Q. In 1926?

A. Yes.

Q. How many children?

A. Three.

Q. All living?

A. Yes.

Q. Their ages are?

A. Eight, six, four.

Q. Any miscarriages?

A. None.

Q. No abortions?

A. Never.

Q. Was your husband employed?

A. Working.

Q. He is working now?

A. Yes, but since only two weeks.

Q. He was unemployed in August?

A. Yes.

Q. How long has he been unemployed?

A. Three years.

Q. During that time had he been on relief?

A. Yes.

Mr. Mercier:

At this point I want to say I do not want to raise too many objections for the defence. The charge is that the accused did advertise to several persons a mode of preventing having a family. The questions in cross examination do not arise in examination in chief, and the fact that people have so many children and are on relief and have miscarriages and abortions has nothing to do with whether the

PAGE D-16

Mrs. B. Burton.

Mr. Mercier:

the accused did "advertise to several persons in the town of Eastview conception." (charge read). As to the motives, I do not think it can be raised in cross examination.

Mr. Wegenast:

There are already in the law reports a number of cases, some in the House or Lords, in which these very matters have been made matters of substantial issue.

The Court:

Not in a similar type of prosecution.

Mr. Wegenast:

No, but when the question was as to whether literature or articles -- literature I think it

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

was in most cases --- came within the purview of the law, was objectionable from the point of obscenity. Of course, this section 207 comes under that head; I can think of no other head, and the defences made support my contention. The cases turned in every case on questions whether the circulation was for the public good and Steven, in his Digest, makes that the dividing line between what is obscene and what is not.

I want to refer to this again, your Worship, but section 207 of the Criminal Code was drawn by Steven himself. It is his language and the parliament of Canada adopts it and the parliament of Canada makes it a matter of public good.

Mr. Mercier:
It is a question of defence.

PAGE D-17

Mrs. B. Burton.

Mr. Wegenast:
Yes, but we have no pleadings in this case. If I were assured by your worship that we would have the usual opportunity of reply, if we undertook to deal with this affirmatively in the defence? We must prove in reply, or one way to meet the charge is by establishing the acts in question were for the public good. If we can undertake to prove that affirmatively and then have the usual reply to any negative evidence my friend brings in?

The Court:
We might go on until Christmas.

Mr. Wegenast:
Yes; I anticipate your view.

Mr. Mercier:
Not that I object so strenuously, but I want

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

it to be a matter of record anyway, that I think these questions are not proper, but if it is for the purpose of shortening the procedure by asking these questions in cross examination on matters not examined in chief, I will not object. It is for the record.

The Court:

While I think it is possible to argue on that point, I think I will allow the cross examination.

Mr. Mercier:

I could not have anticipated the defence, but I know now it may be that these things were done for the public good.

PAGE D-18

Mrs. B. Burton.

Mr. Wegenast:

That much arises out of the discussion: I think I have been perfectly justified by pleading the surrounding circumstances, which are always pertinent.

The Court:

It is always a good point to prove your defence by the Crown's witnesses, if you can.

(Witness retired).

PAGE D-19

Mrs. J. Hudon.

Jeannette Hudon, sworn, deposed:

To the Court:

Q. Do you speak English?

A. Yes.

To Mr. Mercier:

Q. Do you know Miss Palmer, the accused?

A. Yes.

Q. Do you remember seeing her?

A. Yes, when she came home.

Q. When was that?

A. I don't remember; about a month or a month and a half.

To the Court:

Q. Where do you live?

A. 54 Catherine.

To Mr. Mercier:

Q. Where were you living in the month of August of this year?

A. I was home.

Q. Where? At 53 St. Charles?

A. No, I lived one week at 53 St. Charles.

Q. With Mrs. LeBreton or Burton?

A. Yes.

Q. Do you remember what month you were living there?

A. No, I don't.

Q. In any event, while you were living there you met Miss Palmer?

A. Yes.

Q. And how did you come to meet her there?

A. She came home, the first time I saw her, when I was living at home.

PAGE D-20

J. Hudon.

To M. Mercier:

Q. Where?

A. My place.

Q. Where was that?

A. 54 Catherine.

Q. When was that -- do you remember?

A. No, I don't.

Q. She went to your home and after that went to Mrs. Burton's place?

A. Yes.

Q. That was the second time you saw her?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes,

Q. You asked her to come to Mrs. Burton's?

A. She passed and said "hellow, how do you do?" I was polite.

Q. Did you have any conversation with her?

A. That is all she asked and she came in.

Q. When inside did she speak?

A. Yes.

Q. What was said?

A. She asked me the name of the lady where I was. I told her and she asked me if the lady would like to have a box like she give me.

Q. She had given you one of those before?

A. Yes.

Q. What was in the box?

A. Well, the same as those boxes there; you know what is in them.

Q. I don't know what is in them?

A. You know as well as I do.

To the Court:

Q. You must say what is in them?

PAGE D-21

J. Hudon.

To Mr. Mercier:

Q. You had a conversation - did Miss Palmer tell you what would be in the box she would give you?

A. Yes.

Q. What did she say would be in the box?

A. A tube and I don't know how to say the other things.

Q. Were they shown to you?

A. Yes.

Q. What - would you like to describe them?

A. There was a glass, I don't know how to say it; there was a tube and a key for the tube.

Q. Were you told what to do with those things?

A. Yes.

Q. What were you told to do with those things?

A. I am not going to answer.

Q. You were told to do something with these; what

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

were you told to do?

A. (No reply).

To the Court:

Q. It is a fair question: I am afraid you will have to answer it?

A. (no reply).

To Mr. Mercier:

Q. What were you told to do with the contents of that box?

A. (No reply).

Mr. Wegenast:

I think my learned friend's words are a bit ambiguous.

The Court:

I think the Crown Attorney is trying not to

PAGE D-22

J. Hudon.

The Court:

lead.

Mr. Mercier:

I have asked the witness if she was told what to do with these things and she said yes, and I want to know what she was told to do with these things.

To Mr. Mercier:

Q. Were you told how to use these things?

A. She told me if I want to use it and I said yes.

Q. All right?

A. She show me how to use it, she just put the key in the tube and show me how to put the stuff in the other thing.

Q. Did anything come out of the tube when she showed you how to use the key?

A. Yes, I don't know what kind of stuff.

Q. What did she tell you to do with this stuff, if

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

anything, or, did she tell you to do anything with this stuff?

A. Yes, she did.

Q. What did she tell you to do with this stuff?

A. I can't answer that; that is no question to answer in front of all the people like that.

The Court:

Let her write her answer, then.

(Witness writes the following answer):

A. She said to put the stuff that there is in that tube in the glass piece and you put the glass piece inside your body before you have anything to do with a man, if you don't want any family.

PAGE D-23

J. Hudon.

To Mr. Mercier:

Q. How old are you?

A. Twenty-four.

Q. Married?

A. No.

Q. You were not married either in August of this year?

A. No.

CROSS EXAMINATION

To Mr. Wegenast:

Q. You told Miss Palmer you were married?

A. I told her at first, but after I told her I wouldn't say lies; I told her I wasn't.

Q. You have one child?

A. Yes.

Q. And you have started to have several more?

A. What?

Q. You have been pregnant several more times?

A. No; I had enough of one; don't worry.

Q. You signed this?

A. (No reply).

The Court:
It will have to go in as an exhibit.

To Mr. Wegenast:
Q. This paper was made out at your place before you signed it?
A. She asked me a few questions and put them on the paper.

The Court:
It is exhibit 23-B, signed "Mrs. A. Hudon."

PAGE D-24

J. Hudon.

RE-DIRECT EXAMINATION

To Mr. Mercier:
Q. Did you use any of this stuff?
A. No.
Q. You didn't -- when you signed this application had you told the accused that you were not married?
A. Yes.
Q. When did you tell her you were not married, the first time or the second time?
A. The first time.
Q. The first time you said you were not married?
A. When she came home she said, "do you want a box." I said yes, and she said "are you married," and I said "yes," and after that she said, "are you sure you are married," and I said, "no, I am not married."
Q. Was this signed after you had told her that?
A. No, I didn't sign before I told her I was a girl.
Q. When did you sign this: was it after you told her you were unmarried or before?
A. (No reply).

The Court:
She just said that.

To W. Mercier:
Q. When you signed this did Miss Palmer know you were
University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

married or not?

A. She knew I was a girl.

Q. And on this card, Exhibit 23-B, I see "Mrs. A. Hudon; date of marriage, March, 1935;" did you tell her you were married in 1935?

A. I did not.

Q. Did you give the age of your husband?

PAGE D-25

J. Hudon.

To Mr. Mercier:

A. I didn't tell her I had any husband.

Q. The card gives "husband's age, twenty-seven." Did you ever have any abortions?

A. No.

Q. The card says three or four?

A. No.

Q. Did you tell her you had those?

A. No.

Q. Did you say anything about the physical condition of your husband?

A. I didn't tell her I had a husband.

Q. It says here, "physical condition of husband, good"; did you tell her you had miscarriages before as well as since marriage?

A. No, I didn't.

To the Court:

Q. You are under oath Mrs. Hudon: you didn't tell her any of those things?

A. No, I didn't.

Q. You didn't tell her you had a husband age twenty-seven?

A. No, I didn't.

The Court:

Is that all for this witness?

Mr. Mercier:

As far as I am concerned.

(exhibit 23-B):

"Application and history card:

Name - Mrs. A. Hudon.

Date - Aug. 15, 1936.

Case No. Fr. 35986.

PAGE D-26

J. Hudon.

(Exhibit 23-B, continued):

Street - 55 Catherine St.

Nationality French.

Religion - R. C.

City - Eastview.

Province - Ontario.

Date of marriage - Mar 1935.

Husband's occupation - unemployed.

Income - nil.

On relief -- yes.

Wife's age - 24.

Husband's age - 27.

Family physician - Clinic, Water Street, Ottawa city.

No. of living children - one.

Ages of living children - 1 year.

No. of dead children - none.

No. of miscarriages - none. Give dates

Ages of children at death

No. of abortions - 3-4. Give dates

Health of children - good.

State contraceptives used previously - none.

Date of last menstrual period - Aug. 13, 1936.

Check reasons for) Economic X .

desiring contraceptive)Physical

information)Desires proper spacing of children

)Other reasons

Physical condition of husband - good.

Physical condition of wife - good.

If pregnant, date of term - not when contacted.

Instructions to social workers - Write name and address very plainly in ink on reverse side.

RURAL (in ink).

PAGE D-27

J. Hudon. (Exhibit 23 - B continued):

Check contraceptives desired:

Contraceptive jelly and nozzle: X.

Or pessary and contraceptive jelly:

Application:

I herewith make application for birth control information and supplies and claim that I am entitled to receive some in view of my circumstances.

Please send English, Polish, Ukrainian, French booklet (sent) (mark language desired).

Referred by

name address

Applicant sign here - (sgd) Mrs. A. Hudon.

Social worker sign here (sgd.) Dorothea Palmer.

Family physician sign here - Clinic, Water Street;
no special doctor.

I recommend size () pessary.

The signature of the social worker is not necessary if the application is signed by the family physician.

The size of the pessary must be ascertained by the family physician. Patient must go to the DOCTOR'S OFFICE to be fitted if pessary method is desired. Literature on contraception will be sent to the family physician on his request.

(In red ink) : 8-19-36. J. N. & C. (n). D. B.

Remarks: (home conditions; size and type of residence; how kept; general observation):

This mother has been using abortive methods for the past few years. Before marriage as well as since.

B. C. information much needed.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Send application to The Parents' Information

PAGE D-28

J. Hudon.

(Exhibit 23-B, continued):

Bureau, 410 King St. W., Kitchener, or Miss A. S. Weber, 410 King St. W., Kitchener."

(Witness retired).

The Court:
Fire minutes intermission. (At 4:15 p. m.)

PAGE D-29

Mrs. Jennie Goneau

(Court resumed at 4:20 p. m., 21st Oct., 1936).

Mrs. Jennie Goneau, sworn, deposed:

To the Court:

Q. Your address?

A. At that time, 67 Main street. Now, it is Montreal road.

Q. Is there a number there?

A. 49a Montreal road.

The Court:

Did you get that, Mr. Beament?

Mr. Beament:

Yes.

To Mr. Mercier:

Q. Are you a married woman?

A. Yes, sir.

Q. In the month of August where were you living?

A. 57 Main street.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. 57 Main street in the town of Eastview?

A. Yes, sir.

Q. And you know the accused, Miss Palmer?

A. Yes, I met her through one of my friends.

Q. Will you tell the Court how you came to meet her?

A. I went to my friend's and she said she was a nurse.

Q. She told you she was a nurse?

A. Yes.

Q. What else?

A. She asked if I was married and I said yes. She said, "how many children." I said two. She asked "how old are they," and I said, "one is six and one is four." She asked, "do you want a birth control box," one of those - (indicating exhibit boxes) - I said, "I might; it might come in handy."

PAGE D-30

Mrs. Jennie Goneau.

To Mr. Mercier:

Q. As a result of that conversation did you receive a box, Mrs. Goneau?

A. Yes. She asked the age and all that and how long married and I signed for the box and I got the box two weeks.

Q. Did she ask the name of your doctor?

A. Yes, it is marked on the paper.

Q. Who is that doctor?

A. Dr. DesRosiers.

Q. Was anything said about consulting your doctor?

A. No; I didn't see him for a long time.

Q. Did Miss Palmer say anything about consulting him before using this box?

A. No.

Q. She didn't tell you that?

A. No.

Q. Will you look at the contents of this box?

A. Everything is in there; I read a few of the papers and put them in the stove.

Q. Was this paper there: "Birth Control and some of its Simplest Methods"?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes, and a larger page; I burnt them and put the
B. box in the bath room.

Q. And you had this application?

A. Yes, I put it in the bath room.

Q. Inviting you to send it to your friends?

A. Yes.

Q. And you received this as a result of signing an
application form given you by Miss Palmer?

A. Yes, in case it might be handy.

Q. When did you receive this box?

PAGE D-31

Mrs. Jennie Goneau.

To Mr. Mercier:

A. About two weeks after; I saw her about the end of
August.

Q. It is Exhibit 6-C - did Miss Palmer show you any-
thing?

A. No, she was in a hurry and passed the door a few
minutes after; she said everything would be in the
box and not to worry.

Q. That the instructions were in there?

A. Yes, and it is.

Q. You were not shown anything by Miss Palmer?

A. No; I don't believe she had anything in that
bag.

Q. She didn't show you anything?

A. No, she just gave me that paper.

CROSS EXAMINATION

To Mr. Beament:

Q. Have you had any miscarriages?

A. No, sir.

Q. Your husband - what is his occupation?

A. Painter.

Q. Has he steady employment?

A. No, just in the summer, a few weeks, that is all.

Q. His employment is uncertain?

A. At Dufour's.

Q. His work is not regular?

A. Not safe.

Q. So there are periods when you are on relief?

A. Sometimes we have to go on relief.

Q. And sometimes your husband has a job for a short period?

PAGE D-32

Mrs. Jennie Goneau.

To Mr. Beament:

A, Yes, sometimes he has good wages.

Q. Did you think you were doing anything morally wrong?

A. No because I wasn't anxious to get that box but I thought it might come handy.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. Did you say you were anxious or not anxious to get the box?

A. I said I was not anxious, but it might come in handy.

Q. That is all.

(Witness retired).

PAGE D-33

Mrs. Catherine Murphy

Mrs. Catherine Murphy, sworn, deposed:

To Mr. Mercier:

Q. Where do you reside?

A. 42 1/2 Beechwood.

Q. In the town of Eastview, here?

A. Yes.

Q. Were you living there in the month of August? 1936?

A. Yes.

Q. Do you know the accused, Miss Palmer?

A. Yes, I met her.

Q. When did you meet her?

A. Some time in August, I can't say.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Did you have a conversation -- where did you meet Miss Palmer?

A. In my own home.

Q. Do you know how it came she went to your home?

A. No.

Q. How did she come there?

A. She came, knocked on the door.

Q. You answered the door?

A. Sure.

Q. Did you have any conversation with Miss Palmer?

A. Yes; we talked.

Q. What was the conversation?

A. We talked about birth control.

Q. Who do you mean by "we"?

A. Miss Palmer and I.

Q. She came in and what did she say?

A. I couldn't say exactly what she said.

Q. Do you remember the substance of what she said?

A. She asked about my family.

Q. And you replied to that?

PAGE D-34

Mrs. Catherine Murphy.

To Mr. Mercier:

A. Yes.

Q. After she asked about your family and you replied?

A. I said I wasn't anxious to have any more children.

Q. You told Miss Palmer you were not anxious to have any more children?

A. Yes; that is what I told her.

Q. How did you come to say that?

A. She said she was helping mothers with big families.

Q. And you told her as a result of something she told you, you were not anxious to have more children?

A. She didn't tell me that; she just said she was helping mothers.

Q. And then what did she say?

A. She said she would send one of those boxes by mail.

Q. To prevent family?

A. Yes.

Q. Did you sign an application?

A. Yes, I signed a form.

Q. Did she ask the name of your doctor?

A. No.

Q. Did she tell you to see your doctor before using one of these boxes?

A. No, she didn't mention a doctor at all.

Q. Is this the box you received?

A. Yes, exactly.

Q. And the contents,- literature, application and envelope?

A. (No reply).

The Court:

Exhibit number?

Mr. Mercier:

7-B, your Worship.

PAGE D-35

Mrs. Catherine Murphy.

To the Court:

Q. That is the box you received through the mail?

A. Yes.

To Mr. Mercier:

Q. Were you given any explanation how to use the box?

A. She demonstrated it.

Q. How did she demonstrate it?

A. She had such another box as that, I guess it was.

Q. Did she show you how to use the tube?

A. Yes, the key.

Q. Did she give you any instructions how to use it on yourself?

A. Just turn the key and fill it.

Q. Did she tell you what to do after you turned the key?

A. She told me to turn the key and fill the nozzle.

Q. After that what happened?

A. I guess the contraceptive jelly would go through that.

Q. Were you told how to use this by Miss Palmer?

A. Yes, I just told you: to turn the key and fill

the tube.

Q. What did she say to do after that?

A. I will not say that.

Q. Did she tell you what to do?

A. No; I use my own judgment.

Q. And you received instructions?

A. Yes.

Q. Which is the correct answer: you tell me in one breath she didn't tell you how to use it and in the next breath you say you won't tell me?

PAGE D-36

Mrs. Catherine Murphy.

To Mr. Mercier:

A. She just told me how to fill the nozzle.

Q. Did she tell you to see your doctor?

A. No.

Q. Did you see your doctor?

A. They came and took it back before we had time.

CROSS EXAMINATION

To Mr. Wegenast:

Q. How did they do that?

A. Mr. Martel came and asked was she here and said did she give me anything and I said a box came by mail. He asked to see it and said would I give it to him and I said if he wanted it he could have it.

Q. You didn't think you were doing anything wrong in using it?

A. No, I thought it was law and they would have to have it; I thought it was law; it was a policeman.

Q. You thought he had a legal right to take it?

A. I did.

Q. How much family have you?

A. Five.

Q. Have you had any trouble, such as miscarriages?

A. No.

Q. And abortions,- anything like that?

A. No.

Q. Why do you not want more children?

A. I think I have enough on my husband's salary.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Do you think it is your right to stop having any more children?

A. Yes.

Q. Really?

A. Yes, I think I have done my duty.

PAGE D-37

Mrs. Catherine Murphy.

To Mr. Wegenast:

Q. What church do you go to?

A. I am R. C.

Mr. Mercier:

That is all.

Mr. Wegenast:

That is all.

(Witness retired).

PAGE D-38

Mrs. Sarah Legare

Mrs. Sarah Legare, sworn, deposed:

To the Court:

Q. What is your first name?

A. Sarah.

To Mr. Mercier:

Q. Mrs. Legare, you know Miss Palmer?

A. I do.

Q. When did you meet Miss Palmer?

A. Around in August.

To the Court:

Q. What is your address?

A. (No reply).

To Mr. Mercier:

Q. What is your address?

A. 40 Beechwood.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. That is in Eastview?

A. Yes.

Q. Where did you meet Miss Palmer?

A. In August.

Q. Where?

A. At home.

Q. Your home?

A. Yes.

Q. 40 Beechwood?

A. Yes.

Q. How did she come to go there?

A. She came like a visitor; she knocked at the door.

Q. She came like a visitor and knocked at your door and you answered your door?

A. Yes.

Q. When you answered what did she say?

A. She had a little card and presented it to me with

PAGE D-39

Mrs. Sarah Legare

To Mr. Mercier:

her name on it, like she was mothers' help or something like that.

Q. After presenting her card to you did she say anything to you?

A. Yes.

Q. What did she say?

A. She asked me how many children I had.

Q. What did you tell her?

A. Five.

Q. Were there any other questions she asked you?

A. She asked me if I could afford to keep them and I said "no I don't want any more children."

Q. What did Miss Palmer say to that?

A. She told the about birth control; about those boxes.

Q. She told you about a certain box and about birth control?

A. Yes.

Q. What else?

A. I can't remember.

Q. Did she just tell you it was a birth control box

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

and you understood that right away?

A. I can't remember everything.

To the Court:

Q. Try to remember as much as you can?

A. Yes.

To Mr. Mercier:

Q. Did she tell you what was in those birth control boxes?

A. Yes.

Q. What did she tell you?

PAGE D-40

Mrs. Sarah Legare.

To Mr. Mercier:

A. She showed me and explained how to use everything.

Q. Did she ask you your doctor's name?

A. Yes.

Q. Did you tell her?

A. Yes.

Q. Who?

A. Dr. DesRosiers.

Q. Did she tell you to consult your doctor before using them?

A. No.

Q. Did you in fact consult your doctor?

A. No, never.

Q. How did Miss Palmer show you to use these things?

A. She showed me the tube and nozzle and key in the box; that is all she said.

Q. And she told you what to do?

A. Yes, what for.

Q. And what to do?

A. She said there was a book inside; I could read the book and see.

Q. It was a box like this you received?

A. Yes.

Q. With an envelope inside it?

A. Yes.

Q. And some literature?

A. Yes.

CROSS EXAMINATION

To Mr. Beament:

Q. And you gave this to Mr. Martel?

A. Yes.

Q. Why?

PAGE D-40

Mrs. Sarah Legare

To Mr. Beament:

A. I don't know why: he came to the house.

Q. Because you thought he was entitled to it?

A. Yes, I thought because he was the chief; was sorry after.

Q. Mrs. Legare, you told us you had five children?

A. Yes.

Q. And I understand you were married in May, 1929?

A. Yes.

Q. And those children are six, five, four, three and two years of age?

A. Yes.

Q. And your husband is on relief?

A. Yes, he is working now for two weeks.

Q. And at this time he was on relief?

A. Yes.

Q. And you feel now you are entitled to stop having children?

A. Certainly.

Q. And you don't think in stopping having children you are doing anything wrong?

A. Certainly not, no, I am not doing anything wrong.

(Witness retired).

PAGE D-42

Mrs. Deslauriers.

Mrs. Deslauriers' name called:

Officer Martel:
She is in hospital.

- - - - -

PAGE D-43

Mrs. G. Maheux.

Mrs. Georgette Maheux, sworn, deposed:

To the Court:

Q. Your first name?

A. Georgette.

To W. Mercier:

Q. Mrs. Maheux, where do you live?

A. I can't talk very much English.

Q. Do the best you can and if you can't get along we will see you get some assistance?

A. Yes.

Q. Where do you live?

A. 59 Ceder street.

Q. In the town of Eastview?

A. Yes.

Q. Were you living there in August, 1936?

A. Yes.

Q. Do you know Miss Palmer?

A. Yes.

Q. When did you meet Miss Palmer?

A. At my home.

Q. When?

A. In August.

Q. How did you come to meet Miss Palmer?

A. Well, she come to my home and I answer the door and she tell me she was a nurse.

Q. Did she tell you anything else?

A. And she tell me about birth control and if I was interested in it.

Q. And you replied?

A. Yes.

Q. And after you replied "yes," what was said after that?

PAGE D-44

Mrs. G. Maheux.

To Mr. Mercier:

A. She came in, sat down and ask me some questions and showed me the box.

Q. She had a box containing something?

A. Yes.

Q. What?

A. A tube and nozzle.

Q. Anything else?

A. And a key with that.

Q. And she showed you how to use it?

A. To put the nozzle -- I can't tell in English.

Q. You are getting along fine?

A. (No reply).

To the Court:

Q. Go on?

A. (No reply).

To Mr. Mercier:

Q. She showed you how to put the nozzle?

A. On the tube.

Q. And?

A. Turn the key.

Q. After that did she tell you anything else?

A. She asked me some questions.

Q. What did she ask you?

A. It is on the card.

Q. I haven't got the cards?

A. If I was married; the name of my husband, where he works and how much children I have.

Q. And what did you tell her?

A. I said "three children."

Q. How long have you been married?

A. Eight years.

PAGE D-45

Mrs. G. Maheux.

To Mr. Mercier:

Q. What are the ages of your children?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Six, five and two and a half.

Q. Is your husband working?

A. Yes.

Q. Steadily?

A. Yes.

Q. Did Miss Palmer tell you anything about her husband?

A. Yes, when she asked the name of my doctor I tell her Dr. Green and she tell me she likes that doctor and after that she tell me her husband is a doctor too.

Q. Did she tell you to consult your doctor?

A. No.

Q. Did you in fact consult your doctor about these things?

A. What?

Q. Did you in fact consult your doctor about these things?

A. No.

Q. Is this the box you received, Mrs. Maheux?

A. Yes, that is the box.

Q. And the contents are the same as when you received it? What was in the tube and little envelope?

A. Yes, but they are not there.

Q. This book was in it too?

A. Yes.

Q. And the other applications?

A. Yes.

Mr. Mercier:

It is Exhibit 10-B.

PAGE D-46

Mrs. G. Maheux.

CROSS EXAMINATION

To Mr. Beament:

Q. What is your husband's wage?

A. Oh, well, it is fifteen per cent per year.

Q. Forty-five dollars a month?

A. I don't know.

Q. It is not very much?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. He pays that fifteen per cent in the cash.

Q. Do you know how much that works out?

A. I can't tell in English.

To Mr. Mercier:

Q. Say it in French?

A. (Translated by Mr. Mercier): He is paid on a commission on money he brings in delivering bread.

To Mr. Beament:

Q. How much?

A. Fifteen per cent.

To Mr. Mercier:

Q. How much per month?

A. It is not always the same; sometimes he is paid by the week.

Q. How much a week?

A. Sometimes twelve and sometimes more than fifteen.

Q. A week?

A. Yes.

To Mr. Beament:

Q. And I understand you were glad to get information about birth control?

A. Well.

Q. You wanted the information?

A. Yes.

PAGE D-47

Mrs. G. Maheux.

To Mr. Beament:

Q. Is that correct?

A. Yes.

Q. Did you think you were doing anything wrong, morally?

A. No.

Q. In getting this information?

A. No.

Q. And you wanted Miss Palmer to have these things sent to you?

A. Yes.

Q. And you intended using them?

A. Yes; when I took that I was not sure I would use that.

Q. You got it intending to use it?

A. Yes.

Q. Do you feel you have had enough children now?

A. Oh, for a while.

Q. You think you should be able to make up your own mind when you are going to have another child?

A. (No reply).

Mr. Mercier:

Cross examination leaves a lot of latitude, but it is different asking questions and telling the witness what to say.

Mr. Beament:

I can ask any questions that are helpful.

The Court:

In cross examination, as long as it is relevant, there is no limit in the matter of questioning.

Mr. Mercier:

I never thought you could tell somebody some-

PAGE D-48

Mrs. G. Maheux.

Mr. Mercier:

thing and ask "is that so".

The Court:

The Court can size up the witness.

Mr. Beament:

It is a difficult witness.

To Mr. Beament:

Q. Do you think you are right in making up your mind when you will have another child?

A. (No reply).

The Court:
I doubt if she understands.

The Witness:
A. I would not take it to be bad.

To Mr. Beament:
Q. All right.

(Witness retired).

PAGE D-49

Mrs. Aline Maheux.

Mrs. Aline (Leo) Maheux, sworn, deposed:

To the Court:
Q. Your first name?
A. Je ne parle pas en anglais.
(Through interpreter Rosario Hebert, already sworn):

To the Court:
Q. Your first name?
A. Aline Maheux.

To W. Mercier:
Q. Mrs. Maheux, where do you live?
A. 43 Cedar street.
Q. In the town of Eastview?
A. Yes.
Q. Were you living there in the month of August, 1936?
A. Yes.
Q. Do you know Miss Palmer?
A. She came home during the kids' summer holidays.
Q. Do you remember what month?
A. No.
Q. Did you receive anything as a result of your interview with Miss Palmer?
A. Yes, I received a box.
Q. Did you receive a box in the same month you had an interview with Miss Palmer?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. I was not interested and can't pronounce myself.

Q. What do you mean, you were not interested?

A. Because I thought it was the Eastview nurses were coming home and I answered her to the best of my knowledge.

Q. As to the point of date, your Worship - is this

PAGE D-50

Mrs. Aline Maheux.

To Mr. Mercier:

the box you received, Mrs. Maheux?

A. Yes.

Q. It is Exhibit 11-B and the date is August 13, 1936, - now, how did Miss Palmer come to go to your home, Mrs. Maheux?

A. I can't tell you.

Q. What did you do - did you invite her or did she happen to go by your place or what?

A. She was passing by my place.

Q. And I suppose she rapped at the door and you answered the door?

A. Yes, sir.

Q. Did Miss Palmer speak to you when you answered the door?

A. Yes, she told me she was a nurse.

Q. What language did she tell you that in?

A. In English.

Q. Did you understand her?

A. I understood she came in as a nurse.

Q. Did she ask you anything else?

A. She asked me how much my husband was earning.

Q. Was it in English she was asking that?

A. Yes.

Q. And you understood that?

A. Yes.

Q. And in what language did you reply to her?

A. In English.

Q. You speak a little English?

A. Not enough to interpret myself, but when the Eastview nurses are coming home I knew a few odd words.

PAGE D-51

To Mr. Mercier:

Q. After that - Miss Palmer asked you how much he earned and you told her - what did she ask you?

A. I did not understand her.

Q. You did not understand what she told you -- did you understand what she was there to tell you?

A. I always answered my questions because I thought she was an Eastview nurse.

Q. You mean a nurse from the Social Service in Eastview, here?

A. A nurse from the clinic.

Q. You thought Miss Palmer was a nurse from the clinic?

A. Yes, sir.

Q. And is there anything else -- you were talking with her and you didn't understand -- what did she do, if anything, after?

A. She asked me how much my husband was earning and she put the same questions as the Eastview nurses do.

Q. Did you sign anything?

A. Yes, I did.

Q. What did you sign?

A. The paper she presented to me.

Q. Did you know what was on that paper?

A. I did not know. Usually when the nurses come home they present us with a slip and we sign it and I did sign it.

Q. Did you understand you were getting something if you would sign it?

A. Yes, because she spoke to me about a sample and I did not refuse it.

PAGE D-52

Mrs. Aline Maheux.

To Mr. Mercier:

Q. Did you know what kind of sample it was?

A. No, because I do not speak English.

Q. And as a result of your interview with Miss Palmer you received this box?

A. Yes, you have it.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. You opened it when you received it?

A. Yes, I opened it but I didn't read any of the instructions.

Q. Did you see this information and the tube in the box? Were they there when you received the box?

A. I looked in it but I didn't read any of those books.

Q. Was the same thing in there then as is in there now?

A. Yes.

The Court:

That is exhibit?

Mr. Mercier:

11-B.

The Witness:

A. Except there was an envelope.

To Mr. Mercier:

Q. Why did you not read the instructions?

A. Because I did not need them.

Q. How did you come to know you did not need the instructions -- did you know what the instructions were for?

A. I had heard about it.

Q. So you knew what was in the parcel?

A. Yes, I did.

PAGE D-53

Mrs. Aline Maheux.

To Mr. Mercier:

Q. And what the purpose of the contents of that parcel was?

A. I knew it for sure.

Q. And why do you say, knowing that, you did not need it?

A. Because I do my duty.

Mr. Wegenast:

She said she didn't need the instructions.

To Mr. Mercier:

Q. What do you mean, "your duty"?

A. The marriage law obliges me.

Mr. Mercier:

The witness stated she did not know what was in there but heard afterwards.

To Mr. Mercier:

Q. Did you know what you were going to get?

A. (No reply).

Mr. Beament:

Ask her what happened?

Mr. Mercier:

I will not press it.

CROSS EXAMINATION

To Mr. Wegenast:

Q. What happened to the envelope that was in the box?

A. I have it at home.

Q. Did she use any of it?

A. I did not.

Q. Nor her husband?

A. No.

Q. You have four children?

A. Yes.

PAGE D-54

Mrs. Aline Maheux.

To Mr. Wegenast:

Q. And have had three miscarriages?

A. Yes, sir.

Q. And that is in how many years?

A. Eight years.

Q. In eight years you have had four children and three miscarriages?

A. Yes, sir.

Q. And you knew when you were talking to Miss Palmer what was in that box was to keep you from

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

having a baby?

A. I found out after.

Q. Just two or three more questions: is that your signature?

A. Yes.

Q. And the information I have just asked about was what she gave to Miss Palmer?

A. Yes, air.

Q. Then we will put that in.

The Court:

Exhibit 24-B, card dated August 5, 1936.

Mr. Wegenast:

That is all.

(Exhibit 24-B):

"Application and history card.

Name - Mrs. L. Maheux.

Date - .Aug. 5, 1936.

Case No. 35433.

Street - 43 Cedar.

Nationality - French.

Religion - R. C.

City - Eastview.

Province - Ont.

Date of marriage - Oct., 1928.

Husband's occupation - laundryman.

PAGE D-55

Mrs. Aline Maheux.

(Exhibit 24-B, continued):

Income - \$40 per month.

On relief - no.

Wife's age - 32.

Husband's age - 37.

Family physician - clinic, - Civic.

No. of living children - 4.

Ages of living children - 6, 4, 2, 1 yr.

No. of dead children - none.

No. of miscarriages - 3.

Give dates - 1932 - 1933.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Ages of children at death - .
 No. of abortions - none. Give dates-
 Health of children - good.
 State contraceptives used previously - none.
 Date of last menstrual period - Aug. 3, 1936.
 Check reasons for) Economic - X
 desiring contraceptive) Physical -
 information) Desires proper spacing of children -
) Other reasons -
 Physical condition of husband - good.
 Physical condition of wife - good.
 If pregnant, date of term - not when contacted.

Instructions to social workers, write name and address
 very plainly in ink on reverse side.

RURAL
 Check contraceptives desired:
 Contraceptive jelly and nozzle: V .
 Or pessary and contraceptive jelly:

Application:
 I herewith make, application for birth control
 information and supplies and claim that I am entitled

PAGE D-56

Mrs. Aline Maheux

(Exhibit 24-B, continued):
 to receive some in view of my circumstances.

Please send English, Polish, Ukrainian, French (sent)
 booklet (mark language desired).

Referred by
 Name Address

Applicant sign here (sgd.) Aline Maheux.
 Social worker sign here (sgd.) Dorothea Palmer.
 Family physician sign here Clinic, Civic Hosp:
 No special doctor.
 I recommend size () pessary.

The signature of the social worker is not necessary if the application is signed by the family physician.

The size of the pessary must be ascertained by the family physician. Patient must go to the DOCTOR'S OFFICE to be fitted if pessary method is desired. Literature on CONTRACEPTION will be sent to the family physician on his request.

(In red ink) : . 8-13-36. J. N. & C. (n). D. B.

Remarks: (Home conditions; size and type of residence; how kept; general observation) Home bare and very shabby. Mother appears rather indolent; untidy about her person. Very glad of help given to her.

Send application to The Parents' Information Bureau, 410 King St. W., Kitchener, or Miss A. S. Weber, 410 King St. W., Kitchener."

(Witness retired).

- - - - -

PAGE D-57

Mrs. Bertha Desjardins

Mrs. Bertha Desjardins, sworn, deposed:

To the Court:

Q. What is your full name?

A. Mrs. Bertha Desjardins.

Q. Your last name?

A. Desjardins.

Q. Do you speak English?

A. Yes.

To Mr. Mercier:

Q. Where do you live, Mrs. Desjardins?

A. 26 Ceder street.

Q. In the town of Eastview?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

Q. Were you living there in the month of August of this year?

A. Yes, Sir.

Q. Do you know Miss Palmer?

A. Yes.

Q. When did you meet her?

A. In August.

Q. Of this year?

A. Yes.

Q. Where?

A. In my home.

Q. How did she come to go there?

A. I was outside washing windows and she came to inquire about some party she came to see and she told me she wanted to see that party and she told me about birth control and I told her to come in; I was glad to know about it.

Q. What did she tell you about birth control?

A. She showed me the box after I made her come in.

PAGE D-58

Mrs. Bertha Desjardins.

To Mr. Mercier:

Q. What was in the box?

A. A tube and nozzle.

Q. Did you sign anything?

A. Yes, I signed a paper.

Q. Did Miss Palmer ask you the name of your doctor?

A. Yes, sir.

Q. Did you answer?

A. Dr. Leframboise.

Q. Did she tell you to consult your doctor before using this?

A. No.

Q. Did you, in fact?

A. No.

Q. You did use it?

A. Yes.

Q. Without consulting your doctor?

A. Yes.

Q. Is this the box you received?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes, sir.

Q. Look inside and see if it is the same?

A. Yes.

Q. That book was there?

A. Yes.

Q. And the other sheets for applications for friends?

A. Yes.

The Court:

That is exhibit?

Mr. Mercier:

12-B.

To Mr. Mercier:

Q. How many children have you?

A. Six.

PAGE D-59

Mrs. Bertha Desjardins.

To Mr. Mercier:

Q. How long have you been married?

A. Twelve years.

Q. Is your husband working?

A. Yes.

Q. Steadily?

A. Yes.

Q. What is his salary?

A. \$20 a week.

CROSS EXAMINATION

To Mr. Wegenest:

Q. Do you think you are entitled, Mrs. Desjardins, to make up your mind when you want another baby?

A. I certainly do.

Q. You are not doing anything wrong?

A. No.

Q. And you are a good Catholic to?

A. Yes.

Mr. Mercier:

I don't suppose the question of religion should enter into this.

The Court:

It is the first time it is raised.

Mr. Mercier:

I would like, if at all possible -- I have tried my level best to prevent that being brought in; I am more or less surprised if that issue is raised; it might raise a point, your Worship, -- I am sure my learned friends and I would be loath to see it come up. I would like to see the case; held strictly on a legal plane

PAGE D-60

Mrs. Bertha Desjardins.

Mr. Mercier:

and leave this question of religion entirely alone. I am trying to be as unprejudiced as I possibly can be.

The Court:

I can't limit the Defence in its defence.

Mr. Wegenest:

There is a statement attributed to Thomasius in his Institutes: "Ne falcem hic immitamus in campum venerendae Theologiae." "Do not stick your sickle into the dread field of theology."

Mr. Mercier:

That is my view.

Mr. Wegenast:

It would be a great relief to me, but when we get into the question of public good, we shall find when we come to estimate various opinions and views, we shall come on that, and while I don't want to irritate my learned friend --.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Mercier:

Your learned friend is not irritated. I want to keep religion out of it.

Mr. Wegenast:

It simply came to me when I saw this gracious witness standing up for her maternal rights.

To Mr. Wegenast:

Q. Why did you give up that box?

A. The officer wanted it.

Q. Was it the uniform?

A. I don't know.

Q. The officer was in uniform?

A. Yes.

PAGE D-61

Mrs. Bertha Desjardins.

To Mr. Wegenast:

Q. And you thought you had to give it up to a policeman?

A. Yes.

The Court:

I would like to ask this witness one or two questions.

To the Court:

Q. Miss Palmer, when you asked her into your house, showed you a box?

A. Yes, sir.

Q. And you said there was a tube and nozzle in the box?

A. Yes, sir.

Q. What else was in that box?

A. That is all.

Q. Just a tube and nozzle?

A. And key.

Q. Nothing else?

A. No.

Q. No other papers?

A. No.

Q. Did she show you anything else besides the box?

A. No.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. When you got the box there were papers in it?

A. Yes.

Mr. Beament:

That was another box.

To Mr. Mercier:

The box you got had papers and slips saying you might send those to your friends?

PAGE D-62

Mrs. Bertha Desjardins.

To Mr. Mercier:

A. Yes, sir.

(Witness retired).

- - - - -

PAGE D-63

Mrs. Juliet Lousseize

Mrs. Juliet Lousseize, sworn, deposed:

To the Court:

Q. What is your first name?

A. Ne par le pas en anglais.

Mr. Mercier:

She doesn't speak one word of English.

(Through interpreter Rosario Hebert, already sworn):

To Mr. Mercier:

Q. Where do you live, Mrs. Lousseize?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. 3 1/2 Ceder street.

Q. In the town of Eastview?

A. Yes.

Q. Were you living there in the month of August, 1936?

A. Yes.

Q. Do you know Miss Palmer?

A. Since she came to my home.

Q. When did she go to your place?

A. During the month of August.

Q. Of this year?

A. Yes.

Q. And how did Miss Palmer come to go to your place?

Do you know?

A. I do not know; she told me she had been sent.

Q. When she came in did she speak to you?

A. She spoke to me; I did not understand anything so I had somebody interpreting.

Q. When you had somebody to interpret for you, what was said?

A. She told me she was a nurse.

Q. Anything else?

A. She told the other women to explain to me what she was home for; she asked how many children I had.

PAGE D-64

Mrs. Juliet Lousseize.

To Mr. Mercier:

Q. And what did you tell her?

A. I told her I had six children.

Q. And after that what did she say?

A. Afterwards she showed me the box and told me if I wanted one I could get it free.

Q. What did you reply to that?

A. I did not reply as I can't speak a word of English, only she had me sign my name.

Q. Did she ask the name of your doctor?

A. Yes.

Q. And what did you reply?

A. Dr. DesRosiers.

Q. Did she tell you to see your doctor before using anything in there?

A. She didn't tell me anything about a doctor; but

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

she told me we would have papers in the box to read.

Q. Was it just a box she showed you?

A. There were a tube and three letters in an envelope.

Q. She told you you would get instructions?

A. Yes.

Q. And you finally did get a box?

A. Yes. The postman took it over and it didn't cost me anything to get it.

Q. Is this the box?

A. Yes; it is my name and address and what was in it is there now.

Q. And in that box was the same literature as is in this one?

A. There is one letter missing; that is all that is

PAGE D-65

Mrs. Juliet Louiseize.

To Mr. Mercier:

missing out of the box.

The Court:

What exhibit?

Mr. Mercier:

13-B.

To Mr. Mercier:

Q. You had not asked Miss Palmer to go to see you?

A. No.

Q. Who interpreted for you?

A. Mrs. Duhamel.

CROSS EXAMINATION

To Mr. Wegenast:

Q. When you get sick you don't go to your doctor always; you go to the clinic?

A. I only went to the clinic here in Eastview with my baby.

Q. You go there sometimes?

A. No, I do not go just now as I have twins that are sick and another baby; the twins, five months old

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

and another baby are sick.

Q. You have had nine children?

A. Yes.

Q. You think it is beaucoup; it is plenty?

A. I believe it is enough when a person can't afford to raise them. My husband earned three dollars a week all summer.

Q. And you think you have a right not to have any more until you are ready?

A. No, its, not that; I took the box because It was given for nothing and I wanted to see what was in it.

PAGE D-66

Mrs. Juliet Louiseize.

To Mr. Wegenast:

Q. And she used one of the condoms?

A. Yes, as I had never used it before, I wanted to see what it was like.

Q. You are only thirty years old?

A. Yea.

Q. And have been married only ten years?

A. It is eleven years.

Q. You have done pretty well?

A. (No reply).

(Witness retired).

- - - - -

PAGE D-67

Mrs. Juliet Sarault.

Mrs. Juliet Sarault, sworn, deposed:

To the Court:

Q. Your first name?

A. Juliet.

To Mr. Mercier:

Q. Where do you live, Mrs. Sarault?

A. 4 Catherine, Eastview.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

- Q. Were you living there at the same address in August, 1936?
- A. Yes, sir.
- Q. Do you know Miss Palmer?
- A. I seen her when she came to my place.
- Q. When was that?
- A. In August.
- Q. August, sometime?
- A. Yes.
- Q. How did Miss Palmer come to go to your place?
- A. I don't know; she just rapped at the door.
- Q. You answered the door and what did Miss Palmer say when she rapped at the door?
- A. She came in and asked if my husband was working and I said yes. She asked, "how many children have you," and I said "one." We sat down and talked.
- Q. What did you talk about?
- A. She asked if I was getting along all right and I said yes.
- Q. She asked you if you were getting along all right and you said you were?
- A. Yes, and then she showed me a box.
- Q. Containing what?
- A. A tube and nozzles.
- Q. What did she say about the box containing a tube

PAGE D-68

Mrs. Juliet Sarault.

To Mr. Mercier:
and nozzles?

A. She asked me if I had ever used any of them and I said no, and. that I didn't intend to.

Q. Was anything else said after that?

A. No.

Q. Did she ask you to sign anything?

A. Yes, she asked if I cared for one and I said I didn't use it before and she said I could try and I signed the papers.

Q. As the result of signing the paper did you receive anything?

A. I got a box.

Q. Is this the box: will you look at it?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

Q. The same thing is there now as when you got it?

A. Yes, I didn't take anything out of it.

Q. Did you intend to use these for anything?

A. No.

The Court:

Exhibit 14-B?

Mr. Mercier:

Yes, 14-B, your Worship.

To Mr. Mercier:

Q. Did Miss Palmer say who she was?

A. She said she was a nurse.

Q. You are quite positive you were not interested, in spite of the fact she asked you to sign the card?

A. I said I didn't use them. She said, "sign the card and she would send a box."

Q. Is your husband working?

PAGE D-69

Mrs. Juliet Sarault.

To Mr. Mercier:

A. Not steady; he has been working this summer.

Q. What does your husband do?

A. He drives a truck.

CROSS EXAMINATION

To Mr. Beament

Q. Mrs. Sarault, your husband has had steady employment this summer for the first time?

A. Yes.

Q. And he gets a salary of \$45.00 per month?

A. About that.

Q. And you in addition to keeping your own child there are looking after twin children?

A. Yes.

Q. Of your dead sister?

A. My brother.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. So your family really includes yourself, your husband, own child and two nephews or nieces?

A. Nephews.

Q. Three children?

A. Yes.

Q. You have practically adopted these two children?

A. Yes.

Q. So there is one child really your own and two adopted?

A. Yes.

Q. To be looked after on your husband's wages?

A. Yes.

Q. Your husband is the sole support of yourself and these three children?

A. Yes.

Q. And you did in fact sign an application?

PAGE D-70

Mrs. Juliet Sarault.

To Mr. Beament:

A. I did.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. Would you have gone to any extent to get this application?

A. Not if she didn't come to the door.

Q. These two children, are you getting paid for them?

A. No, on charity.

Q. You feel you can take care of two more on what your husband gets?

A. He doesn't give me much, just for dressing them.

Q. You have enough to get along with?

A. (No reply).

To the Court:

Q. You said you had no intention of using what was in the box?

A. Yes.

Q. Why?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. I never did; I don't know.

Q. Do you think it is wrong to use them?

A. No, Miss Palmer told me all the Catholics around were using them; there is no wrong in them.

Q. You just didn't feel like using them?

A. No.

Q. All right.

(Witness retired).

- - - - -

PAGE D-71

Adjournment

The Court:

I think that is all we have time for tonight.

Has the Crown any more witnesses?

Mr. Mercier:

I do not know if all will be called - there are eleven more.

Mr. Wegenast:

We do not expect to have as many witnesses as my learned friend, but they may be longer.

I was wondering what shape we would be in on Friday evening and if we sit on Saturday and if an adjournment is necessary to Monday or Wednesday, - is it in order to raise that?

The Court:

Yes. It occurs to me it depends on how we get along tomorrow. I am prepared to sit Saturday if necessary, if it is possible to finish by Saturday noon.

Mr. Wegenast:

My learned friend Mr. Beament has an important case in Toronto on Saturday.

The Court:

I would be prepared to go through without ad-

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

journing.

Mr. Wegenast:

On Monday, if we adjourn over the week end -- .

The Court:

For my ether courts I have been able to get assistance for today; I don't know if I can do the same on Monday.

Mr. Wegenast:

I thought your Worship might have a schedule.

PAGE D-72

Adjournment

The Court:

Thursday is my heaviest day. If we adjourn Friday evening, it will be until Monday and then go to a finish.

Mr. Mercier:

What I have learned in conversation: on account of the nature of the defence that may be brought up, I might have to ask for a further adjournment after the evidence for the defence is in in order to put in evidence in rebuttal.

The Court:

We do not want to cross too many bridges before coming to them.

Mr. Mercier:

I am perfectly willing to grant any adjournment for the defence.

Mr. Wegenast:

I have witnesses who have a good many other things to do and to bring them here from Toronto and have them sitting here several days is to be avoided.

The Court:

I was prepared to go on on Saturday, but if Mr. Beament cannot be here we will adjourn Friday to Monday.

Mr. Mercier:

And sit tomorrow?

The Court:

Yes, and Friday.

(The Court thereupon adjourned over night to 10 a.m., October 22, 1936).

- - - - -

PAGE D-73

Mrs. Lucienne Duhamel.

(The Court resumed at 10:00 a. m., October 22, 1936):

Mrs. Lucienne Duhamel, sworn, deposed:

To Mr. Mercier:

Q. Where do you reside?

A. 3 Cedar street.

Q. In the town of Eastview?

A. Yes.

Q. Were you residing there in the month of August of this year?

A. I was.

Q. Do you know the accused, Miss Palmer?

A. Yes.

Q. When did you meet her?

A. I met her in August.

Q. Where?

A. At my tenant's house.

Q. Where is that?

A. 3 1/2 Cedar street.

Q. Under what circumstances?

A. Well, I was home one afternoon and the lady's daughter came to my home.

Q. What is the name of your tenant?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Mrs. Louiseize, and she said, "Mrs. Duhamel, there is a nurse at home; she talks only English and my mother wants you to interpret her. I went there.

Q. You went there and what happened?

A. She said, "how do you do."

Q. Who said that?

A. Miss Palmer said "how do you do" and said, "are you a married woman," and I said "yes, I am."

Q. And?

A. She said, "would you mind explaining to that lady,-"

PAGE D-74

Mrs. Lucienne Duhamel.

To Mr. Mercier:

first she said "it is about the birth control." She said, "I am visiting families to whom I am sent; Would you mind explaining to her what it is about." She explained to me.

Q. What did she explain to you?

A. She showed me a tube of jelly and the key -- to turn the key, fill the nozzle with jelly first and I told Mrs. Louiseize; I repeated.

Q. Was anything else said about the use of this jelly?

A. She said it had to be used before intercourse.

Q. Was there any conversation about what it was for, what purpose?

A. She said it was for the purpose of birth control.

Q. And you in turn explained that to Mrs. Louiseize?

A. Yes.

Q. Was there any further conversation?

A. Nothing.

Q. Was there nothing more?

A. She questioned the lady and I repeated to the lady the answers and she wrote them down.

Q. Did you have any conversation with Miss Palmer about yourself?

A. Oh, yes; she asked me about my family; I said I had three and she said "would you be interested in having some too," and I said, "all right." So, she went by the same procedure and I signed my name.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Did you receive anything?

A. It was understood I was to receive it by mail, a free sample.

PAGE D-75

Mrs. Lucienne Duhamel.

To Mr. Mercier:

Q. Did you receive anything?

A. Yes.

Q. What was contained in that free sample?

A. There was the tube to fit the nozzle; it wasn't fitted on but there was the nozzle and two pamphlets, one French and one English. There was something else; I was surprised; an envelope with three condoms in it; that is all there was, I think.

Q. Was there any discussion of price about these things?

A. No, it was understood it was to be given as a free sample.

Q. What was to happen -- was there any discussion if you wanted some more?

A. Well, at first I asked was there any charge for the mail and she said no. I know she said if we wanted some more we would have to pay for the mailing.

Mr. Beament:

Postage.

To Mr. Mercier:

Q. For the postage?

A. Yes, but not for the first time.

Q. Is your husband working?

A. Yes, he is.

Q. He is working steadily?

A. Yes, for years.

Q. You have a property?

A. Yes.

Q. You rent part of that property?

A. Well, it is another property altogether.

PAGE D-76

Mrs. Lucienne Duhamel.

The Court:
Have you got a box?

Mr. Mercier:
No.

CROSS EXAMINATION

To Mr. Wegenast:
Q. Is that your signature?
A. Yes.

Q. Will you look that over and see if there is anything on it that is not correct -- look at the other side too?

A. I do not understand about the small apartment here.

Q. You live in a small apartment?

A. No, a big house; perhaps she means the apartment she was in; it was at my tenant's place.

The Court:
Card, Exhibit 25-B.

To Mr. Wegenast:
Q. You don't see anything wrong with this: take your time and look it over?
A. I don't see anything wrong.
Q. That is our own comments?
A. Yes, it is.

Mr. Wegenast:
She says she doesn't want to take responsibility for remarks below her signature.

The Court:
The remarks.

To Mr. Wegenast:
Q. You didn't think you were doing anything wrong in taking this information?

PAGE D-77

Mrs. Lucienne Duhamel.

To Mr. Wegenast:

A. Well, I have no information about birth control and to be sincere I wanted to have some information.

Q. Why?

A. To see what it was like.

Q. And do you agree that you have something to say whether you ought to have any more children or not?

A. I believe I have no right to limit my family; according to my religion I have no right to use any kind of contraceptive.

Q. You didn't feel that way at the time?

A. I wouldn't say that, because when I said to get the box I didn't make any promise and I didn't have in my mind to use it; I just wanted to see what was in the pamphlets.

Q. Have you had any talk about this since; has anyone said it wasn't right?

A. I knew a long time ago it wasn't right.

Q. That isn't what I asked, Mrs. Duhamel: have you had any talk about this since; has anyone said it wasn't right?

A. Not in particular.

Q. You know you are on your oath?

A. I know; I talked with the women who got some boxes and we make jokes; that is all.

Q. Has anybody told you it was a sin?

A. I know it is a sin; that is my religion.

Q. I didn't ask you if it is your religion?

A. Nobody has to tell me; I know.

Mr. Mercier:

My learned friend might ask the witness if she is a Catholic and that will answer his question.

PAGE D-78

Mrs. Lucienne Duhamel.

To Mr. Wegenast:

Q. Has anybody said it was a sin to use it?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Not since, but before.

Q. Who was it?

A. Oh - .

MY. Mercier:

This may be very delicate.

The Witness:

A. --how to, - I know it is a sin; we learn it.

To Mr. Wegenast:

Q. That is not what I asked?

A. First, I learned it when I got married; the priest made me promise not to limit my family as a good Catholic.

RE DIRECT EXAMINATION

To Mr. Mercier:

Q. Of course you know, Mrs. Duhamel, there are means of not having children, although you are married?

A. There must be but I didn't know until then.

Q. You live in a small apartment?

A. No, in a house.

Q. Are you very sickly?

A. I have little ills; I am not in very good health right now, but I can walk and go about.

Q. Are you, "not too happily married"?

A. I never said such a thing; it is not the truth, because I am happily married.

Q. It is on this exhibit 25-B. You never had any abortions?

A. Never.

Q. There are "four-five" marked here?

PAGE D-79

Mrs. Lucienne Duhamel.

To Mr. Mercier:

A. It is not true; I never said such a thing.

Q. You didn't say that?

A. No.

Mr. Beament:
What is Exhibit 24-B?

The Court:
It is a card, Mrs. L. Maheux, of 43 Cedar Street.

Mr. Beament:
Thank you, your Worship.

The Court:
25-B is card dated August 16, 1936, Mrs. A. Duhamel.

(Exhibit 26-B):
"Application and history card
Name - Mrs. A. Duhamel.
Date - Aug. 16, 1936.
Case No. Fr. 36991.
Street - 3 Cedar St.
Nationality - French.
Religion - R. C.
City - Eastview.
Province - Ont.
Date of marriage - Nov., 1923.
Husband's occupation - clerk.
Income - \$45. per month.
On relief - no.
Wife's age - 30. Husband's age - 37.
Family physician - Dr. LeMay, St. Patrick St.
Ottawa city.
No. of living children - 3.
Ages of living children - 11-8-14 months.
No. of dead children - none.
No. of miscarriages - none. Give dates -
Ages of children at death -
No. of abortions - 4-5. Give dates

PAGE D-80

Mrs. Lucienne Duhamel.

(Exhibit 25-B, continued):

Health of children - good.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

State contraceptives used previously - none.

Date of last menstrual period - Aug. 8, 1936.

Check reasons for desiring contraceptive information) Economic- X
) Physical
) Desires proper spacing of children -
) Other reasons - .

Physical condition of husband - . good.

Physical condition of wife - poor.

If pregnant, date of term - not when contacted.

RURAL

Instructions to social workers - write name and address very plainly in ink on reverse side.

Check contraceptives desired:

Contraceptive jelly and nozzle - V.

Or pessary and contraceptive jelly - .

Application:

I herewith make application for birth control information and supplies and claim that I am entitled to receive some in view of my circumstances.

Please send English, Polish, Ukrainian, French booklet (sent) (mark language desired).

Referred by

Name Address

Applicant sign here - (sgd.) Mrs. A. Duhamel.

Social worker sign here - (sgd.) Dorothea Palmer.

Family physician sign here - Dr. LeMay, R. C., not contacted.

I recommend size () pessary.

The signature of the social worker is not necessary

PAGE D-81

Mrs. Lucienne Duhamel.

(Exhibit 25-B, continued):

if the application is signed by the family physician.

The size of the pessary must be ascertained by the family physician. Patient must go to the DOCTOR'S OFFICE to be fitted if pessary method is desired. Literature on CONTRACEPTION will be sent to the family physician on his request.

(In red ink) : 8-19-36 J. N. & C. (n) D. B.

Remarks: (home conditions; size and type of

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

residence; how kept; general observation): Small apt. fairly clean; mother very sickly and not too happily married. B. C. information very much appreciated.

Send application to The Parents' Information Bureau, 410 King St. W., Kitchener, or Miss A. S. Weber, 410 King St. W, Kitchener."
(Witness retired).

- - - - -

PAGE D-82

Mrs. Anita St. Amour.

Mrs. Anita St. Amour, sworn, deposed:

To Mr. Mercier:

Q. Where do you live, Mrs. St. Amour?

A. 22b Cedar street.

Q. In the town of Eastview?

A. Yes.

Q. Were you living there in August of this year?

A. Yes.

Q. Do you know Miss Palmer?

A. Yes.

Q. Where did you meet Miss Palmer?

A. At my home.

Q. When?

A. When she came over to my place.

Q. Under what circumstances did she get to your place?

A. She came to my place and said she was a trained nurse and asked about birth control and told me she was giving certain articles to prevent family and she asked me if I was interested in it.

Q. And you replied?

A. At first I said "no".

Q. And?

Q. Then she told me that if I took the articles I was in no way obligated and I could dispose of it in whatever way I wanted.

Q. And?

A. I said I would take it then.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Why did you take it?

A. I just took it put of curiosity.

Q. Did you have to ask for this thing?

A. No.

PAGE D-83

Mrs. Anita St. Amour.

To Mr. Mercier:

Q. Would you have asked for it if it had not been offered you?

A. No.

Q. How many children have you got?

A. One.

Q. Is your husband working?

A. Yes.

Q. Steadily?

A. Yes.

Q. Did you receive the articles in question?

A. Yes, I did.

Q. I ask you to look at exhibit 15-B and the contents: did you receive that?

A. Yes.

Q. Were the pamphlets in it too?

A. Yes.

Q. Just as it is now?

A. Yes.

Q. Had you seen the contents of that or something similar before you received this box?

A. When Miss Palmer showed me one.

Q. That was on the occasion of her visit to you?

A. Yes.

Q. What did Miss Palmer show you on the occasion of her visit to you?

A. The tube.

Q. Did she show you anything else?

A. She explained it and my baby was crying and I took her in my arms. She said everything would be explained in the box.

PAGE D-84

Mrs. Anita St. Amour.

To Mr. Mercier:

Q. She said everything would be explained in the box?

A. Yes.

To the Court:

Q. She said everything would be explained?

A. She said certain things were in the box and everything would be explained.

Q. In the pamphlets?

A. Yes.

CROSS EXAMINATION

To Mr. Wegenast:

Q. Why did you give up the box?

A. Mr. Martel came to my place and asked for it.

Q. It was yours?

A. Yes.

Q. Why didn't you keep it?

A. I thought I was obliged to give it,

Q. Did you think there was anything wrong in asking for it?

A. No.

Q. Did you think there was anything wrong in Miss Palmer sending it to you?

A. No.

Q. Do you think it is wrong to decide for yourself about having another baby?

A. I don't care about that

Q. That is all.

(Witness retired).

- - - - -

PAGE D-85

Mrs. Marie-Ange Pharand.

Mrs. Marie-Ange Pharand, sworn, deposed:

To the Court:

Q. Your first name?

A. Ne pane pas en anglais.

(Through interpreter Rosario Hebert, already sworn):

To the Court:

Q. Your first name?

A. Marie-Ange.

To Mr. Mercier:

Q. Where do you reside, Mrs. Pharand?

A. 72 Beechwood.

Q. Were you residing there in the month of August, 1936?

A. Yes.

Q. Do you know the accused, Miss Palmer?

A. Yes.

Q. When did you meet Miss Palmer?

A. When she came home.

Q. When was that?

A. I did not notice the date.

Q. Do you remember what month it was?

A. It must be in August, because I left the place in September.

Q. How did you come to meet Miss Palmer?

A. She rapped at the door and introduced herself as a nurse.

Q. In French or English?

A. In English.

Q. Do you understand English, Mrs. Pharand?

A. I understand a few Words.

Q. And Miss Palmer told you she was a nurse?

A. Yes.

PAGE D-86

Mrs. Marie Ange Pharand.

To Mr. Mercier:

Q. And was there any further conversation?

A. She spoke a lot that I couldn't understand; she asked me now and then if I understood.

Q. What did you reply?

A. I thought she was a nurse who came along to weigh my baby as the Metropolitan nurses usually do

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

come.

Q. What happened while she was there?

A. She followed me into the kitchen. She asked me my name and my husband's name; what was our ages and how many children there were.

Q. And how many children have you?

A. I have two; she also asked how many children we had.

Mr. Mercier (to interpreter):

She said, "that is all I understood in English".

The interpreter:

A. That is all I understood in English.

To Mr. Mercier:

Q. After that conversation did you do anything?

A. Afterwards I understood that she was coming regarding maternity, because I understood what was written on the pamphlets. The title of the pamphlet was, "Control of maternity," but I did not believe I had to sign.

To the Court:

Q. I didn't understand - she had to sign?

A. I didn't know when I signed it was for to send the stuff to me.

To Mr. Mercier:

Q. Is this the pamphlet - Exhibit 5-B?

PAGE D-87

Mrs. Marie-Ange Pharand.

To Mr. Mercier:

A. It is a pamphlet like this, which was written, "Control of maternity."

Q. Why do you say you did not think it would be sent to you?

A. Because I did not understand she was going to send some over. I thought we would ask for it.

Q. Did you understand you were asking for it when you were signing this card?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. No.

Q. Would you have signed the card if you had known it was for the purpose of getting this box?

A. No.

Q. Why?

A. Because I do not need it.

Q. Is your husband working?

A. Yes.

Q. And you have two children?

A. Yes.

Q. I show you this box, Exhibit 17-B: will you tell me if that is the box you received, and the contents of it?

A. it looks like it.

The Court:

Exhibit 17-B.

To Mr. Mercier:

Q. Your name is on this box?

A. Yes.

Q. Did you receive this box?

A. Yes.

Q. When Miss Palmer was interviewing you did she show you anything besides the pamphlet?

PAGE D-88

Mrs. Marie Ange Pharand.

To Mr. Mercier:

A. She showed me what her box was containing.

Q. What was that?

A. The very same thing as she sent to me.

Q. You mean the tube?

A. Yes.

Q. The key?

A. I did not pay attention.

Q. All right.

CROSS EXAMINATION

To Mr. Wegenast:

Q. How far are your children apart in age?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. A year.

Q. You were married in 1934?

A. Two years ago.

Q. Let me see that box please -- this pamphlet, "Control of maternity", was in the box when you got it?

A. She left me one on the table and there was another one in the box.

Q. Why did you sign the application?

A. Because I thought it was only my name she asked me.

Q. Does she always sign things like that?

A. It is the first time I ever signed in English. I usually sign when it is in French, but never in English.

Q. That doesn't quite answer the question: does she always sign things like that when people ask her?

A. It is the first time.

Q. It doesn't seem reasonable to me?

PAGE D-89

Mrs. Marie Ange Pharand.

To Mr. Wegenast:

A. It is the first time I ever got fooled; I don't want to get fooled ten times.

The Court:

Perhaps book salesmen do not travel in this district.

Mr. Wegenast:

Perhaps not, but I didn't think there was any part of the world in which they did not.

RE DIRECT EXAMINATION

To Mr. Mercier:

Q. Arising out of this cross examination; what did you think you were signing when you signed this card?

A. I thought it was only to prove my age, my husband's age and my children's.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Did you know that when you signed that application?
A. (No reply).

Mr. Wegenast:
I do not know if that is the way to put that question.

Mr. Mercier:
A card was signed by the witness; on that card there were certain questions answered. There are certain cards in those exhibits, and I am asking, arising out of the cross examination of my learned friend, if she knew she was answering certain things.

Mr. Wegenast:
That is leading, I think.

The Court:
In the absence of the production of the card –

PAGE D-90

Mrs. Marie-Ange Pharand.

The Court:
we can guess it is a similar type of card.

Mr. Mercier:
But, I submit I can ask this witness -- it has been given in cross examination -- the woman has signed something: I want to ask her, using the other card?

The Court:
She said she signed the card because she thought it was to verify her age and her husband's age and the children's.

To Mr. Mercier:
Q. Why did you sign this card for Miss Palmer?
A. Without reflection of any kind; I didn't put any thought to what I was doing.
Q. That will be sufficient?
A. I signed because she asked me to.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. She had told you she was a nurse?

A. Yes.

Q. You told us before you thought she was coming in to weigh your baby?

A. My baby hasn't got two months yet, and the nurses usually come and weigh them; as the nurse used to come and it was during her holidays.

RE CROSS EXAMINATION

To Mr. Wegenast:

Q. But she knew before she signed the paper this nurse had to do with the prevention of maternity?

A. Yes, I did know - I can't remember right.

To Mr. Mercier:

Q. What was the first thing she asked you?

PAGE D-91

Mrs. Marie-Ange Pharand

To Mr. Mercier:

A. My name and my age, because during the month my baby fell off the stairs; I went to pick him up and it put my mind off her.

(Witness retired)

- - - - -

PAGE D-92

Mrs. Lillian Gervais

Mrs. Lillian Gervais, sworn, deposed:

(Through interpreter Rosario Hebert, already sworn):

To Mr. Mercier:

Q. Where do you reside?

A. 148 Vernon.

Q. In the town of Eastview?

A. Yes, sir.

Q. Were you living there during the course of the month of August, 1936?

A. Yes, we were the proprietors.

Q. Do you know Miss Palmer?

A. Yes, I do.

Q. When did you meet Miss Palmer?

A. I can't remember if it is the end of August.

Q. Under what circumstances did you meet Miss Palmer?

A. She rapped at the door and I went to open the door.

Q. Yes?

A. She told me she was coming for the birth control; then she said something I didn't understand.

Q. Did you understand anything of what she said?

A. I understood it was for family.

Q. Did you understand anything else of what Miss Palmer told you?

A. She asked me my age, my husband's age, and also my children's ages.

Q. And you gave her that?

A. Yes.

Q. Did she ask you anything else?

A. My doctor's name.

Q. What did you tell her?

A. I told her it was Dr. Lemay.

PAGE D-93

Mrs. Lillian Gervais.

To Mr. Mercier:

Q. Did you tell her anything else?

A. She asked me if I wanted to get one of those boxes free.

Q. What did you reply?

A. I told her if it was free I would accept it.

Q. Did Miss Palmer tell you what was to be in that box?

A. She showed me and explained to me, but I didn't understand.

Q. She showed you what?

A. She showed me the tube and the jelly.

Q. And explained what to you?

A. She showed me how to do it, to put the jelly in the tube.

Q. Did she tell you what it was for?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. She told me it was for family.

Q. What do you mean by that: "she told you it was for family"?

A. She told me it was to distance family.

Q. It might be space -- it is more than space -- it means to keep away -- to keep a family at a distance -- (referring to translation of witness' evidence) -- and after that did you sign a card?

A. Yes, I signed a card to receive the box.

Q. Did Miss Palmer tell you to see your doctor before using this stuff?

A. She did not

Q. Did you consult your doctor about this?

A. No, I did not.

Q. And as a result did you receive this box: Exhibit 18-B, Mrs. Gervais?

A. Yes.

PAGE D-94

Mrs. Lillian Gervais.

To Mr. Mercier:

Q. And what you see in there now was there when you received it?

A. Yes.

Q. With the literature?

A. Yes.

Mr. Wegenast:

Let me see that box.

To Mr. Mercier:

Q. How many children have you, Mrs. Gervais?

A. Three.

Q. Is your husband working?

A. Yes.

Q. Steadily?

A. Yes.

Q. And do you own your own home?

A. Yes.

CROSS EXAMINATION

To Mr. Wegenast:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Your husband is a waiter?

A. Yes, he works in Bowles' lunch.

Q. How much does he make a month?

A. Forty dollars.

Q. I see you did not use the tube?

A. No, it was to see what it was.

Q. How long did you have it before the police took it?

A. At least a month, for sure.

Q. What does she understand by éloigner des enfants?
(to interpreter)?

Interpreter:

PAGE D-95

Mrs. Lillian Gervais.

Interpreter:

That is the way she introduced herself; it was to distance herself.

Mr. Wegenast:

Does she understand to space them - l'un del'autre?

Mr. Wegenast:

Q. You didn't see any harm in that?

A. No.

(Witness retired).

- - - - -

PAGE D-96

Mrs. Olive Groulx.

Mrs. Olive Groulx, sworn, deposed:

To the Court:

Q. What is your first name?

A. Ne parlez pas en anglais.

(Through interpreter Rosario Hebert, already sworn):

To Mr. Mercier:

Q. Where do you reside, Mrs. Groulx?

A. 152 Vernon.

Q. In the town of Eastview?

A. Yes.

Q. Were you living there in the month of August, 1936?

A. Yes.

Q. Do you know Miss Palmer?

A. Yes.

Q. When did you meet Miss Palmer?

A. During the month of August.

Q. Where?

A. At home.

Q. How did Miss Palmer come to get there?

A. She rapped at the door and told me she was a nurse.

Q. What did she tell you?

A. She asked my name and my husband's name.

Q. Anything else?

A. How many children I had.

Q. How many did you tell her you had?

A. Two living and four dead.

Q. Was this conversation in French or English?

A. She spoke in English but I can Understand it a Bit

Q. You understood everything Miss Palmer told you?

A. Yes.

Q. And after asking you these questions about how many

PAGE D-97

Mrs. Olive Groulx.

To Mr. Mercier:

children you had, what further conversation did you have with Miss Palmer?

A. She asked me if I wanted to accept a box.

Q. What box?

A. The box with tube and jelly.

Q. Did she show you this tube and jelly?

A. Yes, she did.

Q. And what did she say about it, if anything?

A. She told me it was good to prolong a family.

Q. What did you understand by that - "prolong a family"?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Not to have family so often.

Q. And what did you do after this, if anything?

A. I signed the paper.

Q. What did you sign: do you remember?

A. I signed my name.

Q. What did you sign your name to?

A. To accept the box.

Q. You signed your name to accept the box of what Miss Palmer showed you?

A. Yes.

Q. And would you have asked for this box if it had not been [offered] to you?

A. Yes.

Q. You would have asked for it?

A. Yes.

Q. Is this the box you received?

A. Yes.

Q. Are the contents the same as in the one you received?

A. (No reply).

The Court:
Exhibit No.?

PAGE D-98

Mrs. Olive Groulx.

Mr. Mercier:
19-B.

To Mr. Mercier:

Q. Did you know how to get, or had you heard about this before?

A. No.

Q. Who would you have asked for a box?

A. To nobody; I wouldn't know.

Q. I believe you told me you would have asked for this box?

A. (No reply).

Mr. Beament:
This is cross examination.

Mr. Mercier:

No, it is in explanation of her own answer: in answer to a question, would she have asked for this box if Miss Palmer had not gone there, she said yes, and I asked to whom, and she said she wouldn't know, and I am asking her to explain the first one in view of the second. I submit to your Worship that is far from being cross examination.

The Court:

Proceed.

To Mr. Mercier:

Q. You have told me you would have asked for this box if it had not been offered, and now you tell me you don't know who you would ask for it?

A. I do not know as I had no address.

Q. Had you heard about this before?

A. (No reply).

Mr. Beament:

This is examination in chief.

PAGE D-99

Mrs. Olive Groulx.

The Court:

There is some limit.

Mr. Mercier:

Surely I can ask the witness if she heard about this before - if that is cross examination.

The Court:

Not cross examination, but is it a leading question?

Mr. Mercier:

To ask if she heard of anything before? I desist, your Worship.

Mr. Wegenast:

It is one or the other.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Mr. Mercier:

It is the first time I learn if asking if she heard of something before --.

Mr. Wegenast:

In view of what was said before, it was obviously intended to discredit the witness and make the most of an apparent inconsistency.

Mr. Mercier:

I can't see the argument; however, I have desisted.

The Court:

The reason I think it is a bit leading is that it might suggest the answer.

Mr. Wegenast:

It depends on sizing up the witness.

Mr. Mercier:

"Have you heard about this before" -- is there leading or cross examination in that? However --.

PAGE D-100

Mrs. Olive Groulx.

CROSS EXAMINATION

To Mr. Wegenast:

Q. You have had six children?

A. Yes.

Q. And two miscarriages?

A. Yes.

Q. Let us see how these children are spaced: just a moment, is the first child living?

A. No, he is dead.

The Court:

How many?

Mr. Wegenast:
Six altogether; two miscarriages.

To Mr. Wegenast:

Q. The first is not living, and how long is it to the second?

A. Thirteen months.

Q. Is the second living?

A. No, he is dead.

Q. And how long was it from that until the next birth or miscarriage?

A. About a year.

Q. Was it a birth?

A. A four-months birth.

Q. How far have we got now?

A. (No reply).

To the Court:

Q. How long have you been married?

A. Going on ten years.

To M. Mercier:

Q. Over ten years?

A. Going on ten years.

PAGE D-101

Mrs. Olive Groulx.

To Mr. Wegenast:

Q. You were married in 1927?

A. Yes.

Q. How long after your marriage was the first child born?

A. Twenty-two months.

Q. That would bring us to November, 1928?

A. It was a miscarriage.

Q. Before the first child was born?

A. Yes.

Q. How long was that after you were married?

A. Twenty-two months.

Q. So the first was a miscarriage in November, 1928?

A. In September.

Q. That is a little less than twenty-two months -- so,

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

we have a miscarriage in September, 1928?

A. Yes.

Q. What happened next?

A. Another baby in thirteen months after.

Q. That would be in October, 1929 -- take your time and think it out?

A. No, he was born in the month of March.

Q. March, 1929?

A. In 1929.

Q. Had there been any miscarriages -- is this the first birth in March?

A. The first birth was a miscarriage at six months.

Q. That child wouldn't have lived then?

A. No.

Q. She calls that "naissance"?

A. Yes, I did.

PAGE D-102

Mrs. Olive Groulx.

Mr. Wegenast:

If your Worship isn't quite clear -- we would like to have the history of this case.

Mr. Beament:

If the witness would --.

The Court:

This witness says she had six children altogether, - does that include any miscarriages?

Mr. Beament:

No, she doesn't distinguish between miscarriages and births.

The Court:

I would like to have the witness explain that point.

Mr. Wegenast:

I will put it to the interpreter to explain to the witness that the result of any pregnancy of three months or less is a miscarriage. Anything three

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

to seven months is an abortion and anything from seven to nine months is a naissance, - a birth.
Is that right, doctor?

Interpreter:
I do not understand it.

The Court:
You are going to have some difficulty.

Mr. Wegenast:
We will get it.

To Mr. Wegenast:
Q. The first was a miscarriage in September, 1928?
A. Yes.
Q. And that was a four months?
A. Six months.

PAGE D-103

Mrs. Olive Groulx.

To Mr. Wegenast:
Q. We will call that an abortion?
A. (No reply).

The Court:
The first in September, 1928?

Mr. Wegenast:
Yes, and a six-months' child which we will call an abortion. That is what the doctor says.

To Mr. Wegenast:
Q. Then, what was next and when?
A. In 1929.
Q. What was that?
A. A baby boy.
Q. A baby boy at the full nine months?
A. Yes, he lived for two and a half years.
Q. What was the next?
A. Thirteen months later, a baby girl.
Q. Is that girl living?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes, the first five years.

Q. What was her birthday?

A. The twenty-eighth of April.

Q. In what year?

A. (No reply).

To Mr. Beament:

Q. 1931?

A. Yes, sir.

To Mr. Wegenast:

Q. What next?

A. I do not remember.

Q. We have now two children living.

The Court:

No, one.

PAGE D-104

Mrs. Olive Groulx.

Mr. Wegenast:

Oh, yes; a boy is dead.

The Witness:

A. I have two living, one five and the other eleven months' old.

To Mr. Beament:

Q. Is that the last one?

A. Yes.

To Mr. Wegenast:

Q. So, we have that in October, 1935. Now, we have three more to account for between 1931 and 1934?

A. (No reply).

The Court:

Two more.

Mr. Beament:

Four more, if my score board is right.

The Witness:

A. I have a little boy dead - it will be two years on the fifth of November.

To Mr. Beament:

Q. When was he born?

A. On the fifth of November.

Q. In what year?

A. In 1935.

To Mr. Wegenast:

Q. A year ago?

A. Two years in November.

To Mr. Beament:

Q. Was the boy stillborn?

A. He lived a year.

To Mr. Wegenast:

Q. And he died just a year ago?

A. Yes.

Q. Then we have two more births to account for and one miscarriage?

PAGE D-105

Mrs. Olive Groulx.

To Mr. Wegenast:

A. I know about the ones living; I can't remember the others very well.

Q. Is it true she had six children?

A. Yes, with two miscarriages.

The Court:

By "with", does she mean inclusive or exclusive?

The Witness:

A. Four children in time and two miscarriages.

To the Court:

Q. Six, including the miscarriages?

A. Yes, your Worship.

To Mr. Wegenast:

Q. She counts two dead with the miscarriages?

A. No.

Q. Were there four children born that lived and died?

A. I had four; two living and two dead.

Mr. Mercier:

You are practically torturing this witness - two living, two dead and two miscarriages.

The Court:

That is what I understood from the beginning.

To Mr. Wegenast:

Q. I didn't understand that -- now, you know what is meant by spacing children further apart?

A. Yes, I do.

Q. And you think it is a good thing?

A. Yes.

Q. And it isn't wrong?

A. No.

Q. And she has used some medicine sometimes to help

PAGE G-106

Mrs. Olive Groulx.

To Mr. Wegenast:

space them?

A. Sometimes.

Q. That is all.

(Witness retired).

PAGE D-107

Mrs. Rhea Does.

Mrs. Rhea Does, sworn, deposed:

To Mr. Mercier:

Q. Where do you reside, Mrs. Does?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. 20 Catherine, Eastview.

Q. Were you residing there in August, 1936?

A. Yes, I do [did]

Q. Where you met Miss Palmer?

A. {No reply}.

The Court:

I didn't get the address?

The Witness:

A. 20 Catherine, Eastview.

To Mr. Mercier:

Q. When did you meet her?

A. At my home.

Q. When?

A. When? In August, sometime.

Q. You met Miss Palmer in August of this year?

A. Yes.

Q. Under what circumstances?

A. She came in, asked do I believe in birth control.

I said yes, come in, but I said she was a little late.

Q. How many children have you?

A. I have had nine.

Q. How many are living?

A. Eight.

Q. What do you mean by that: she was a little late?

A. Well, I don't know; I think my time is over now.

Q. Mrs. Does, what conversation did you have after that?

A. Well, Miss. Palmer asked me if I was interested; I said

PAGE D-108

Mrs. Rhea Does.

To Mr. Mercier:

yes; I told her to come in and we talked.

Q. What did you talk about; what was your conversation?

A. We talked about the goods she had.

Q. What were those goods?

A. A box, I suppose.

Mr. Wegenast:
She said, "the good".

To Mr. Mercier:

Q. What was it: "goods" or "good"?

A. "Goods."

Q. What were these goods?

A. A box in her bag.

Q. What was that box she had in her bag?

A. She had that contraceptive jelly and tube.

Q. Was there any conversation about that jelly and tube?

A. She asked if I wanted one and I said "yes."

Q. And she said what it was to be used for?

A. Yes, she did.

Q. What did she tell you?

A. She told me there would be a pamphlet in there, if I could read English.

Q. What was to be in that pamphlet?

A. It was there for me to read, if I could read.

Q. Did she tell you the purpose of that tube of jelly?

A. She told me what it was for.

Q. What did she tell you it was for?

A. I can't remember; it was so long ago.

Q. What did she tell you it was for?

PAGE D-109

Mrs. Rhea Does.

To Mr. Mercier:

A. I guess birth control; that is what she came in for.

Q. Did you receive a box?

A. I did.

Mr. Mercier:

We haven't got that?

Officer Martel:

No.

To Mr. Mercier:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. What was in it?
A. Tube, jelly and three condoms.

To the Court:

Q. Was there anything else in the box?
A. No, just the three articles.
Q. No literature?
A. There was a pamphlet for me to read.

To Mr. Mercier:

Q. Is your husband working?
A. Yes.
Q. For some considerable time?
A. Yes, he always has.
Q. You signed the application?
A. I did, yes.

CROSS EXAMINATION

To Mr. Wegenast:

Q. The police didn't get this box?
A. No, they didn't; I wanted to see what was in it.
Q. You are not forty-eight years old yet?
A. No, I don't think so.
Q. Not even thirty-eight?

PAGE D-110

Mrs. Rhea Does

To Mr. Wegenast:

A. No.
Q. So that you may have use for it yet: am I right?
A. I guess I would.
Q. You know what we mean by spacing children?
A. Yes, I do.
Q. Do you think it is a good thing?
A. Yes.
Q. You don't see any harm in it?
A. No.
Q. On the contrary' you think it's a good thing?
A. Yes, in my case I guess I think it is.
Q. You had one child still born?
A. She died at birth.

Q. That isn't the last one?

A. No, it was my second child.

To the Court:

Q. I wanted to know what else was in the box?

A. A pamphlet.

To Mr. Wegenast:

Q. What do you say about your health: is it good, bad, fair or what?

A. I am not bad.

Q. You are not an invalid?

A. No.

Q. What would you say about whether your health is such you can have more children?

A. I can't explain in Court.

Q. You don't want any more children?

A. I can't I will write it down.

Q. That is why you, wanted this contraceptive?

A. Yes.

PAGE D-111

Mrs. Rhea Does.

The Court:

Just a minute, before we leave this witness:
I would like to have that statement amplified
in writing. It is ambiguous; there are two
meanings.

To Mr. Wegenast:

Q. I will take the responsibility: write down, Mrs.
Does, why you say you can't have any more children?

The Court:

I wanted to know if it was dangerous to her health
to have more children or if she is sterilized.

The Witness (answers in writing as follows):

A. My bladder has been punctured from child birth.

(Witness retired).

 The Court:
 Adjourn for five minutes.

 PAGE D-112

Mrs. Jeanne Richer.

Mrs. Jeanne Richer, sworn, deposed:

To the Court:

Q. Your first name?

A. Ne parle pas en anglais.

(Through interpreter Rosario Hebert, already sworn):

Q. Your name?

A. Mrs. Jeanne Richer.

To Mr. Mercier:

Q. Where do you reside, Mrs. Richer?

A. 27 Cedar.

Q. In the town of Eastview?

A. Yes, sir.

Q. Were you residing there in the month of August, 1936?

A. Yes, sir.

Q. Do you know Miss Palmer?

A. I can't tell as I haven't seen her enough for that.

Q. All right.

CROSS EXAMINATION

To Mr. Wegenast:

Q. Your children - you have five living and one dead?

A. Yes.

Q. And the ages of the living children are 6, 5, 4, 3, 2?

A. (No reply).

Mr. Mercier:

I don't think that results from the examination

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

in chief.

The Court:

She has been called as a witness; I think he can

PAGE D-113

Mrs. Jeanne Richer.

The Court:

cross examine.

The Witness:

A. I have six children; one is dead.

To Mr. Wegenast:

Q. Was that the first?

A. Yes.

Q. If it was living how old would it be?

A. Eight years.

Q. So, we would have them spaced about a year apart all the way along?

A. Yes.

Q. Don't you think it would be better if there were more space between?

A. I think it would be better if we didn't have all a bunch of kids at once.

Q. And there wouldn't be anything, wrong in making it come that way?

A. I do not say there would be anything wrong.

(Witness retired).

- - - - -

PAGE D-114

Dr. DeHaitre.

Dr. Joseph Eugene DeHaitre, sworn, deposed:

To the Court:

Q. Your first name?

A. Joseph Eugene DeHaitre.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

To Mr. Mercier:

Q. You are a duly qualified medical practitioner of the province of Ontario?

A. I am, sir.

Q. How long have you been practicing?

A. About thirty years.

Q. Doctor, I want to produce to you Exhibit No. 3 –

The Court:

Exhibit 3-A on the first count.

To Mr. Mercier:

Q. Will you tell the Court if this instrument is intended or can be used to prevent conception?

A. (No reply).

The Court:

I think that exhibit 3-A should become an exhibit on this count as the first count has been dismissed.

Mr. Beament:

I have only 1-A and 2-A.

The Court:

1-A is an envelope; 2-A an application form and 3-A was this exhibit: a rubber tube.

Chief Manion:

It was Exhibit 3 in the first case.

The Court:

3-A yes.

Mr. Mercier:

In any event, your Worship, it was part of Exhibit 22-B, Miss Palmer's bag.

PAGE D-115

Dr. DeHaitre.

The Court:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

I think it should become an exhibit here.

Mr. Mercier:

It is part of Exhibit 22-B.

The Court:

Very well, it is part of Exhibit 22-B.

To the Court:

Q. what is your address, doctor?

A. 161 Stewart.

Mr. Mercier:

What is the Exhibit number now?

Mr. Beament:

Part of 22-B.

Mr. Mercier:

Will it be part of 22-B, or give it a special number?

The Court:

I think we had better give it a special number, - 25-B was the last.

Mr. Mercier:

It will be Exhibit 26-B.

To Mr. Mercier:

Q. Is that an article or instrument that can be used to prevent conception?

A. (witness examines Exhibit 26-B).

To the Court:

Q. Describe it?

A. This is a form of pessary; it is one of the first I have seen of this style; I must be getting old or antique; I suppose I am not up to date.

To Mr. Mercier:

Q. Doctor, will you look at the content of this envelope, which is Exhibit 1.

PAGE D-116

Dr. DeHaitre.

Mr. Bearnent:

1-A

The Court:

That will become Exhibit 27-B.

The Witness:

A. It is a rubber preserve or what we usually call condoms.

To Mr. Mercier:

Q. Which can be used?

A. On the male organ to prevent conception; it is not always sure.

Q. A safe is not always safe?

A. A safe is not always safe.

Q. Doctor, have you read this pamphlet: "Birth Control and some of its simplest methods"?

A. I have.

Q. It is Exhibit 5-B?

A. Yes, this is in English. I have read it in French; if it was in German it would be the same.

Q. I think it is admitted to be a fair translation, - doctor: what would you say as to these methods being applied without the advice of a doctor?

A. I do not believe so; I think these methods may be all right to prevent conception, but I think in my opinion it is very unwise to practice those without a medical doctor, a man of experience, who is able before to examine the patient, before these things are resorted to.

Q. On what do you base your opinion?

A. We don't know: we may have to deal with a patient with a female whose organs are diseased already; maybe sometimes a woman is not examined, by a doctor

PAGE D-117

To Mr. Mercier:

who knows his business might find the beginning of

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

cancer disease in the cervix, sub-acute or chronic [gonorrhoea], a tumour or cyst in the neck of the womb. He may find the womb diseased; he might find any [of] the diseases belonging to the female genital organs. I think it would be very unwise to use that (indicating Exhibit 5-B.)

Q. Without the advice of a doctor?

A. Without the advice of a doctor, which may do a terrible lot of damage.

Q. How could the damage be caused by using these appliances by a woman with some disease of the genital organs: what would the danger be?

A. To cite one example : if those things are applied to a woman for instance who has the beginning of cancer of the cervix, if she used these appliances frequently she would accelerate the cancer and create there a chronic irritation in a lesion that has already begun in the evolution. You accelerate the cancer. Another: if you have a woman with sub-acute [gonorrhoea] and the doctor doesn't detect it or no doctor has seen that patient and she uses those things, by using that pessary -- there is a diaphragm there --- I suppose not ten in a hundred can apply that properly, maybe one in a hundred -- if it is not applied by a-doctor or nurse,- if the pessary is not put in the proper place, in other words,- if that woman unfortunately has gonorrhoea and you put a pessary there and close the neck of the womb, you push back in the womb the germs of the gonococci, and the first thing you know she has

PAGE D-118

Dr. DeHaitre.

To Mr. Mercier:

sterilized herself forever. That is one of the dangers.

Q. I see in this pamphlet a formula advertised there for [suppositories]:

Cocoa butter (beet grade)	1/4 lb.
Borax	5 drams.
Salicyclic acid	1 dram.
Cuinine bi-sulphate	1 1/2 drams.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

What would you say as to this formula being applied to a person who might suffer from certain diseases and it be applied to them?

A. In this: cocoa butter is not an irritant; it is soothing. Borax is not an irritant; it is more of an astringent. Salicylic acid is a great irritant; of course, in the percentage it is there -- I am not much of an analyst or pharmacist -- in a quarter of a pound, 5 dram -- the percentage I don't know by memory calculation.

Mr. Wegenast:
One dram.

The Court:
One dram in what?

The Witness :

A. Salicylic acid in a quarter pound of cocoa butter. There are great irritants there. Salicylic acid is a great irritant for all the membranes. Quinine bi-sulphate - I know some women take it internally as an abortive, but locally it looks like an irritant to the mucous membranes of the vagina and cervical organs.

To Mr. Mercier:

Q. Those may be used without causing harm in some circumstances, but would you think they should be used

PAGE D-119

Dr. DeHaitre.

To Mr. Mercier:

by anyone before being examined by a doctor?

A. In all cases a woman's organs should be examined first. If you put in a vagina a suppository of that kind where there is disease or inflammation, you increase or augment or magnify that.

Q. And this vinegar tampon on page 11 (Exhibit 5-B)?

A. It depends on the percentage.

Q. Although perfectly harmless to a lot of women?

A. In a normal vagina if the percentage is too high

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

it will create an irritation - vaginitis.

Q. There might be something in the strength of the vinegar - do you believe that although it might be harmless to a lot of women?

A. Unless under proper medical supervision.

Q. It should not be given?

A. No.

Q. With out the advice of a doctor?

A. That is my opinion.

Q. Until after an examination of the woman?

A. Women who do not want any more babies.

Q. Your opinion, is it that although harmless in a lot of cases, in some it might prove very harmful?

A. Very harmful or injurious.

Mr. Mercier:

That is all I want of this witness just now for the purposes of the prosecution.

To the Court:

Q. That pamphlet?

A. It is my property.

Q. That is right, doctor.

PAGE D-119

Dr. DeHaitre.

CROSS EXAMINATION

To Mr. Wegenast:

Q. May I put it in general to you, first, if these conditions to which you have referred are possible conditions?

A. They are a few; there is an incalculable list.

Q. Take it on the basis of those you have mentioned: which would be the more dangerous to the woman: let us say in the case of a woman who had incipient cancer, which would be more dangerous to use: the contraceptive jelly or to have another baby?

A. Repeat that please?

Q. If a woman had the beginning of cancer, which would be the more dangerous for her to use: the contraceptive jelly or to have another baby?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. That is very difficult to judge; it has been known that cancer is compatible with pregnancy.

Q. Then, it is a fair question?

A. Using that jelly: I don't know what the composition of that jelly is; give it to me and I will answer.

Q. It consists of two per cent lactic acid; ten per cent. boracic acid?

A. That is not bad.

Q. And eighty-eight per cent of a starch jelly, a glycerite of starch. What do you think of that?

A. That jelly is not bad; it wouldn't create much irritation.

Q. I would take it then, if a patient would not use the jelly and would have another baby --

A. I wouldn't say that; it is very difficult to answer; there is the danger of using those contrivances.

Q. I am only referring to the jelly. We will take

PAGE D-121

Dr. DeHaitre.

To Mr. Wegenast:

it apart: I will not crowd you?

A. I will answer: I am limited in my science; I have had thirty years experience but I have a lot more to learn.

Q. I will take it apart: A woman with incipient cancer and use the jelly: is it better to use it than to have a baby?

A. I would say have the baby.

Q. Why?

A. There is a question that might go behind the realm or atmosphere of medical science.

Q. I am asking from a medical view point; I am not asking from a theological viewpoint?

A. Well, I would rather she would have a baby than to use a contraceptive.

Q. From a medical standpoint?

A. Yes.

Q. That is extraordinary?

A. No.

Q. Will you demonstrate?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. It is against my convictions to use contraceptives.

Q. What convictions?

A. There is a lot to consider in a woman: her age, social standing, family, financial means.

Q. Religion and conscience?

A. Yes, and morals, if any.

Q. Quite so?

A. I wouldn't say to a woman: "use that and you will have no more babies." I couldn't do it; it would be impossible; I wasn't brought up that way. I am a man sixty years of age and I have seen a lot of the world.

PAGE D-122

Dr. DeHaitre.

Mr. Mercier:

This is a serious case; the people here seem to be enjoying themselves.

The Court:

I granted a lot of leeway yesterday and today if there is any more disturbance I will order everyone out of the Court except counsel and those actually in the case at the moment. I will not mention it again.

To Mr. Wegenast:

Q. Let us take this apart and keep it apart; I didn't want to introduce religion and morale; I wanted only the medical standpoint. As a doctor you can rid yourself of other considerations?

A. Yes, pick the medical grounds.

Q. On medical grounds wouldn't it be safer to use the jelly than to have another baby?

A. I wouldn't advise that.

Q. I didn't ask that; wouldn't it be safer from a medical standpoint?

A. For the patient to go on?

Q. Safer for her body?

A. Having a baby with the beginning of cancer, to use that jelly?

Q. Yes?

A. For her general health of the body or her life?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Her life?

A. Well, there is no doubt the composition of the jelly you gave me is not injurious.

Q. And having a baby might be injurious?

A. If you want to put it that way, that woman is practically condemned from the beginning of her cancer; she must have a serious operation immediately, a total

PAGE D-123

Dr. DeHaitre.

To Mr. Wegenast:

[hysterectomy] (?) or treatment by radium. It wouldn't be wise for her to have a baby, but I wouldn't advise it.

Q. That is the cancer part. Now, [gonorrhoea]?

A. Sub-acute or acute gonorrhoea?

Q. Yes?

A. Yes.

Q. The jelly wouldn't hurt her?

A. No, because I don't think the germicide is strong enough - lactic acid.

Q. Do you know when lactic acid first began to be used?

A. No.

Q. You wouldn't know the ancient Egyptians used it?

A. No, I didn't study general history.

Q. Perhaps you will take my word that it has been used for a long time and is well known as a germicide?

A. No.

Q. You don't know if a two per cent is a strong enough germicide?

A. No.

Q. Is it desirable for a woman to have a child when she has acute [gonorrhoea]?

A. No, it isn't desirable.

Q. Vaginitis?

A. It is one of the forms of [gonorrhoea].

Q. Syphilitis?

A. In the organs where conception takes place?

Q. You wouldn't think it desirable for a woman to have a child if she is in that condition?

A. They hardly ever have a baby when they have that;

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

they are usually finished. What they need there is proper medical attention and if diseased too long, have the organs removed. It is a sad affair.

PAGE D-124

Dr. DeHaitre.

To Mr. Wegenast:

Q. It isn't that you condemn contraceptive methods, if properly administered?

A. It must be done under medical supervision if it is to be done properly.

Q. And if done under medical supervision it isn't in every case wrong or bad practice?

A. I couldn't see that; it hasn't entered very much in our medical practice; this the first time I hear so much about contraceptives.

Q. You wouldn't say you are an expert?

A. No, no; I have been practicing for thirty years; I have seen a lot of gynecology.

Q. Do you know anything of the properties of quinine as a germicide?

A. No.

Q. You don't know how it would kill germs or how much it would take?

A. No.

Q. About condoms?

A. As a matter of fact we very frequently advise those when we have a lot of men come to see us who are unlucky enough to have acute [gonorrhoea] and when the time comes the sexual disease is about cured we ask them to use the condom, in fact, only on that sole purpose.

Q. Do you think there is any serious damage in using the condom?

A. To who?

Q. To the woman?

A. No.

Q. Now, suppose you had a clinic?

A. Suppose I had a clinic?

PAGE D-125

Dr. DeHaitre.

To Mr. Wegenast:

Q. Yes?

A. There isn't one in Ottawa.

Q. I suppose you know something about clinics in the States and Canada, birth control clinics. Miss Palmer is carrying on her work under the Kitchener clinic. Now, in a clinic would you be satisfied if every case of furnishing a pessary were left to be dealt with by a competent doctor?

A. If every case?

Q. If every case where a pessary is used it was advised and fitted?

A. It must be fitted by someone who knows something about it, either doctor or qualified nurse.

Q. I am shutting out the nurse -- take a doctor?

A. Or a proper attendant.

Q. Under those conditions would you insist there was anything medically wrong, from a medical standpoint?

A. If anything wrong?

Q. Would there be anything wrong if at a clinic a doctor advised and prescribed in every case where one was used?

A. I think that would be the proper thing to do. That is what I said in the first place: all those things must be supervised by proper medical authorities, nurses or technicians, whatever you call them.

Q. Now, doctor, you have spoken of the moral side?

A. It is a big question, the moral side.

Q. Yes, we know it is?

A. It is a terrible question; it is hard to wrestle with it.

Q. I wonder if you have ever seen this book? ("Rhythm")

A. Yes, I have. The pictures are there of the Dionnes.

PAGE D-126

Dr. DeHaitre.

To Mr. Wegenast:

Q. Yes?

A. You haven't enough; you haven't succeeded there.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. The cover says: "The Rhythm of sterility and fertility in women" At the bottom it says "Babies when parents are ready."?

A. Yes.

Q. I would like to ask whether from a medical standpoint if there is anything in this business of spacing, - anything in your opinion better for babies if they are two years apart than one year apart?

A. It depends on the health of the patient.

Q. A healthy woman?

A. Can have a baby every year.

Q. Do you think it better to have one every two years?

A. No, she can have one every year.

Q. It is better?

A. It might tire her.

Q. Take the great mass, or a cross section of women, - do you think on the whole it is all the same to them if they have babies every two years or every year, from the medical standpoint?

A.

B.

Q. I am appealing to you as a doctor with thirty years' experience: take women in general -- isn't it perfectly well known in medicine the babies come too often?

A. Yes, yes; I agree with you.

Q. Now, I was going to show you this: where did you get your copy?

A. At the Water Street Hospital; I am one of the surgeons there.

Q. You notice it is published with eccleasical approval?

A. With Roman Catholic censure and approval.

PAGE D-127

Dr. DeHaitre.

To Mr. Wegenast:

Q. I will read a passage: this is at page 131, paragraph 74, which is a question: "What good" -- mine is the fifth edition, 130th thousand. I will read my edition: "What good is expected to follow from the dissemination of this knowledge"?

A. The period of sterility and fertility during the menstrual period.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. If the contents are practiced there is no pregnancy?

A. No, but it is not fool proof.

Q. (reading): "First of all, we have a right to expect that the married lives of many couples will be vastly enriched with the values, physical, psychic and moral, of married life, as it was intended by the Creator.

"Burdens that test human endurance to the utmost limit, and to which all too many succumb, will be lightened. I speak of economic 'burdens, the burdens of poverty, of inadequate income, of unemployment, which make it impossible for parents to give their children and themselves the food, the clothing, the housing, the education and the recreation they are entitled to as children of God. I speak of physiological burdens, the burdens of depleted physical energies and exhausted vitality resulting from a previous birth or miscarriage, the burden of chronically or temporarily adverse conditions of the heart, the kidneys or other organs, or of conditions that threaten the life of the mother in case of pregnancy. I refer to psychic burdens, not infrequently more difficult to bear than any I have so far mentioned, burdens of uncontrollable fear, anxiety, irritability of

PAGE D-128

Dr. DeHaitre.

To Mr. Wegenast:
of rebellion against God and His Church for a seeming to make demands beyond human nature, beyond human powers to endure.

"The greatest gain that will accrue to the human race from a judicious dissemination of this knowledge is the prevention of countless crimes against nature, especially abortions and contraception."?

A. Contraception, yes.

Q. Now, is there anything in this to which you take exception?

A. Not at all.

Mr. Mercier:

I hope my learned friend isn't questioning him as a religious authority.

The Witness:

A. I am not ashamed; I am a Christian like yourself; I don't think there are any Mohammedans or Buddhists in this room.

To Mr. Wegenast:

(reading): "According to 'Abortion in Relation to Fetal and Maternal welfare' prepared for the White House Conference, committee on prenatal and maternal care, subcommittee on factors and causes of fetal, early infant and maternal morbidity and mortality, Hugo Ehrenfest, M. D., of St. Louie, chairman, there are about 700,000 abortions performed in the United States annually." ?

A. I have read that before: 750,000, I am told.

Q. Do you think the conditions are the same in Canada?

A. Our population is less dense; I don't know in proportion whether more in the States.

Q. Do you think there are more in this country than in

PAGE D-129

Dr. DeHaitre.

To Mr. Wegenast:

the States?

A. I can't tell you that, what the percentage should be.

Q. Should there be a percentage of abortions?

A. There always is.

Q. There always is a percentage of abortions?

A. Abortions are against the law of the country and the church.

Q. There are a lot of abortions in Canada?

A. Yes, I understand.

Q. (reading); "Their number is increasing every decade. About 15,000 of the women upon whom abortion was performed died in consequence of the operation in 1930".

That doesn't shock you?

A. No, that is a small percentage.

Q. (reading): "The reports of doctors allow of no

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

doubt but that abortions among all classes have increased alarmingly and that the number of criminal abortions is more than double the number of normal births." There he refers to a book by himself, Peter J. Late, M. D., "The Right to Life of the Unborn Child", in the Fortnightly Review, St. Louie, Mo., 1922, p. 27. "What a ghastly story these few lines tell.

"And still, unless we are confirmed pessimists, we must hold that every last woman from whom the fruit of her womb was criminally removed, would a thousand times not have had that occur. Even supposing that one-half of the abortions are performed on unmarried women, the number of crimes that still remain is enormous enough to justify every legitimate effort in trying to reduce it. A dissemination of natural birth control information should help considerably in that

PAGE D-130

Dr. DeHaitre

To Mr. Wegenast:

Direction." Do you agree with that?

A. Yes, sure. Of course, they mention there natural contraception and what happens during the menstrual period of sterility, about eight days.

Q. (reading): "The other evil that we may entertain the hope of reducing, through a spread of this knowledge, is contraception." And, he goes on to show how the Catholic church is opposed to contraception. At the bottom of the page: "According to Lancet, April 11, 1931, p. 42. quoted by the Catholic Medical Guardian, 'The statistics of birth control clinics that have been working in New York, Chicago, Newark, Cleveland between 1921-1928 show that 36% of their clientele are Catholics'?"

A. Yes.

Q. (reading): "These figures would seem to indicate that we Catholics are furnishing more than our quota of clients." That is in the United States, where the Catholic population is less than here?

A. Yes.

Q. There is nothing in that with which you disagree?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. No.

Q. Now, may I refer to a sentence in the introduction to this book (Exhibit 80-B, "Rhythm") by Joseph Reiner, S. J., which indicates he is a Jesuit priest: "In view of all this, I do not hesitate to say, that no physician, no nurse, no social worker, no clergyman, can afford to disregard the information contained in this book." Do you agree with that?

A. Oh, yes; I read the book.

Q. Now, as a matter of fact, this pamphlet to which you had reference -- ?

PAGE D-131

Dr. DeHaitre

To Mr. Wegenast:

A. But, this book doesn't advocate contraception except natural; they don't want artificial contraception with jellies, condoms, pessaries, tubes and whatever.

Q. As long as they say "natural", not "artificial"?

A. Yes, natural.

Q. You notice in this the safe period is set out, with others, on the third last page?

The Court:
Exhibit 5-B.

Mr. Wegenast:
Yes.

To Mr. Wegenast:

Q. It is called the safe period?

A. Ogino-Knaus: one is an Austrian and the other a Japanese. That is only copying. I should have the English copy.

Q. I want to read from the page -- ?

The Court:
What page?

Mr. Wegenast:
Page 14 (Exhibit 5-B):

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

To Mr. Wegenast:

Q. (reading): "'The Safe Period.' According to the book called 'The Rhythm' by Dr. Leo Latz and evidently approved by the Catholic church, the general information is given that the 'safe period' for the average woman is about nine or ten days before, and about six or seven days after the commencement of the menstrual period. This information is likely of uncertain value to the average woman, and less reliable for women whose menstrual periods are irregular. Anyone interested in 'the safe period' can obtain more

PAGE D-132

Dr. DeHaitre.

To Mr. Wegenast:

detailed information by securing a copy of 'The Rhythm' from The Catholic Truth Society, 67 Bend St., Toronto, or by ordering some from almost any book store."

Is there anything in that you disagree with?

A. No, not at all.

Q. You have mentioned, - it is really not an invention of this man Dr. Latz, but was promulgated or propagated by two doctors?

A. He just wrote what the other two, the Austrian and Japanese discovered in their experimentation in physiological work.

Q. There are only two or three other passages in this Exhibit 5-B -

A. Ogino and Knaus, - it is not admitted by everybody; there is much controversy on that. It is not admitted as true. Errors have been made and women have been very much disappointed.

Q. I was coming to that; I thought I might have a bit of argument on that. I refer to a few paragraphs at the beginning of the book, one on page four of "Rythm [Rhythm]": "Limiting off spring and in that way cutting down the family responsibility and family budget is a burning problem throughout Europe". He referred to a meeting at Cologne?

A. At Cologne.

Q. (reading): "At the meeting referred to, I was very

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

much interested by the report of a woman physician who talked on the efficiency of birth control through periodical abstinence. She stressed particularly that the method had the approval of the Bishop of Ratisbon." My interest in the subject stimulated me to in-

PAGE D-133

Dr. DeHaitre.

To Mr. Wegenast:

investigate this problem further. I was amazed at the great amount of literature that had appeared on the subject and at the careful scientific research that had been conducted in this field and is still going on." I was coming to that: that investigation in this field of the safe period is still going on. "I feel convinced that thousands, not to say millions, of married couples would be relieved of almost intolerable burdens of anxieties, fears and pangs of conscience, if the simple truths of nature in regard to physiologic sterility were brought to their attention.

"I am writing this booklet in a popular style in as simple language as I can, in order that it may be placed into the hands of such married people as are entitled to the information which it contains.

"The clergy, as well as nurses and social workers, will be able, through this booklet, to assist those who consult them about a rational method of limiting the size of their families." You can answer a hypothetical question as well as anybody. If Miss Palmer had confined her activities to the dissemination of the information in the paragraphs I have read out of the little pamphlet you wouldn't have anything against her doing it?

Mr. Mercier:

My learned friend ought to establish whether he has anything against Miss Palmer.

To Mr. Wegenast:

Q. You don't believe her?

A. I don't believe it has been properly done.

Q. But if it was confined to the "Rhythm" and the "Safe

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE D-134

To Mr. Wegenast:

Period" it would be all right?

A. It would be pretty hard to make those women understand that from the evidence I have just heard; she would still be at it.

Q. Yes, and she was late, sometimes?

A. Yes.

Q. And in a passage near the end of the book about this knowledge being necessary to the social worker (Rhythm), - she is a social worker?

A. I think the way she went about it was wrong, in my opinion.

Q. As a social worker, would it have been all right if she had talked "the Safe Period"?

A. Yes, but it wouldn't be complete. She should have seen the local doctors and say, "examine so-and-so and see if she is a fit subject for contraceptive means."

I have nothing against Miss Palmer, it is immaterial to me what she is doing.

Q. But you will admit this: many of these women would hesitate to go to a doctor?

A. Look at the danger; they wouldn't have gone and they wouldn't have been examined.

Q. And they wouldn't have had money to pay the doctor; perhaps they would owe the doctor some bills already?

A. Don't you think the chances are terrible to put those instruments of contraception in the hands of those who don't take proper means of cleaning them, - putting them on diseased organs" It would have been a very sad work or move, with complications.

Q. If she was talking about the jelly?

A. But the jelly doesn't go alone; they must use a tube, nozzle or catheter. Those women, - some of them

PAGE D-135

Dr. DeHaitre.

To Mr. Wegenast:

don't know how to give themselves a douche properly.

Q. What would you do? They have babies one after the

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

other; they are on relief; they are sick; they have miscarriages and use abortive methods?

A. Establish proper clinics and do it properly.

Q. In the meantime, there is no clinic here?

A. But the means they are using are less than half measures; that is the reprehensible part.

Q. I suppose we all agree with that, but half a loaf?

A. But why not wait until it is properly established?

Q. Because women and children are dying?

A. It takes a second to establish a clinic; you can have a committee of doctors named in a day to examine clients; I would be one to examine clients, but not in the way you have gone about it. There have, been laws, bills passed in British Columbia and Alberta where they have sterilization since the end of 1930. Why not laws for contraception or anti -contraceptional methods?

Q. Just a moment, doctor. I don't want to take the responsibility for all the doctor's statements. I haven't any objection, and as long as your Worship's patience is not exhausted?

The Court:

No.

Mr. Mercier:

They are in answer to questions.

The Court:

The witness is a doctor with thirty years experience as a gynecologist: I am quite interested in getting his views. After all, we started to

PAGE D-136

Dr. DeHaitre.

The Court:

read from a recognized authority.

The Witness:

A. Recognized the world over.

Mr. Wegenast:

Q. I am quite satisfied. I am only wondering, if you had one hundred medical men you might have one hundred medical views.

To Mr. Wegenast:

Q. I want to refer to page 117, paragraph 59: (page 115 of Exhibit 80-B): "How de leading medical authorities regard contraception": "In the statement that he telegraphed to the House Judiciary Committee which saw conducting hearings on Birth Control (Jan. 18, 19, 1934), Dr. Williams Gerry Morgan, Secretary General of the American College of Physicians, at one time President of the American Medical Association, emphasized his 'continued and unalterable opposition to the passage of this or any other kindred bill' because 'of the inevitable and unavoidable harm that it will cause to young women through practices that would be legalized and would result in many cases in profound pelvic disturbances and disease, ill health and misery.'" I have really put it to you and I think you will agree?

A. Yes.

Q. I want to ask you --?

A. Now, this Doctor Morgan is a big man, a man of probably twenty years more experience than I have and he comes out there frankly against that.

Q. And you are relying on that?

A. If his opinion wasn't there I have my experience, but this confirms what I am saying.

PAGE D-137

Dr. DeHaitre.

To Mr. Wegenast:

Q. And in due time we will hear from other medical men and you will admit they are entitled to the same respect?

A. Undoubtedly.

Q. "Dr. Howard Kelly, of Johns Hopkins University, Baltimore, Md.," -- ?

A. He was, one of the leading gynecologists in the world. Read that.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Yes; it is in my favour. "Dr. Kelly, testifying before the same committee, remarked: 'The use of the rubber mechanism in the vagina for a certain period of time' you will note, 'for a certain length of time'?"

A. Yes.

Q. "Very often produces inflammation of the vagina, the results of which are harmful and dangerous. There is an article in the Journal of the American Medical Association of last September about it. And there have been children born now where the contraceptive drug has been used but not in sufficient quantities to kill the spermatozoa germs entirely; and these children have been deformed as a result of that treatment. And as I have said, you bring about sterility by these practices of using these things". We will have a lot of discussion on this. What have you here?

A. It isn't mentioned there.

Q. (reading): "The injury done to the female genital organs by the use of the various types of contraceptives has been exposed and discussed in the foremost medical journals of the world. Dr. Niedermeyer in his "Facultative Sterilitat" gives a long list of

PAGE D-138

Dr. DeHaitre.

To Mr. Wegenast:
such articles which have appeared in magazines like the following: Zentralblatt f. Gynakologie , American Journal of Obstetrics, Muenchner Med. Wochenschrift, etc." New, paragraph 60:v"Have authorities in the field of medicine expressed themselves in favour of contraception?

"Some have done so. I shall quote from Birth Control, Hearings before the Committee on the Judiciary, House of Representatives, " -- is that in the United States?

A. Yes.

The Court:
It sounds like the United States.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

To Mr. Wegenast:

(reading): "Jan. 18, 19, 1934. J. Whitridge Williams, M. D., Professor of Obstetrics at Johns Hopkins University, Obstetrician in chief to the Johns Hopkins Hospital, Baltimore, Md., is quoted (p. 16) from the Journal of the American Medical Association, Oct. 27, 1938, Vol. 91, p. 1241:

"Where should we stand as medical men? To my mind, there can only be one answer, and that is, that we must give contraceptive advice whenever it is medically indicated" - you agree with that?

A. Yes.

Q. "But that it must depend on our conscience as to what advice should be given under other conditions. I hold that it is just as much our duty to give such advice when medically indicated as it is to advocate the employment of any other prophylactic measure." What do you say about that?

A. Yes.

PAGE D-139

Dr . DaHaitre.

To Mr. Wegenast:

Q. You agree with that?

A. Yes.

Q. If it is a matter of curing or preventing disease it is the business of the doctor to prescribe?

A. Yes, I have done it myself in disease.

Q. If it is a matter in other cases it is a matter of conscience?

A. Yes.

Q. (Reading): "I hold that it is just as much our duty to give such advice when medically indicated as it is to advocate the employment of any other prophylactic measure." Do you agree with that?

A. Yes.

Q. If you find a case where the jelly would be the thing or the pessary or condom, you would advise it?

A. Yes.

Q. Going on with this, - Dr. Fred J. Taussig, - is he an authority?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. I don't know.

Q. He is about the last word in the world: "Dr. Fred J. Taussig, Professor of Clinical Obstetrics and Gynecology, Washington University, St. Louis, Mo., made the following statement (p. 13): 'I am here to assure you that those experts in the medical profession, the obstetricians and gynecologists, who are most proficient with matters dealing with motherhood, are almost a unit in the support of Birth Control and the repeal of the laws that at present restrict it.'" That is in the States?

A. Yes.

Q. You don't disagree with that?

A. No, I don't disagree.

PAGE D-140

Dr. DeHaitre.

To Mr. Wegenast:

Q. Now, I want to read paragraph 62 (of "Rhythm"): "How does natural birth control differ from contraception? The one is natural, the other unnatural; the one is rational, the other irrational; the one is in harmony with nature, the other does violence to nature, and is 'intrinsically against nature'; the one is permitted and under certain circumstances, may even be required by the will of God, the other is never allowed under any circumstances." That is Catholic doctrine?

A. Yes.

Q. I will go on and come back to it. (Reading paragraph 63 of "Rhythm [Rhythm]"): "Are married people obliged to bring into the world all the children they can? Far from being of obligation, such a course may be utterly indefensible. It may be utterly indefensible for some of those women who were standing where you stand.

"Broadly speaking, married couples have not the right to bring into the world children whom they are unable to support, for they would thereby inflict a grievous damage upon society.' (Koch-Preuss, a Handbook of Moral Theology, p. 472)." You don't disagree with that; you know it is theology. "Procreation of a large number of children may proceed from

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

as base motives as prevention of birth of any and hence may represent an equal perversion and desecration of marriage." Do you disagree with that?

A. What they were saying is always based on the natural contraception of the period of sterility during the menstrual cycle of the woman.

Q. Yes?

A. It is natural and not reprehensible.

PAGE D-141

Dr. DeHaitre.

To Mr. Wegenast:

Q. And where we differ, doctor, - as Protestant and Catholics and Jews we are agreed in certain circumstances that birth control is not only desirable and necessary, but we differ as to the method?

A. But one is natural and the other unnatural.

Q. I will come back to that?

A. There is a clued partition between, maybe not very thick, but there is a partition.

Q. Now, paragraph 71 on page 128?

A. This is getting more like a course in sociology or physiology.

Q. I am glad you mentioned that this thing is a matter of sociology: I am glad you brought that up. When we talk about sociology what would you say it does include: what is sociology anyways?

A. Well, in a broad sense it is a study of society, of the human being; there are so many divisions.

Q. And under that head is there a place for birth control?

A. I suppose so: adults, children and children to be born.

Q. May I put it this way: the question of how many people to be and the kind of people to be is the very basis of sociology?

A. Yes.

Q. Sociology, you will consent, has its medical aspect, do you agree with that, doctor?

A. Yes, moral and religious and economic and aesthetic, - whatever we want.

Q. In medicine there are some men who are theorists, -

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

it is that way in every science others practice. Now, would you agree a sociologist who sits down in his

PAGE D-142

Dr. DeHaitre.

To Mr. Wegenast:

study and writes studies on sociology is a theorist and the ones like Miss Palmer here who go out and practice it,- they are practical?

A. Yes, they are the ones who put it in practice.

We must also consider the way they put it into practice. One principle may be good, but -- .

Q. Bad in practice?

A. Yes, it is all the difference in practice.

Q. I will read from page 128, paragraph 71 ("Rhythm"):

"May there be an obligation in conscience for some married couples to take advantage of the rhythm of sterility and fertility?

"Such a situation would exist where, on the one hand pregnancy is undesirable because of physiological, economical or social reasons, and, on the other, continence would represent a serious danger for either one or both married persons."

Paragraph 72: "Is it permissible to acquaint married people with the rhythm of sterility and fertility?

"Under circumstances, such as were outlined in the answer to the previous question, it is not only permissible, but seriously obligatory to do so. We are bound in conscience to go to the assistance of our neighbour who is in need." Miss Palmer, going from door to door, was quite right in that if she used the right method?

A. Yes.

Q. (reading): "The seriousness of our obligation is in proportion to the moral, psychic, physical need in which our neighbour finds himself and our ability to help him." You know, doctor, we have a very high authority for loving our neighbour as ourselves. You

PAGE D-143

Dr . DeHaitre.

To Mr. Wegenast:
agree with what is said there?

A. Yes.

Q "The Most Rev. John F. Nell, Bishop of Fort Wayne, gave expression to the Christian spirit of liberty when he made the statement: "If there be a ... law of nature according to which they (parents) may attain their end and purpose (spacing children) without sin, they are certainly entitled to know of that law"?"

A. Yes.

Q. And I take it you wouldn't raise one finger or say one word against her if her methods were correct?

A. They may be correct but not applied properly; I said that at the first.

Q. I included that when I say "correct methods"?

A. You have been quoting from this book ("Rhythm"), but not all Roman Catholics agree with this because there have been excesses. Some young women will take this up and assume all the pleasure of marriage without the duties of a family. They say, "religion is behind us; we will take full liberty and we will have our sexual intercourse during sterility without having children:"

Q. Do you think that is wrong?

A. The general principle is all right, but the practice is not; it carries to lawful concubinage and free love - license.

Q. Does it carry it further than the French safe?

A. No, but -- .

Q. Listen a minute: don't you know there are thousands sold in Ottawa and Eastview?

A. Hundreds, thousands; a lot for immoral purposes and a lot for [hygienic] and preventive purposes.

PAGE D-144

Dr. DeHaitre.

To Mr. Wegenast:

Q. There are other things sold, not to prevent disease, but for contraception?

A. The only things I saw were shown me by Mr. Mercier, - the jelly tubes and little tubes and diaphragm and pessary. Condoms, - I know them for fifty years.

Q. You didn't know the others?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. No, I probably wouldn't have.

Q. Doctor, you and I are about the same age and about the same degree of innocence?

A. It is a great thing to be innocent sometimes.

O. Along the line we are following, there is a foot-note in the very book he mentions, called "Legitimate Birth Control according to Nature's law, in harmony with Catholic morality, by the Rev. John A. O'Brien, Ph. D." it has the imprimatur of John Francis Noll, D. D., Bishop of Fort Wayne, and here is the passage I have just quoted: "But if there be another law of nature, according to which they may obtain their end and purpose without sin they are certainly entitled to know of that law." (Page 7, 86-B).

The foot-note (page 72, 86-B): "Dr. Henry Schmitz, of Loyola University, Chicago, has read this booklet in manuscript form. He is somewhat more conservative in regard to the extent of the sterile period than Ogino and Knaus. While conceding that further observations may establish the absolute sterility of the post-menstrual period --".

That is true?

A. Yes.

Q. "-- he regards the present data as indicating only its relative sterility. He submits the following statement as reflecting the evidence at present

PAGE D-145

Dr. DeHaitre.

To Mr. Wegenast:

available: 'Women who menstruate regularly every 28 days, calculated from the date of onset of one menstruation to the first day of the next following menstruation, may but rarely conceive during the first ten days of the menstrual cycle and cannot conceive from the 19th day to the onset of the next monthly flow. The period of fecundity during which pregnancy of the woman will result, from conjugal relation, begins usually on the 11th day and ends on the 17th day inclusive. The time most favourable to a successful fecundation is from the 14th to the 16th day in a regular 28

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

day cycle."

Q. That is true?

A. Yes, but it isn't fool proof.

Q. You say this isn't fool proof?

A. No.

Q. It isn't safe?

A. No.

Q. Now, I want to ask you about some of the things in this book, but first I want to show it to you?

A. I haven't seen much; I wanted to see Dr. Marie Stapes' book but I couldn't find a copy.

Q. Could you be satisfied to take the word - ?

A. Of a recognized prince of the Catholic Church, but of course I would have the privilege of my own opinion.

Q. Of course, I couldn't cram anything down your throat, doctor. This is "Legitimate Birth Control."

Court:

What page?

Wegenast:

Nine.

PAGE D-146

Dr. DeHaitre.

To Mr. Wegenast:

Q. (reading from Exhibit 86-B) "The thousands of letters which have deluged us since the publication of the article The Church and Birth Control in the November 26, 1933, issue of Our Sunday Visitor." That is a very well known catholic paper,- you know it is?

A. I don't know.

Q. (reading): "Demonstrate the deep and widespread interest in this important problem of Catholic life. They come from practically every state in the union. They come from rural districts and densely populated 51 cities. They come from prelates and priests, charged with the care of souls. They come from professors in catholic colleges and universities, charged with the exposition of Catholic doctrine

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

in the light of reason and modern science." They were just like you and I,-- innocent and green as I was about four weeks ago. "But most of all they come from fathers and mothers, to whom the problem is not a theoretical one, but an intensely real and personal one. "Anxious to discharge the high responsibility of parenthood, they find themselves facing difficulties so serious" - You agree with that?

A. Yes.

Q. "And so real as to cause them many a heartache and many an hour of mental disquietude. Vast numbers are tortured by the conflict of opposing pressures. On the one hand there is the ineradicable love of children, the yearning for off-spring, which characterizes every decent married couple.

PAGE D-147

Dr. DeHaitre.

To Mr. Wegenast:

"On the other hand there is unemployment, lack of sufficient means to provide proper food and clothing for the children already born, worry over the prospect of even greater economic privation and suffering, and at times the deletion of the mother's vitality and strength from a recent child birth."

That is straight enough?

A. Yes.

Q. (reading): "These are cited not as reasons for not having more children, but as reasons for the spacing of births." It is quite lawful and moral?

A. Yes.

Q. (reading): "For the temporary retardation of the next babe until the parents are able to provide for it and for the offspring they already have. Then it will come not as an unwanted intruder, but as a welcome angel in flesh and blood, reflecting their deliberate co-operation with the Most High in His creative power. After reading vast numbers of the letters in which fathers and mothers unbosom themselves, telling in simple and homely language of the worry and the mental anguish, the questionings which arose about the reasonableness of the alleged stand

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

of the Church on this matter, questionings which could not be downed, it becomes easier to realize both the acuteness of this problem and its widespread interest. It becomes impossible to strike a pose of unreality, assuming all is well, and that no problem is disturbing the complacency, no unrest gnawing at the happiness and peace of mind of millions

PAGE D-148

Dr. DeHaitre.

To Mr. Wegenast:

of families throughout our land." You don't disagree with that?

A. No.

Q. (reading): "The dominant notes sounded in the myriad letters have been those of joy and gratitude. Pastors rejoice in the happy solution of a problem that was growing in perplexity, causing disaffection among many, and occasioning intent rebellion and estrangement among more than we like to admit. Professors charged with the exposition of the reasonableness of Catholic belief and practices see in this recent discovery of scientists a striking vindication of the church's traditional respect for the sanctity of the laws of nature as the reflection of the mind of the divine Legislator. Fathers and mothers see in the discovery of the period of fertility and of infertility [infertility] a providential help, showing them how they can achieve in a natural, rational and ethical manner both the primary and secondary ends of matrimony, namely, the procreation of the race and the cultivation of mutual love."

You understand that they speak of the two ends of matrimony: one, to have children; second, mutual love?

A. Yes.

Q. (reading): "Mingled with the expression of gratitude was the desire for more information concerning the Ogino-Knaus discovery. Echoed in letter after letter, was the request for information showing the practical application of this finding to enable parents to achieve the ideal of a rational fecundity.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE D-149

Dr. DeHaitre.

To Mr. Wegenast:

Why should such information not be given?

"There are some who say that if such information were disseminated in a widespread manner it would be abused." There they come to you, doctor?

A. Yes.

Q. (reading): "Married couples would use it for utterly selfish purposes, enjoying the rights of the conjugal state but neglecting its responsibilities. Many would have no children at all, while others would rise but one step above that abomination, and have but 'an only child', petted and pampered and thus disadvantaged for the rough and tumble competition of a sturdy life. In short, a vast number would restrict their offspring to a number far below the just requirements of their health, their economic means, and their conjugal happiness, reasonably interpreted. The birth rate would decline sharply and the race would be threatened with extinction." I suppose you agree with that?

A. Well -- .

Mr. Mercier:

I thought Mr. Wegenast was giving evidence.

The Court:

Court is adjourned to 2:30 (from 1:00 p. m.).

(Court resumed at 2:40 same day, Dr. DeHaitre still in the witness box).

To Mr. Wegenast:

Q. Doctor, continuing at page 13 of "Legitimate Birth Control" (Exhibit 86-B), I want to read this:

"That such knowledge might be misused is indeed

PAGE D-150

Dr. DeHaitre.

To Mr. Wegenast:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

possible." Let us say, natural contraceptive methods?

A. Natural.

Q. "The remedy lies, however, not in the removal of the knowledge but of the abuse."?

A. Yes.

Q. "Does a physician cure a headache by decapitating the patient"?

A. Sometimes.

Q. "Or by seeking to remove the pain and suffering the head to remain? Food is abused. Some people commit gluttony by eating to excess. Do we correct the evil by withholding all food or by teaching the people to use it properly? We have just ended fifteen years of the experiment with prohibition, during which we sought to remove the evil of intemperance by withholding all liquor from the people. The nation has deemed the experiment a failure. It now reverts to the time-honoured view that liquor in itself is not evil, but only its abuse. While sanctioning its just use" - you would agree with that?

A. Sure, sure.

Q. The doctor nods his head "Our nation will fight against intemperance by punishing the individual who abuses it through intoxication.

"So, too, the knowledge afforded by modern science concerning the natural method for the regulation of births is not in itself an evil but a good. Evil results only when it is misused. The remedy here, as in the matter of drink, consists

PAGE D-151

Dr. DeHaitre.

To Mr. Wegenast:

not in the withholding of knowledge, but in warning against its abuse and in the establishment of a system of moral sanctions for its just use. We take our appeal directly to the reason and the conscience of the individual." Do you agree with that?

A. Yes.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. "Then too we must remember that God has weighted the appeal with the pressure of the deepest instincts of nature. He has planted in the hearts of every normal couple a deep and ineradicable yearning for the perpetuation of themselves in the form of their children." You would agree with that?

A. Yes, absolutely.

Q. Would you go further than that: there is a general abhorrence of sterility?

A. Yes, there is.

Q. Sterility is something to be feared?

A. Yes, women sterilized feel inferior to those with children.

Q. (reading): "May we not trust the overwhelming majority of Catholic parents to respond to the deepest instincts of their nature, to achieve the ideal of rational fecundity instead of [misusing] the knowledge for purposes of groveling selfishness". You agree with that?

A. Yes.

Q. Then, he has a passage here headed: "Why Not Proclaim? If married couples are determined to evade the responsibility of parenthood, they have only to approach the corner drug store to secure a

PAGE D-152

Dr. DeHaitre.

To Mr. Wegenast:
variety of contraceptive devices to serve their purpose." I want to show you these, doctor; I don't want to put them in.

Mr. Mercier:
I don't see how you can, without putting them in.

The Court:
If you are going to refer to them I think you should put them in, if asking questions about them.

The Witness:
A. I am not an encyclopedia.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

The Court:

I don't see how you can refer to those without putting them in as exhibits.

To Mr. Wegenast:

Q. That is apropos of the drug store?

A. Yes.

Q. "With hundreds of millions of these devices flooding our land, pouring into every hamlet and village, with thousands of mothers dying from the abortion of unwanted offspring every year, is it not far better to proclaim the knowledge which modern science furnishes us concerning the natural, rational and ethical means of birth control."?

A. Yes.

Q. I suppose you would agree unreservedly with that?

A. Yes.

Q. "Contrary to the assertion of her enemies, the Church is not obscurantist. She welcomes every new

PAGE D-153

Dr. DeHaitre.

To Mr. Wegenast:

truth. She proclaims it to her children. She recognizes the unity of all truth, natural and supernatural. For it all proceeds from a common source, - the omniscient mind of God. The discovery of an additional law of nature, whether it be deciphered by the geologist from the hieroglyphics of the rocks, or teased by the astronomer from the tangled skein of stars and nebulae moving about in the far reaches of the sky, serves but to give us new glimmerings of the mind and will of the divine Author of nature, and to under-gird with richer significance the truths He has already revealed to us. Whatever then is true, let it be proclaimed. For it shall prevail. 'You shall know the truth and the truth shall make you free'. You agree with that?

A. Yes.

Q. "Such was the teaching proclaimed by the [divine] Founder of the Christian religion nineteen centuries ago. Such too is the teaching of the Church today." Then he goes on: "Theory or fact? Has the Ogino-Knaus law, however, been properly verified? Is it an established fact or an unsubstantiated theory?" Then he goes on – "The writer pretends to no special competency in this field. Let the answer be given by Dr. R. DeGuchteneere, one of the most eminent gynecologists in Europe. After an exhaustive study of the data, Dr. [DeGuchteneere] in an article written for the priests of America states that the Ogino-Knaus finding is based on incontestable scientific

PAGE D-154

Dr. DeHeitre.

To Mr. Wegenest:

data, end has been confirmed in startling fashion by the experience of physicians who have made application of the theory." On page 17 the author states; "We profess no competency in this field of medical science. We cannot ourselves guarantee the veridity of the findings, for they are outside our domain." I take that to be something like your understanding whether this tie one Term, per cent scientifically good?

A: No; there are still discussions and still medical authorities who believe in it, but this is not to say it is one hundred per cent true, and they have proved it has played some nasty tricks on some poor women.

Q. (reading): "Neither do we in any way identify the Church or her authority with the teaching; of Ogino-Knaus. We simply offer it for what it may be worth. We cannot, however, be indifferent to scientific finding with practical implications of a far-reaching character, which some of the foremost gynecologists in the world assure us has been thoroughly tested and verified. Especially are we impressed by the verdict of Dr. [DeGuchteneere], reached

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

after exhaustive study and investigation, and prepared for the practical guidance of the priests of our country." Do you know his works?

A. Who?

Q.2. Dr. DeGuchteneere?

A. Is he a German?

Q. I think he is a Belgian?

A. You have a regular circulating library.

PAGE D-155

Dr. DeHaitre.

To Mr. Wegenest:

Q. You haven't seen anything yet, doctor. I will go on with this: "No New Issue. It is to be noted that the dissemination of this knowledge raises no new problem for the moral theologian or the pastor of souls. Catholic theologians have been unanimous in sanctioning the practice of confessors in dispensing prudently and cautiously information concerning the safe period. The information generally given was the rule laid down by Capellman"?

Q. Yes. "Which claimed to solve all cases with a uniform formula. It specified the week in the middle of the menstrual cycle as the safe period. It is this period which modern science discloses to be the very period of fertility!"?

A. Yes.

Q. "No wonder there are still heard echoes of disappointment and dissatisfaction and of incredulity concerning the 'safe' period!" You agree with that?

A. Capellman was absolutely wrong.

Q. "Can any one rightly maintain that it was entirely proper to dispense information concerning the infertile period, which was false and misleading, but now that we have the correct information, it becomes improper and wrong to dispense it? Would not such a contention outrage every sense of honesty, justice and truth? No argument is needed. The mere statement of such a contention - is sufficient to disclose its monstrous and tenacious character." Now,

PAGE D-156

Mr. Wegenest:

we come to a reference to the encyclical, *Casti Cannubis*, page 19 (of Exhibit 86-B): "In his scholarly Encyclical on Christian Marriage, Pope Pius XI proclaims to the world that married people are not to be considered as acting contrary to the order of nature, if they exercise their marital rights 'according to sound and natural reason, even though no new life can thence arise on account of circumstances of time'". You have seen that?

A. It was read in all the churches, probably.

Q. And the thing is based on the new or present theory or practice, based on circumstances of time, - I think I have it in latin,- will you take the translation?

A. The translation, yes.

Q. "The dissemination of the findings of Ogino and Knaus serves but to specify the 'circumstances of time'

referred to by the Holy Father himself. We follow humbly along the trail of clarity and frankness blazed for all Christendom by the Supreme Pontiff."

Now, there is this at the middle of page 20, I would like to put to you. You agree with what I have read?

A. Absolutely.

Q. "'This theory,' it declares, 'has displaced all former theories, and rightly so, as it is based on exact scientific research, and a good deal of success has attended the application of the theory. If there is a failure now end then, at all events the theory has proved to be sound almost ninety-nine per cent, whereas former theories were about

PAGE D-157

Dr. DeHaitre.

To Mr. Wegenast:

ninety per cent failures, especially the theory of Dr. Capellmann. If this method proves to be as successful as it is asserted to be, then the modern immoral contraceptive methods will be aban-

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

done in large measure." Do you care to comment on that?

A. Head that over again?

Q. He puts this new Ogino--Knaus theory on the basis of ninety-nine per cent?

A. According to my experience -- .

Q. I will read it again: "If there is a failure now and then, at all events the theory has proved to be sound almost ninety-nine per cent." -- you wouldn't go that far?

A. Not in my experience.

Q. We will skip to page 21 and take the heading "Why Bother About It? Why bother, however, about the broadcasting of this information through the Catholic press? Why not allow it remain buried in medical journals and scientific monographs until it finally comes after a long span of years to the general public?" You see the pertinence of that?

A. Yes, I see it.

Q. The Church finds herself thinking, "we can sanction it," and he addresses himself to the question whether to leave it to the medical journals and these women not get it in their lives?

A. Excuse me?

Q. Yes?

A. The intention of the Church is to counterbalance the contraceptives put forward; the Church is glad

PAGE D-158

Dr. DeHaitre.

To Mr. Wegenast:

to find a natural reason and pronounce it.

Q. I will not be surprised if you will agree with all this, except the ninety-nine per cent?

A. It is in order to avoid excesses.

Q. I think you will agree with everything except the ninety-nine per cent?

A. You haven't several hundred pages to read?

Mr. Mercier:

Leave the book with the doctor and see what

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

he decides.

To Mr. Wegenast:

Q. (reading): "Simply because the Church is interested in the welfare and the happiness of her own children and indeed of all humanity. She is not the harsh, stern mother, inconsiderate of the cries of her children for happiness, no she is so often depicted by her enemies. She is a tender, kind and loving Mother, responsive to all the anxieties and yearnings of her children." You don't disagree with that?

A. No, it is absolutely natural.

Q. Now, the passage, "Rational Fecundity," page 22 (of Exhibit 86-E?

A. Yes.

Q. (reading): "Farthest from our intention in the publication of the Ogino-Knaus finding is the lowering of the Catholic birth rate or that of the general population of our country. The purpose is simply to enable parents to space their children."?

A. Yes.

Q. Rational fecundity governed by reason?

A. Yes.

PAGE D-159

Dr. DeHaitre.

To Mr. Wegenast:

Q. Not by accident?

A. No, by reason.

Q. (reading): "This will vary with parents, depending upon their health, their economic resources, and the reasonable requirements of their conjugal happiness. Sociologists point out that in order to keep the population simply at its present status, families should average 3.2 children. This number is required to offset the number who die in infancy, and of those who do not marry, and hence perish with no contribution to the preservation of the race." I suppose you do not disagree with that?

A. No.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Here are two paragraphs in quotation marks by way of criticism, on page 26 (of Exhibit 86-B):

"The stand of the Catholic Church against birth control is harsh, oppressive and reactionary. It forbids all methods of family limitation except that of total abstinence. It imposes upon married couples a burden that is out of all proportion to the strength of human nature as it is actually constituted. It ignores the great joys and comforts of the marriage relationship and thinks only of the continued procreation of children. The Church's teaching is thus responsible for parents bringing into the world more children than they really want or can decently support.

"Her unreasonable attitude is causing disaffection among many of her own members, and driving them into secret rebellion. Vast numbers are ig-

PAGE D-160

Dr. DeHe1.tre.

To Mr. Wegenast:

noring her law in practice, selving their consciences with the statement that it is not only unreasonable but morally impossible of observance. The public opinion of the world is against it. It alienates the intellectual esteem and good will of non-Catholics and nips in the bud any interest they might have in looking into her teachings."

That is the end of the two paragraphs in quotation marks. The author says:

"Such is a criticism that is heard on many sides today. It embodies the gist of a severe arraignment of the Church by Dr. Clarence C. Little in Scribner' e Magazine of October, 1931, and echoed in many other quarters. Let us ask our dear non-Catholic friends to approach this subject with an open mind and see for themselves whether or not the real teachings of the Church warrant such criticism. Let us present the authentic teaching of the Church's supreme authority, the Holy Father, Pope Pius XI, and then see if there be in it anything opposed to reason or to the welfare and happiness of married couples. In previous instances

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

it has been shown that what enemies of the Church have usually fought against were not her real teachings but mere ' caricatures of them. Will the present instance prove an exception to the rule?"

The next is:

"Pope's Own Words. Now, what is the real doctrine of the Church on this vexing problem? Is it true that she condemns all forms of family limitation other than that of total abstinence?"

PAGE D-161

Dr. DeHaitre.

To Mr. Wegenast:

Such is a widespread impression. Even some Catholics seem to share it. But it is certainly more rigorous than the teaching of Pope Pius XI in his Encyclical on Christian Marriage, issued on December 31, 1931. Newspapers throughout our country and the world carried scattered paragraphs from it. Most of them played up his condemnation of the deliberate frustration of the conjugal act in an artificial manner as a violation of a natural law. But few carried the following important paragraph."

Might I ask you, doctor, if that is anything like your experience after this thing was published and read: the first impression was that the Church was opposed to all birth control methods?

A. That was the impression at the time, that Roman Catholicism was opposed to all contraception.

Q. I thought you would say that. Here is the quotation from the encyclical itself:

"Nor must married people be considered to act against the order of nature, if they make use of their rights according to sound and natural reason, even though no new life can thence arise on account of circumstances of time."

Would you mind, doctor, putting that into your own words?

A. Read it again?

Qs "Nor must married people be considered to act against the order of nature, if they make use of their rights according to sound and natural reason,

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

even though no new life can thence arise on account of circumstances of time." Isn't that Ogino-Knaus?

PAGE D-162

Dr. DeHaitre.

To Mr. Wegenast:

A. Yes, that is the teaching recognized by the Church.

Q. Yes, but that is -- ?

A. Yes, married couples can have all the marital intercourse and pleasure they want during the period of sterility, but personally I don't agree with that; that is my own opinion, of course.

Q. Just to finish the sentence: "Circumstances of time or the existence of some defect. For there also exist, both in marriage itself end in the conjugal use of the rights which it confers, some secondary ends, for instance, mutual assistance, the fostering of mutual love, end the allaying of concupiscence."

That is to say, there are other ends than having children?

A. Psychology and so forth.

Mr. Mercier:

The doctor is here as a medical man and my learned friend is questioning him on his opinion of on encyclical of His Holiness the Pope.

I don't suppose, and I submit to the Court, that Dr. DeHaitre says he is on authority on religion?

The Witness:

A. I am not.

Mr. Mercier:

I established him as a duly qualified physician of the province of Ontario, and he is now asked his opinion of on encyclical by the Pope. I think it would be just as relevant if my

PAGE D-163

Dr. DeHaitre.

Mr. Mercier:

learned friend gets a doctor into the box and I ask him his opinion of the Lambeth Conference or some other conference and if I examine him on it. He is put in the box for the purpose of establishing if these could be used as contraceptives, and I intended calling the doctor later in rebuttal, if necessary. He is now asked to deal with questions of religion on which people much more learned than he is will undoubtedly be called, if required for evidence. "If you agree with this or that of a doctor of divinity and if the Pope was right and what is your impression."

Furthermore: another question arises: what was the effect on the Catholic population of the city or the doctor's parish when this Encyclical was read. The doctor isn't in a position to establish that unless my learned friend can establish he is?

The Witness:

A. I can't.

Mr. Wegenast:

Your Worship, I rely on my rights of cross examination the boundaries of which are well known. The witness himself insisted on bringing this into the case and expressing righteousness and wrongfulness and the attitude of the Church. I have the right to examine him on that end he has undertaken to do that. My learned friend has already suggested that the real battle of the Crown lies over the

PAGE D-164

Dr. DeHaitre.

Mr. Wegenast:
question whether the dissemination of this
contraceptive information is for the public
good and on that there must in the very nature
of things be a very wide base.

The Court:
Is it wide enough?

Mr. Mercier:
But asking his opinion on religious authorities
is going too far.

Mr. Wegenast:
The doctor is competent in his way to give
evidence tending to show what the public good
requires.

The Court:
But you are developing now into a line almost
purely theological.

Mr. Wegenast:
I propose to ask this question.

The Court:
I have been allowing you to continue as I haven't
seen yet what you are heading for.

Mr. Mercier:
You might ask him if he believes in the Pope.

To Mr. Wegenast:
Q. Is it for the public good to disobey the rules
of the Church?
A. (No reply).

The Court:
We might do that without reading a book.

Mr. Wegenast:
Then how does he justify these things fitting

PAGE D-165

Dr. DeHaitre.

Mr. Wegenast:
into that answer?

The Court:
The doctor is one member of the Catholic faith who appears in Court as an expert witness on medical. testimony and you are asking him a one individual, not as an. expert, on theology end sociology matters.

Mr. Wegenast:
He ventured those views; I couldn't stop him.

The Court:
Those views, I am sure, are not as an expert on sociology matters but as an individual. I understand it is the intention to call experts on sociological matters?

Mr. Wegenast:
It is a question of reading it now or with another witness in the box.

The Court:
Don't you think it would be advisable to put them while an expert on sociology is in the box and not to a medical expert?

Mr. Wegenast:
I am entirely in your Worship's hands.

The Court:
I realize you want to bring all this angle out but when you get an expert on sociological matters it would be more pertinent then.

Mr. Wegenast:
Then, without any further argument, I propose to fell in with your Worship's views and only pick out those things in this book which have

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE D-166

Dr. DeHaitre.

Mr. Wegenast:
to deal with medical matters.

The Court:
And undoubtedly if you did cover all this ground with this witness, you would be covering it all again with another witness who would perhaps be better qualified.

Mr. Mercier:
I don't think there is any suggestion the Pope considers himself an expert doctor in the encyclical.

Mr. Wegenast:
I put my question to the doctor and I should have an answer to that: whether he thinks for the public good the people should sin or disobey the rules of the Church?

The Witness:
A. I think that is extra-medical I completely; I don't know.

The Court:
Maybe you put the question, having regard to this excerpt, - Mr. Mercier and I were afraid you were going to read the whole book.

Mr. Mercier:
Let the doctor take the book and point out what he doesn't disagree with. File it as an exhibit.

Mr. Wegenast:
Yes. The last half of the book isn't --.

The Court:
There is much theory yet.

PAGE D-167

Dr. DeHaitre.

The Witness:

A. You would have to be a moralist, philosopher, end theologian in order to be able to answer that; even after reading it there is not much medical ground.

To Mr. Wegenast:

Q. I am with you, doctor, even if his Worship hadn't ruled. Now, give me a moment to pick out places having to do with medicine. I went to ask this, doctor, as a doctor and a Catholic, - which I find on page 46: "The notorious fact is, however, that the use of contraceptive devices" --.

Mr. Mercier:

He says as a "doctor and a Catholic" -- he isn't here to declare his faith: he is here to give medical evidence.

To Mr. Wegenast:

Q. (reading): "The notorious fact is, however, that the use of contraceptive devices is almost universal outside the Catholic fold, and even within it, the practice is much more widespread than most of us are willing to admit." ?

A. I don't believe it.

Q. It is a book with the imprimatur?

A. The book can say that.

Mr. Mercier:

That will open quite a ground for cross examination of my learned friend's witnesses.

The Witness:

A. If it is my privilege, I would like to be questioned only on medical questions.

PAGE D-168

Dr. DeHaitre.

To Mr. Wegenast:

Q. I am not asking --?

A. If you had a doctor of theology.

Q. As a doctor, does your experience bear this out: page 61 (of Exhibit 66-B): "There is scarcely an individual in all our population who does not learn about the common methods of contraception before he even reaches maturity. There is scarcely a village, town or city in all our land which does not have its corner drug store from which a person can secure not only literature concerning contraception, but the devices to practice the same. Magazines of national circulation carry thin-veiled advertisements about contraceptives obtainable from the manufacturers or at your local drug store. No person, unless he be blind, deaf and dumb, can be unaware of this."?

A. It is true.

Q. Then he goes on with his article, "Why Withhold Knowledge?" That I must not read to you. This has a medical aspect, at the bottom of page 52 (of Exhibit 86-B): "To withhold from general circulation the findings of science in any domain is always short-sighted. It is doubly so in this vexing field where they lessen burdens that would be otherwise excessive, and replace mental disquietude with peace and serenity." Isn't the problem of sex replete with questions of mental health? A. (no reply).

Q. Isn't it a fact sexual disturbances are responsible?

A. For insanity?

PAGE D-169

Dr. DeHaitre.

To Mr. Wegenast:

Q. And nervousness?

A. For nervousness, yes.

Q. Now, you differ with this, I take it -- the

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

bottom of page 5 (of Exhibit 86-B): "We may boldly declare," writes Dr. Guchteneere" -- whose book I have here -- "that thanks to Knaus and Ogino, periodical continence offers a security at least approximating the absolute security claimed by the majority of the artificial methods for the limitation of births." I don't think you will agree with that?

A. Well, if the male is strong enough to withhold for the period of the menstrual cycle of fertility.

Q. I thought we agreed it wasn't even ninety-nine per cent?

A. It isn't ninety-nine per cent, but there is only a small space in the month when a female is infertile, according to the theory of Ogino and Knaus.

To the Court:

Q. When you say the period of infertility is not ninety-nine per cent, is it in its application?

A. When applied.

Q. If properly applied?

A. No, there are so many surprises; we are dealing with life, which is a constantly changing problem.

To Mr. Wegenast:

Q. What do you say to this, which is set out in some of the books: I think some put it at forty-four per cent and some at fifty per cent, and some put it that the one regular thing about the menstrual period is that it is irregular?

PAGE D-170

Dr. DeHaitre.

To Mr. Wegenast:

A. Very frequently we can never rely on the subject having twenty-eight days; it may be twenty-nine, thirty-five or twenty.

Q. So a woman whose menstrual periods are irregular would be condemned to total abstinence or to having children?

A. Yes.

Q. If she is irregular?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. She would have to be or else use some of the birth control things.

Q. In other words, the woman who is irregular and can't use the Ogino-Knaus idea must use something else?

A. Total abstinence or some of the contraceptives.

Q. I want to show you this book, doctor: I said I would?

A. You want me to read this?

To the Court:

Q. Arising out of that doctor: one question: in your experience as a gynecologist for thirty years would you say the average among women is towards regularity or irregularity?

A. I would say it would be at least fifty per cent of women are irregular.

Q. And fifty per cent regular?

A. But very frequently a regular women will walk in to a doctor and will say, "it is too soon" or "it is too late." If it is too late it may be the beginning of pregnancy or it may be cold, fatigue, grippe, emotion or anything.

Q. So a women ordinarily regular might quite suddenly

PAGE D-171

Dr. DeHaitre.

To the Court:

develop irregularity?

A. Yes, and return later to the regular cycle.

To Mr. Wegenast:

Q. And the Ogino and Knaus theory is that she must be continent for a year before she can watch herself?

A. Yes, and even then watch her step very closely.

Q. Now, doctor, isn't there such a thing as Catholic medical jurisprudence?

A. I don't know anything about it. I know a lot of medicine but not much of religion or of any religion in fact.

Q. By the way, doctor, what is your speciality,- the

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

science of gynecology?

A. I am a surgeon for the last twenty-five years.

Q. I understand you are somewhat of an expert in genito-urinary diseases?

A. Yes, but mostly a surgeon.

Q. That is apart from gynecology?

A. Yes. In some countries they are the same, but here a gynecologist is one and an obstetrician is only for maternity.

Q. This book, "Rosenau: Preventive Medicine and Hygiene" ?

A. I never read the book.

Q. You recognize it as an authority?

A. Yes.

Q. We needn't read the long list of his qualifications?

The Court:

What page?

PAGE D-172

Dr. DeHaitre.

(amended)

To Mr. Wegenast:

Q. Page 497, the third paragraph in the middle:
"It is important not only for the maintenance of the health of the individual but plays a significant role in the preservation of the public health and in preventive medicine."

You agree with that?

A. Yes.

Q. At the bottom:

"Every new endeavour to improve public health passes through a difficult period of opposition. Dr. Robert L. Dickinson points out that:; 'Control of conception presents no exception. In this department of preventive medicine, however, the study of the matter of subject to peculiar

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

handicaps. The transmission of information that is essential is hampered by law and custom;"

He is speaking of the United States.

"opposition is dogmatic and emotional;"

You don't agree with that?

A. No.

Q. "the experience of any one individual is limited. The more the need, therefore, of careful collection of data and open-minded analysis of whatever tests have been made'."

As a scientist you will agree with that? You want a broader base?

A. Yes.

Q. "This new power to control human reproduction voluntarily carries with it serious problems of vital concern to society. To the physician, however, it offers an important addition to his equipment in the preservation of maternal and

PAGE D-172a

Dr. DeHaitre.

To Mr. Wegenast:
infant health."

Do you agree with that?

A. Yes.

Q. "Contraception will prevent undesired pregnancies and decrease abortion. It will lessen maternal mortality by making it possible to control pregnancy for those for whom maternity involves excessive hazards."

Do you agree with that?

A. Yes.

Q. "It will also lower infant mortality through the control of the intervals between births and safeguard the lives and health of children."

Do you agree with that?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes.

Q. "It will lessen congenital disease and hereditary defects" ?

A. Certainly.

Q. Now, at the top of page 498:

"Birth control, of course, is not exclusively a medical problem, but when medically indicated and under medical supervision, is a health factory of vital concern to the individual and to the public."

Do you agree with that?

A. Yea, absolutely.

Q. At the bottom of page 498:

"The method most commonly advocated in birth control clinics, and which has had the greatest percentage of success in carefully studied series of cases, is the use by the woman of some form of mechanical barrier -- diaphragm or cap -- to-

PAGE D-172b

Dr. DeHaitre.

To Mr. Wegenast:

gather with a spermicidal jelly. The condom also shows a high degree of success."

(page D-173 follows; cross out first line:

"advocated.. .. use by women.... condom highly....").

PAGE D-173

Dr. DeHaitre.

To Mr. Wegenast.

What do you say about that?

A. As I said this morning, when those things are done according to medical science and under medical supervision, but in many cases they are not fit to use those contraceptives.

Q. I have already asked and I think I have your answer, when the doctor is called in to prescribe the form

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

and kind of pessary to be used by a woman, you are satisfied?

A. I am sorry to say I have been in practice thirty years and I don't think I have prescribed them in that time. They are out of date. We used to use pessaries for falling of the uterus, prolapsus and so forth, but I never had occasion to prescribe a pessary like you showed me this morning.

Q. You already said you haven't gone into that branch very deeply. Let me ask you what you would say as to that?

A. That is another form of pessary, The other had a ring; this is a diaphragm. A few years ago the pessary was in order to press the uterus in its proper position, but this is in order to obstruct anything going into the canal or cervix.

Q. You don't want to express an opinion on this?

A. No.

The Court:
Exhibit 28-B.

The Witness:

A. I never used it; if a women is d6seosed enough I

PAGE D-174

Dr. DeHaitre.

The Witness:
treat her otherwise.

To Mr. Wegenast.

Q. Is this the one you are speaking of, doctor?

As No, you haven't got it; it is made of herd rubber.

Q. Are you referring to the one this morning?

A. No, it is hard; it is gutta percha.

Q. You would regard this as generally in the same class as -- .

The Court:
Exhibit 28-B.

The Witness:

A. Yes.

To Mr. Wegenast:

Q. This is 29-B?

A. It has a well or partition.

Q. That, with the spermicidal jelly?

A. I never had experience with it.

Q. If the jelly was reasonably effective, that, with the diaphragm put in as Exhibit 28-B,- do you think that would be reasonably successful?

A. They wouldn't be one hundred per cent safe.

Q. I don't know if anything is one hundred per cent safe. What do you say about this one, which will make exhibit 30-B?

The Court:

Yes.

To Mr. Wegenast:

Q. Take a look at that?

A. It is on the same principle. It is around the neck of the womb and the diaphragm, but if you have a subject with a cervix long enough,- if a very

PAGE D-175
(amended)

Dr.DeHaitre.

To Mr. Wegenast:

short cervix -- it depends on the length of the cervix.

Q. That depends on a physical examination by a doctor?

A. Yes, some women's cervixes are much larger than that from cervicitis.

Q. Now, having shown you those, doctor, I come back to the paragraph:

"The method most commonly advocated in birth control clinics, and which has had the greatest percentage of success in carefully studied series

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

of cases, is the use by the woman of some form of mechanical barrier -- diaphragm or cap -- together with a spermicidal jelly".

I take it you don't want to give a final and conclusive opinion?

A. No, I take it all in.

Q. On what Mr. Rosenau says?

A. Yes.

Q. Now, this paragraph:

"Recent medical studies have demonstrated the importance and advisability of spacing pregnancies to avoid too great a drain on the health of the mother," ?

A. Yes.

Q. "and to guard the best interests of the children already born. We do not here undertake to define the ideal interval between births, dependent as it is upon a multiplicity of factors." ?

The Court:
What page?

Mr. Wegenast:

PAGE D-175a

Dr. DeHaitre.

Mr. Wegenast:
499.

Mr. Wegenast:

Q. Now, doctor, look at the methods of contraception on page five hundred: I would prefer not to read them out. Some of them are not suitable subjects for public discussion and I would like to ask you, doctor, if those exhaust the methods?

A. There are a lot of those things of which I have no knowledge.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. Yes.

To the Court:

Q. The question is: so far as your knowledge of gynecology goes, do those exhaust the methods?

A. I think I was told there were six hundred things; you haven't a tenth of them.

To Mr. Wegenast:

Q. Dr. Rosenau didn't know of them?

A. I don't know.

The Court:

When was that book published?

Mr. Wegenast:

It is the sixth edition, 1935.

To the Court:

Q. There might have been a lot of developments since 1935?

A. The human brain in isn't exhausted yet in trying methods and I could shock your ears with a lot of things you would hardly believe.

Mr. Mercier:

Of course, your Worship, we are more or less interested in those put in as exhibits; we don't want a discussion on four or five hundred others.

Page D-176

(amended)

Dr. DeHaitre.

To Mr. Wegenast:

Q. Now, it is pointed out to me this doesn't profess to be exhaustive. It is divided into three heads, first:

"I. Those found most practical and effective:

1. Vaginal diaphragm with contraceptive jelly.
2. Cervical cep with contraceptive jelly."

What is the difference?

A. There is the diaphragm in both to obstruct the entrance to the womb.

Q. "3. Sheath (condom) " ?

A. Yes, the condom.

Q. "4. Chemicals alone: suppositories, powders and jellies." ?

A. Yes.

Q. Now, the:

"II. Those found to be impracticaly for general use, uncertain and questionable:

1. Abstinence.
2. Coitus interruptus (withdrawal alone).
3. Coitus reservatus.
4. Douching or lathering alone.
5. Lactation." ?

A. I have no knowledge.

Q. Letting the mother keep the child at breast?

A. That is very deserving.

Q. "6. Poem tablets.

7. Stems (cervical and intra-uterine)".

Page 500?

A. They plug the cervix.

Q. These are the rest:

"III. Those needing further experimental and developmental research before being prescribed for

PAGE D-177
(amended)

Dr. DeHaitre.

To Mr. Weganast:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

general use:

1. Intra-uterine silver rings or silkworm gut." ?

A. Very bad.

Q. He says there is need of more experiment?

A. Yes; bad.

Q. The next is the:

"2. Safe period" ?

A. Yes.

Q. "3. Hormones" ?

A. I don't know.

Q. "4. Spermatoxins" ?

A. I don't know.

Q. "5. Irradiation to ovary or uterus; to testicle" ?

A. Yes, you can sterilise a woman by X.-ray and you can do the same for a period and it comes back.

Q. "6. Reversible operations" ?

A. Yes.

Q. What do you say of the three classes; some are practically effective; some impractical for general use and some need further investigation: have you any observations on that?

(page D-178 follows).

PAGE D-178

Dr. DeHaitre.

To Mr. Wegenast:

A. (No reply).

The Court:

Are you testing the doctor on his knowledge of this subject or is this leading up to something in the case in point. Those are not exhaustive. Some are recommended; some not recommended and you are asking the doctor's opinion.

Mr. Wegenast:

Rather than answer that I would not go on at

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

all.

The Court:

You are not limited, but are you leading up to something on the point?

Mr. Wegenast:

I don't want to say what.

The Court:

I don't want to limit it but is it on a point concerned?

Mr. Wegenast:

I am concerned too, but I have a distinct purpose.

Mr. Mercier:

If the doctor is going to be cross examined on all these, we might go home and come back.

To Mr. Wegenast:

Q. The doctor might make observations on those classes?

A. I can't say; I am not conversant with it.

Mr. Mercier:

The doctor wasn't called as an expert on all contraceptives but on certain types.

PAGE D-179

Dr. DeHaitre.

To Mr. Wegenast:

Q. This is a work by Dickenson, published in 1932?

A. I never read this.

Q. We will let that go. What would you consider are the indications for contraception? That is the medical phrase you and I understand?

A. The way you apply them, as we were shown in the box,- the jelly and so forth.

Q. Do you know -- ?

A. In general?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. In general what are the pathological or other conditions for which you would prescribe contraceptives?

A. I would prescribe for all diseases of the generative organs.- to start by the vagina, vaginitis from whatever cause; [gonorrhoea]; tubercular; or [syphilis] or streptococcus. Now, going further in the generative organs we meet the cervix. Now, any disease of the cervix,- cervicitis, ulceration; cancers, cysts, ulcers. Now, in the cervix also, chronic endocervicitis and others, diseases of women.

Q. Then, jump to this: the general health of the women, and the possibility another child might injure her health?

A. She couldn't have another child with those.

Q. Would you take another case: the t of a woman who had had a child and was in such a state of health she had better not have another child for two years?

A. I would say, treatment to better her condition.

Q. I see?

A. Cure her condition. I would say to the husband: "keep quiet if you don't want your wife to die in the next two years."

PAGE D-180

Dr. DeHaitre.

To Mr. Wegenast:

Q. Would you depend on that husband?

A. If he is a man of honesty I would.

Q. I am going to put the ease of a husband who comes home drunk at night?

A. That is a different proposition.

Q. I understand doctor -- correct me if I am wrong -- I understand, doctor, in the matter of how a devout Catholic -- if no difference to my learned friend?

Mr. Mercier:

No difference: I am not sitting here as a bishop.

To Mr. Wegenast:

Q. Will you prescribe a contraceptive if the health

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

of the mother indicates it?

A. You are putting the answer in my mouth.

Q. I did?

A. No; I would not prescribe that; I would say to the man: "your women must be treated, get her to a hospital or stay away from her or you use a condom." I wouldn't prescribe jelly or an instrument to put in her vagina.

Q. Do you know about thin: "Every man in sickness and in health"?

A. No, I don't know. A lot of those are post-medical and extra-medical. I read my text books and journals; I am no encyclopaedia.

Q. Here is, "Need Our Mothers Die", issued in Ottawa by the Canadian Welfare Council. Do you think that is worth listening to?

A. Certainly.

Q. On page 47, in the middle of the page (Exhibit

PAGE D-181

Dr. DeHaitre.

To Mr. Wegenast:

69-B) (page 63?): "Maternal Morbidity. 'It seems almost incredible that every year one woman in every ten of those who bear children is to be more or less disabled, or has to endure an operation to cure her injuries. Yet, in the absence of exact figures, thin seems to be a conservative estimate.'" What do you think of that?

A. Yes.

Q. "Besides, probably many more bear in silence minor lesions which may prove fetal later." ?

A. Yes.

Q. Going farther, the Council makes these findings: "Important and disturbing as is the unnecessarily heavy death toll of mothers in childbirth as a national problem and pathetic and disintegrating as are the consequences of the loss of the mother in the life of the home, the social agency concerned with child protection and family life is faced with a related problem of equal significance and even greater extent in the undermining and, often, the disruption of the family group through the crippling

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

or permanent invalidism of the mother, who survives childbirth. No substantial study of these conditions has yet been made in Canada, but the most reliable estimates"- Here a footnote says "English Departmental Committee Report, 1932, Ch. VIII". -"from other countries of comparable population and services suggests the number of mothers more or less handicapped as the result of childbirth as roughly ten per cent of the total bearing children,

PAGE D-182

Dr. DeHaitre.

To Mr. Wegenast:
while twenty times the number dying are permanently impaired in health each year." You have already expressed your opinion on that?

A. Yes.

Q. Nor: "It is impossible to estimate debility and similar conditions following on childbirth and consequently there is always a danger of overstating the ease, but the application of these calculations (cited from Blair Bell ((Prof. Blair Bell, Maternal Disablement, the Lancet, May 30, June 13, 1931)). and the comments of the English Committee's report) would give us in Canada a total of approximately 23,000 women (if calculated at twenty times the number dying) who would be more or less handicapped as the result of childbirth annually." Do you think that may be so?

A. (No reply).

Mr. Mercier:

The witness says "23,000 women and something may happen and what the doctor thinks of that." I think a lot of this going on is irrelevant and unnecessary.

The Court:

The doctor is being examined for the purpose of giving his expert opinion.

Mr. Mercier:
If there were 23,000 women in Ottawa -- .

The Court:
You are reading a lot of statistics without giving the doctor time.

PAGE D-183

Dr. DeHaitre.

Mr. Wegenast:

Q. "Those who would suffer some sickness or debility, minor lesions, or other impairment in health or physique but not necessarily of permanent nature (one in ten of those bearing children) would give us another 22,000 to 23,000 who face some degree of suffering or ill health but not to the extent of permanent handicap, as part of the cost of child-birth." That is to say, besides those who die we have another 23,000 who suffer?

A. Yes, incapacitated.

Q. "Thus, over a five-year average the complete toll of motherhood in Canada, that 230,000 children may be born, is the death of 100 to 1400 mothers annually."?

A. Yes.

Q. "The more or less permanent handicapping of another 23,000 mothers?"

A. Yes.

Q. "And the impairment of health to lesser or greater degree of another 22,000; and the stark inescapable condemnation of the whole unfortunate story is that at least 50% of this cost is unnecessary and preventable by means within our knowledge, control and capacity, if we have but the courage and determination to apply them." You don't disagree with that?

A. No, it has been like that always.

Q. Now, I show you this book of Dr. Frederick J. Taussig, M. D., F. A. C. S. (Exhibit No. 91-B). He is supposed to be the world's greatest authority on abortion: will you look at it?

A. I have never seen the book before.

Q. It is comparatively new?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

PAGE D-184

Dr. DeHaitre.

To Mr. Wegenast:

A. Yes; all right?

Q. He says this, doctor: see what you say?

The Court:

Published when?

Mr. Wegenast:

1936.

To Mr. Wegenast:

Q. He says this, and see what you say: Page 451: under the heading of "The Role of Contraception: Of all the measures suggested for the control of abortion none equals in importance the widespread establishment of clinics for contraceptive advice and provision for the free distribution of contraceptive materials among the poor. It is self-evident that by the prevention of the undesired or undesirable pregnancy we can reduce the number of cases requiring abortion to a relatively small number." ?

A. Between the two evils you must choose the lesser, of course.

Q. Another: "Concerning 'Abortion and Contraception', the Committee on Maternal Welfare of the League of Nations has made the following impressive statement:" taking the paragraph at the bottom of page 451:

"Apart from the practice of contraception for personal or economic reasons,, it may be necessary to avoid pregnancy on account of the mother's own health, and in such cases it is preferable to prevent pregnancy occurring at all rather than to interrupt it."?

A. Yes.

Q. "But it is not sufficient merely to tell a married

PAGE D-185

Dr. DeHaitre.

To Mr. Wegenast:

woman suffering from tuberculosis or heart disease or nephritis that she should not again become pregnant. It is necessary to explain exactly what steps one end her husband should take to prevent this happening. "?

A. Yes.

4. "If the private doctor is not prepared to do this, the information can be given most appropriately at the health centre"?"

A. Yes.

Q. Naturally no preventive measures can be one hundred per cent successful, and it will certainly be impossible for some time to have them applied widely enough to eliminate undesired pregnancies as a factor in abortion."? Do you agree with that?

A. Yes.

Q. "Peller believes that in the next few decades birth control will materially reduce the need for abortion and that with this reduction the public will accept the wider medico-social indications for interruption." Do you agree with that?

A. Yes.

Q. "To accomplish this end, however, we must make every effort to establish maternal health centres in all our larger cities in connection with medical schools, dispensaries, end hospitals, and to seek co-operation of state boards of health to establish similar clinics in outlying districts throughout the country."?

A. Yes.

Q. You have already expressed your opinion as to that?

A. Yes.

PAGE D-186

Dr . DeHaitre.

To Mr. Wegenast:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. "The movement for the control of induced abortion is therefore directly dependent upon the success of the movement for medical contraception." Do you agree with that?

A. Yes.

Q. He winds up in the end of the book on page 452, "No problem in preventive medicine gives greater promise of definite beneficial results. The medical profession must assume full responsibility for the appalling frequency of abortion and its high death-rate, if it fails to attempt correction of these fundamental evils," Do you agree with that?

A. Yes.

Q. "For this reason it is my hope that this work will not merely serve as a source of information upon the subject of abortion, but that it will stimulate my fellow practitioners to realize their obligation and opportunity of aiding in its control." Do you agree with that?

A. Yes, good.

Q. "Good", he says. Let us see what you say about "Technique of Contraception by Jellies F. Cooper, M. D."?

A. You are well supplied with a library.

Q. He is: "Medical Director of the American Birth Control League and, until January, 1929, of the Birth Control Clinical Research Bureau, New York City; formerly Professor of Clinical Surgery, Foochow Union Medical College, Foochow, China; and Clinical Instructor in Obstetrics, Boston University Medical School."

The Court:

What is the name?

PAGE D-187

Dr. DeHaitre.

Mr. Wegenast:
Cooper.

The Court:

His initials?

Mr. Wegenast:

James F. Cooper, M.D. page 153.

To Mr. Wegenast:

Q. I am afraid you will not like this?

A. I am open to all knowledge.

Q. "In the preceding chapter consideration has been given to fallacious practices. A little attention is now given to fallacious ideas concerning contra-ception. Comment has already been made that there has hitherto been a dearth of scientific information on the subject of contraception. What is meant, of course, is that there has not previously been an adequate study on a sufficiently large number of cases under proper control to make any definite conclusions possible. This does not mean that all phases of the subject have hitherto been absolutely neglected; for many investigators have made observations on related studies which throw some light on this subject.

"It is absurd however, under these circumstances for anyone, who may have a traditional or emotional attitude against having contraception prescribed for any cause whatever, to come forward with unwarranted, unproved statements and expect thinking people to accept the. It is equally deplorable to hear physicians, who are as a rule devoted to the scientific attitude of demanding facts, repeat without

PAGE D-188

Dr . DeHaitre.

To Mr. Wegenast:

question the unwarranted and unqualified statements that contraceptives are injurious." ?

A. To my idea they are when, not used properly.

Q. Isn't the answer; "some contraceptives are injurious"

A. They have improved, but ten or twenty-five years Ago the damage was done mostly by those things. It must be done under medical supervision and the proper way to apply them given in individual cases, not in the general mass.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

Q. I thought when you started in this afternoon, in response to my learned friend, that all these artificial contraceptives are bad?

A. Not all bad.

Mr. Mercier:

He said in examination in chief that these contraceptives were all right and harmless providing they were given under proper supervision.

The Court:

That is the doctor's stand.

Mr. Mercier:

Anil in fact my learned friend's stand is that they were all right under proper supervision. I can't see he can get anything further from the doctor than this.

Mr. Wegenast:

Yes, but the doctor dragged in "natural" and "artificial".

The Witness:

A. It is scientifically divided.

PAGE D-189

Dr. DeHaitre.

To Mr. Wegenast:

Q. I thought when we read extracts from "Rhythm", if natural, o. k.; if artificial, not?

A. Not in all cases, but in individual cases; I am speaking your language?

The Court:

From my notes, the doctor speaking of acute gonorrhoea: you asked would the jelly hurt

and he said no but it must be done under medical supervision. That refers to one of your articles.

Mr. Wegenast:

But he is referring to the wrongness of artificial methods.

Mr. Mercier:

He said he didn't believe in them but they may be harmless if done under proper medical supervision.

The Witness:

A. In individual cases, but not in the [general] mass, ones that come to my office.

To the Court:

Q. You take every case on its own merits? t

A. On its own merits.

Q. In some cases it is quite proper to prescribe them?

A. Yes, the condom, but if you can't use that,-.

To Mr. Wegenast:

Q. (reading from Exhibit 95-B, p. 154): "It is also possible, however, to select measures which will be harmless as well as effective?"

A. Certainly.

Q. Further down the page: "One of these unwarranted

PAGE D-190

Dr. DeHaitre.

To Mr. Wegenast:

statements is that the practice of contraception leads to sterility. The fact is that women, who for one reason or another are unable to avail themselves of medical advice, may in their desperation and ignorance resort to unnatural methods. During the reading of an excellent paper by Dr. Cary of Brooklyn, at the American Medical Association meeting at Dallas, Texas, 1926, on the subject of [sterility], he mentioned the use of an intra-uterine stem pessary

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

as a cause of sterility. The point was well taken, and that type of pessary is condemned in Chapter III of this book."?

A. Yes.

Q. Now, you will see the pertinence of my question?

A. (No reply).

Q. (reading): "There is an impression in some quarters that the use of contraceptive measures per se is a cause of sterility." ?

A. Yes, perhaps from infection they carry, or injury to the generative organs; it has been mentioned by very good authority.

Q. The next sentence: "This, I feel, is one of those generalized statements which has never been substantiated and which is very misleading." ?

A. The men who have made those statements were certainly not in a position to prove them or know in their own practice.

Q. But you say it is not a thing to rely on; you need a broader base?

A. Yes.

Q. "The adoption of any other ill-advised method recom-

PAGE D-191

Dr. DeHaitre.

To Mr. Wegenast:

mended by a friend may have been a cause of sterility; but the point I wish to bring out is that contraceptive measures per se are not necessarily a cause of sterility, and that pax= there are many methods which have been used over long periods of time without having any sterility following their use. " ?

A. Yes, certainly.

Q. "This statement is based on observation of more than 5,000 cases in the Birth Control Clinic of the American BirthControl League Research Department, in New York. There is other information from many sources in Europe where contraception has been practiced for a long time showing that there are rational methods of contraception which do not result in sterility and *h ich under medical prescription and supervision are perfectly safe to use from this

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

standpoint." ?

A. Absolutely.

Q. "A certain percentage of all human matings are sterile from congenital or birth defects or lack of development like infantile organs or lack of delivery of the ovum or live sperms. Such people often marry and decide that they cannot afford children during the first few years of married life and therefore practice contraception by some method. Then later, having concluded that the time for child-bearing has arrived, they discontinue their birth control method. Finding no pregnancy resulting, they naturally infer that a sterility had been caused by their contraceptive practice." ?

A. Yes; they draw their own conclusions; there is no

PAGE D-192

To Mr. Wegenast:

Dr. DeHaitre

To Mr. Wegenast:
scientific ground.

Q. "William J. Robinson (Limitation of Offspring, p. 71) quotes such a case. The young couple came to him and blamed the methods they had used for the sterility of the union. Upon examination the man was found to have azo-ospermia, and therefore could not have impregnated his wife. In a word, contraceptives per se are not a cause of sterility." ?

A. In themselves, but some authorities say they may be the cause.

Q. They may be. Now, we come to cancer. This man says; "It may be repeated here, however, that there has never been any convincing proof brought forward by anyone to show that contraceptives cause cancer." ?

A. It hasn't been proved, but isn't it possible? To prove a thing, and say it is possible, -- .

Q: "Diet, germ infection, and all sorts of theories have been advanced as a cause of cancer." ?

A. Irritation.

To the Court:

Q. Even if not the cause, they may irritate?

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

A. Yes, irritation is one of the great causes of cancer. We learn that in college and we still find it in the medical journals: the cause of cancer we don't know but most probably it is irritation, chemical or microscopic, or what.

To Mr. Wegenast:

Q. The next sentence: "Whether, for example, the pessary is used for the correction of displacements or for contraception, the mechanical effects will be the same. The relationship of vaginal pessaries

PAGE D-193

Dr. DeHaitre.

To Mr. Wegenast

as a cause of cancer was summed up by Weiss (Samuel Weiss, M. D., Some Considerations of the Cancer Problem. American Medicine, February, 1928, page 109) as follows: 'were irritation and ulceration necessary for the production of cancer of the cervix, surely as pointed out by Sir John Bland-Sutton in his classic work on "Tumors, Innocent and Malignant," the pessary would be a chief cause.' He mentions several cases of long forgotten pessaries, and states that patients were examined under the impressions that they were suffering from advanced cancer and none was found." ?

A. Yes.

Q. The doctor points out to me that the pessary is not exclusively a contraceptive?

A. No, it is for therapeutic treatment, for correcting mal-position or prolapsus.

Q. Now, I am going to speak of infections: you were on that subject, and Dr. Cooper says, at page 157 and page 158: "Claims have been frequently made that contraceptives cause infection of the vagina and uterus. This may have been true of a soft rubber pessary left in position a month at a time as originally recommended by Mensinga. It may have been true when uterine stems were used. It may have been true also when any ill-advised or self-prescribed irrational method was used. It cannot

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

be said, however, that the method and technique of any of the modern clinics lead to infections." ?

A. No, - that is my contention: it should be under

PAGE D-194

Dr. DeHaitre.

To Mr. Wegenast:
proper medical supervision and scientifically done.

Q. In small caps on page 159: this is on "Effects on the Woman."

The Court:
Five minute adjournment (et 4:00 p. m.).

(Court resumed at 4:10 p. m.):

To Mr. Wegenast:
Q. Dr. Cooper speaks of "Effects on the Woman: On account of absence of information about sex life, or the possession of misinformation, many young women arrive at the marriage day in the densest ignorance. In the ignorance of a bygone day, this was considered the ideal condition in which to enter marriage, and is still so considered by too large a percentage of our people.
"The series of revelations and shocks which has come to many young women during the first few days of married life has created mental attitudes of an undesirable nature from which they have never recovered." Is there something to that, doctor?

A. You mean from lack of knowledge?

Q. Yes?

A. Yes.

Q. "Besides this group of uninstructed women, there are those who have a native delicacy and retinence, who shrink from any physical examination by a physician, even of the most general character." You have seen a good deal of that?

A. They don't want to be examined and refuse

PAGE D-195

Dr. DeHaitre.

To Mr. Wegenast:

examination on timidity or they are ashamed or their modesty, -.

Q. "Naturally these women have some feeling of revulsion against using any contraceptive. This means that the husband must use the condom, coitus interruptus, or continence. After a time there is usually a revolt and the woman is asked to 'do her part',- meaning that she is to adopt some contraceptive measure; or if nothing is done and pregnancy results, and there should be some sound health or urgent economic or other obvious reason for her not becoming pregnant, she learns to overcome her timidity. It is very seldom that women who have had children and. feel that they should not become pregnant again, for the time at least, have any aversion." What do you think of that?

A. That is quite true.

Q. "When the aversion to an unwanted pregnancy becomes strong, the aversion to preventive measures tends to disappear."?

A Yes.

Q. "The fear of unwanted pregnancy does more psychic damage than do all the reactions against preventives." ?

A. That is a very debatable and discussable question.

Q. This is what the doctor says here?

A. I have a book here.

To Mr. Mercier:

Q. I don't suppose you should reply by a book, doctor?

A. (No reply).

To Mr. Wegenast:

Q. Very well, I don't want to put anything in the way

PAGE D-196

Dr. DeHaitre.

To Mr. Wegenast:

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

of a witness like the doctor being unbiased. This is a medical journal?

A. Yes, I used to get it.

Q. Here is an article, "Primary Carcinoma of the vagina."?

A. Yes, it is rare.

Q. "Most authorities agree...factor". ?

A. It is one of the rarest forms of cancer; I have never seen a cancer of the vagina in thirty years.

Q. You don't agree with this?

A. No.

Q. I think you will agree that the condom is relatively harmless?

A. Yes, it is, because I have prescribed it myself severed times in cases where it was called for.

Q. Let me say, is this a fair way of putting it: you have no reason to suppose that the use of this contraceptive jelly, consisting of two per cent. lactic acid, ten per cent. boracic acid and eighty-eight percent starch jelly, glycerite of starch, - would be harmful?

A. It might not be harmful.

RE-DIRECT EXAMINATION

To Mr. Mercier:

Q. Arising out of cross examination: in answer to my learned friend's last question as to this jelly that it might not be harmful, whet would you say as to this jelly being used end placed in the vagina by the use of this instrument or nozzle, used by somebody without instructions where to

PAGE D-197

Dr. DeHaitre.

To Mr. Mercier:

place it?

A. I am of the opinion it would be injurious to the cervix; it would be more injurious to the cervix or vagina if used by somebody who don't know how to use it.

Q. In order to sum up your evidence in this lengthy

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

cross examination, you told in examination in chief end repeated in cross examination, some of these, or slthouAh the majority, may be absolutely harmless, in your experience of thirty years' standing they should not be used without medical supervision or direction?

A. Absolutely.

Q. And for those who ask for them would you prescribe them?

A. Not without examination and seeing if the patient is a proper subject for birth control. I would take the means of explaining to her, but up to now in my practice I have never had occasion to do so, except for the use of condoms by the male.

Q. Although harmless by themselves, they may be harmful if not used properly?

A. They may be harmful if not used properly and under medical supervision.

To the Court:

Q. Doctor, you have given your opinion on some of these points and I would like to get your opinion again on this point: with regard to the use of this jelly you say in itself it is comparatively harmless; would you as a physician be prepared to recommend the use of this jelly through this nozzle for any

PAGE D-198

Dr. DeHaitre.

To the Court:

person without medical examination end explanation first?

A. I would not.

Q. They should in all cases be prescribed the use of the jelly?

A. Yes; before a doctor prescribes something he must know the condition of the patient. A gynecologist is in a position to make a diagnosis if any pathological condition of the female, but it must be done by a doctor before anything is prescribed.

University of Waterloo Library. Special Collections & Archives. Dorothea Palmer collection. Examinations, volume 1: first count, the 21 women, Constable Martel, Chief Manion, Miss Palmer, Dr. DeHaitre. [WA17-22].

It is a general rule in medicine, scientific or rational medicine: a drug or medicine, or whatever [therapeutic] measures, must be prescribed after proper examination. If a man suffers from a heart condition I wouldn't prescribe alcohol or stimulants to cure him or if a woman is suffering from a cancer or tuberculosis I wouldn't prescribe sports. Some of those examinations are so long we must take the patient in the hospital and examine them for seven or eight days before we make up our mind.

Q. I think that is all, doctor.

(Witness retired).

Mr. Mercier:

That is the case for the Crown, your Worship.
