

F. W. Wegenast, Esq., K. C.

REX vs. PALMER

Eastview Police Court,

1936

IV 9
Volume ~~X~~ (of 10 volumes)

²²³ ^{N 26}
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Mr. Megeest

Rex vs Palmer

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Denis Savoie, already sworn, recalled deposed:

To Mr. Wegenast:

Q. You are already sworn, Mr. Savoie?

A. Yes.

Q. You have a document prepared for us?

A. Yes.

Q. I haven't seen it?

A. (No reply).

The Court:

Adjourn for five minutes.

(Hearing resumed after five minutes):

To Mr. Wegenast:

Q. Mr. Savoie, this is a tabulation of the information you have obtained from your records?

A. Yes, sir.

Q. And it is correct?

A. As far as I could get it.

The Court:

Exhibit 89-B.

Mr. Wegenast:

Then, your Worship, I propose to call Professor Kemp to make such observations on this information as may be useful to your Worship on this case.

The Court:

Will you be recalling Mr. Savoie: it is for the purpose of ~~XXXX~~ cross examination.

CROSS EXAMINATION

To Mr. Mercier:

Q. What is the percentage of people in Eastview: what is the total population of Eastview?

A. According to the assessors for 1936 it is seven

To Mr. Mercier:

Q. How many are on relief now?

A.: 1236.

Q. What proportion?

A.: 17.65.

Q. How does that compare with 1935?

A. This time in 1935?

Q. Yes, at this time in 1935?

A. We had 26.76.

Q. It has been reduced from 17.65 to 26.76?

A. Yes.

Q. How many families are on relief?

A.: 242; these are the figures of October 31, 1936.

Q. You had 242 families on relief then?

A.: 242 families on relief then.

Q. What is the total of number of families in town?

A. The total families in town?

Q. Yes?

A. Sorry, I can't say.

Q. You have over seven thousand persons?

A. Yes.

Q. How many children up to seven years of age have you got on relief as compared with 242 families?

A. 274 children.

Q.: 274 children for 242 families?

A. Yes.

Q. Which would make it one-point (1.) what?

A. A little over that.

Q. That would be one-point something?

A. Per family.

Q. Under seven years of age?

A. Yes, under seven years of age.

To Mr. Mercier:

Q. How many families have you got on relief in which for one reason or another births could not be expected to occur?

A.: 81, at this time. I mean by that our records show we have 81 families which were in our estimation where births wouldn't be expected to occur from this time on.

Q.: 81 out of 242? (1/3)

A. Yes.

Q. Explain that?

A. Because the heads of the families are aged. We have 63 families where we wouldn't expect anything like that to occur. We have eleven families where the head of the family is a widow or widower and seven families where the heads are separated; where the husband or wife isn't living with the other head; that makes 81 families.

Mr. Mercier:

I reserve the right of calling Mr. Savoie in rebuttal.

~~Text of Beament:~~

~~RE~~

RE-DIRECT EXAMINATION

To Mr. Beament:

Q. Of course, in 81 families you do not take into account families where natural sterility might be expected in one or other of the heads?

A. Yes.

Q.: 81 is the mean?

A. That we know of.

Mr. Wegenast:

Q. That is all, Mr. Savoie. Stay here in case we

To Mr. Wegenast:

need you again?

A. Yes.

(Witness retired).

Professor Hubert Kemp, duly sworn, deposed:

To Mr. Wegenast:

Q. First, we must establish your status in this Court and I must ask you to do what under other circumstances would be boasting. It will hurt us more than it will you: in the first place, you are a graduate of?

A. Graduate of the University of Toronto, where I also have a degree of Master of Arts and I later studied at the University of London School of Economics.

Q. Then you have the degree of B. A. and many others?

A. That is all.

Q. You are now one of the faculty of the University of Toronto?

A. Associate Professor of Economics.

Q. How long have you been on the faculty of the University of Toronto?

A. Sixteen years.

Q. What special line did you follow?

A. My principal work is in statistics. I have been teaching economic statistics at the university during most of this period and in general I have done some general work in economics. I have also taught public finance.

Q. You have done some work outside your university work in this and in foreign countries: tell us something of that?

A. I have been doing outside work practically every year since I became a member of the staff of the university.

During three years I was engaged for four months each year for famine relief work in Russia, Germany and for a short time in Poland I was engaged with

To Mr. Wegenast:

the department of institutions and agencies of the state, in charge of making a study of statistics of crime, public welfare bureaus, mental institutions and so on.

I spent some time working for the social science council of New York, which is a federation of a number of learned bodies including economists, statisticians, sociologists and others in social work.

More recently I have been engaged by the tariff board and in 1932 I was on the preparatory committee working on material for the Imperial conference in Ottawa.

Q. That almost seems enough, professor on that score?

A. (No reply).

Mr. Mercier:

I agree.

To Mr. Wegenast:

Q. You have been going places and doing things. I am going to put this to you before I forget, whether you have any knowledge of sociology?

A. (No reply).

Q. You would say or wouldn't say whether the work done by Miss Palmer, who is accused in this Court of an indictable offence, is or is not an item of sociology or sociological concern or an item of social welfare work?

A. Undoubtedly it is.

Q. Now, I want to invite you first to make whatever observations you think would be of value to his Wor-

To Mr. Wegenast:

ship on the figures put in by Mr. Savoie which were compiled, I think, partially at your suggestion and with your co-operation?

A. I want to say I haven't seen any of these figures before being presented by Mr. Savoie here and if I had more time I could make perhaps a more pertinent remarks and I might make now what I think to be the most important highlights.

Q. Quite so?

A. ~~Mr~~ The memo. begins with the population of Canada, ten millions and some hundreds of thousands, and the number of persons on relief shown by the Department of Labour for July this year was one million and a little more, making a total of ten per cent of the total population on relief.

I could add to that, I suppose, that up to the present time the expenditure by the Dominion, provincial and municipal governments on relief since the beginning of the depression is estimated at about six hundred million dollars, so the cost of relief represented by this situation is undoubtedly a matter of great public concern.

The situation in Eastview is presented by Mr. Savoie as considerably worse off at the moment than the population of Canada as a whole. Whereas ten per cent of the people of Canada are on relief, in Eastview the percentage is, I think, seventeen per cent.

Q. And it was higher?

A. One-third or thirty-three per cent. (higher)

To the Court:

To the Court:

Q. The population for Canada was of July, 1936?
(?) (Exhibit 89-B says census 1931 - reporter).

A. Yes, /and Mr. Savoie's figures were the 31st of
October.

To Mr. Wegenast:

Q. Will you tell his Worship where the figures for
July come ~~from~~ from?

A. The Department of Labour, released to the press
on the twenty-eighth of October, 1931. (10-28-36?).

To Mr. Beament:

Q. They are in Exhibit 56-B?

A. Yes, in the Labour Gazette. Leaving the statistics
in Canada as a whole, Mr. Savoie comes to the Town of
Eastview where he shows the total population according
to the census of 1931 was 6686 of whom those of
French origin were 71 per cent and those of other
origins 29 per cent, the actual totals being 4747 of
French origin and 1939 of the other origins. The
assessor's figures show the same percentages but a
slightly higher population since 1931, since when it
went from 6686 to 7000.

I don't know whether it would be of any interest
to the Court to know anything about the pace of growth
of the population of Eastview. I did look it up
myself as a matter of interest, thinking it would be
of interest, and I have the figures here.

In 1921 the population of Eastview was 5324.
In 1931 it was 6686, so it has gone up about 1300
during that period and the natural increase runs about
150 a year on the average, - that is, the surplus of
births over deaths. I don't know whether there is
anything else here about the population.

To Mr. Wegenast:

Q. Probably not, Mr. Kemp?

A. But, however, as a background for any other information you may need about the Town of Eastview --.

Q. The persons on relief are 1236?

A. Yes, which is $17\frac{65}{100}$ percent of the total population.

Q. Take the families?

A. On relief there were 242 on that date as shown by Mr. Sevcoie's report of which 191 were of French origin, that is, 78.92 per cent of the whole and 51 families were of other origin, that is, 21.08 per cent.

Q. 21.08 per cent -- now, we have here a list of the families?

A. Before leaving that table, and I don't know that it makes any difference -- the percentage of people of French origin in the town is 71 and the percentage of families on relief of French origin is 78.92, making a very small difference between the two.

The next table deals with the number and sizes of families on relief as of October 31, 1936. I don't think your Worship may read all this.

Q. Come to it later?

A. There are three families with thirteen children; one with twelve, three with eleven, six with ten, and so on. Summing up, we might take the more prolific. Seventeen families consist of one person, which could hardly be called a family in a statistical sense.

Q. What would a family of one be?

A. A bachelor or spinster.

To Mr. Mercier:

To Mr. Mercier:

Q. Widow or widower?

A. Yes.

Q. Or orphaned child?

A. Yes.

To Mr. Wegenast:

Q. Would that nullify the statistics?

A. It is not a statistical way; you must in relief figures take them as a family even if not belonging to any others; they must be families in themselves.

Q. And then these families of one must be included in the 81 Mr. Savoie told about?

A. I think it is clear from his tabulation what he has done. He has shown the total families as 242 and 17 individuals, so I would take it he has not included them as families in that connection.

To the Court:

Q. Seventeen individuals over and above 242 families?

A. Yes, and there are 46 families of two persons and I would suppose they would be mostly young couples though possibly there might be a father and son or mother and son, but in any case a good many would not be families of complete sterility; that is, although they have no children today. Some day they might have twenty.

Q. There are 46 of those?

A. Yes, of two persons.

Q. Yes?

A. Thirty-seven of three, making a total of 111 people there, more likely man, wife and one child, although there might be other combinations.

To Mr. Wegenast:

To Mr. Wegenast:

Q. Yes?

A. Taking 242 families as the total, you might say approximately half of them have five children or more and the total number of persons on relief is classed here by racial origin -- .

Q. I don't know if we are interested in that? / Then, ^{A.} there is the classification of their status: 242 heads/^{of} families, 225 wives, 752 dependent children and single cases 17, making a total of 1236. There may be other children of those families not on relief or not dependent. These are only children dependent on these heads of families and they are on relief.

Q. You have heard the evidence, Professor Kemp, what would be your impression?

A. Mr. Savoie has a table next, showing how many families there are in which births would not be expected to occur from this date on.

To the Court:

Q. Families on relief?

A. Yes, because of age, separation or death of one or other parent, birth would not be expected to occur from this date on. Mr. Savoie has pointed out some of these might have had births within the last year or so but he is only making his comparison on whether they are likely to have births from now on.

To Mr. Wegenast:

Q. Yes?

A. He shows in this table a total of 383 families. I don't know how that fits with the 242.

To the Court:

Q. X Those must be all the families in town?

To the Court:

A. No, they couldn't be because only about one-fifth of the town is on relief.

To Mr. Wegenast:

Q. If there are 242 families on relief you could hardly ~~expect~~ say 383 expect no more children?

A. No, that is 81. Oh, I think that 383 is not the families but probably the total number of members of those families. He has particulars here of 81 families in which ~~no~~ further births are not to be expected.

Q. That is what the whole page is about?

A. Yes.

Q. Yes?

A. Making that calculation, that means out of 242 families, 81 are not ^{likely} to have children and there are therefore 161 left where it is possible more children may be born. I think that, perhaps, should be taken in conjunction with another table he shows with the ages of dependents of families on relief. He shows families now on relief having a total of 38 children under one year of age, that is, they have been born within the last twelve months, and if there were 161 families twelve months ago and capable of having children and they had 38 children, that means one in four that could have had a birth had one. There may be more than 161 families in that category a year ago but it may be said that one baby was born in four families on relief where it was possible to have a baby.

Q. Is there any indication as to how they come?

A. Families now on relief, had 38 children within the last twelve months, forty the year before, 47 the year before that, and so on. They show a pretty

To Mr. Wegenast:

steady and consistent birth rate, running about that level.

Q. Take some of the individual cases?

A. That is another chart.

Q. Have you any more observations to make on that one?

A. No.

To the Court:

Q. Those figures are not the number of children?

A. These are all families with children born within the last five years to families now on relief, so we have knowledge of the histories of these families.

There is one point I wish to correct myself on,- if there are 161 families today who can have children today there might be 162 or 165 or more than that back to that time.

Q. You didn't get back to that? To twice that many?

A. It would be quite impossible because after you add 81 families you get to the limit.

Q. And did you consider what that means?

A. I was wondering if the number of families now here would be as large as a year ago.

To the Court:

Q.: 81 families might not have been so large?

A. Yes; maybe 45 five years ago. It is almost certain there were more families five years ago capable of having children.

To Mr. Wegenast:

Q. At one jump we have 47?

A. (No reply).

To the Court:

Q. Five years ago?

A. Five years ago.

To Mr. Wegenast:

Q. Is that all?

A. I think that is all; that table should be read. It is divided into racial origins. I passed over --

Q. Yes?

A. Here is a comparative statement of the cost of relief and number of persons on relief in ~~1935~~ 1935 and 1936. Is it all right to put these figures on the record?

Q. They are in as an exhibit. Point out anything seems to bear on the matter before us?

A. In the first table the interesting thing is that costs of relief in ~~Eastview~~ Eastview have gone down by not quite a third during the twelve months last past, when they were only about two-thirds of the year previous. The number of families on relief has also shown a gratifying ~~decline~~ decline. The highest here is February, 1936, which is 469 heads of families on relief, and I think now it is about 242, and the total number of persons on relief has been as high as 2423, which is 34.61 per cent.

Q. Of the whole population?

A. Of the ~~the~~ whole population, yes. That was the case early this year and coming to the period when Miss Palmer's activities were described here there were at that time 20.91 of the entire population on relief and at the present moment it is 17.65 and I don't know how they have managed to get it down.

Q. When you say Miss Palmer began here, what percentage was the unemployed?

A. In May, 30.21 per cent of all the people in the town of Eastview. Now, this table on which I com-

To Mr. Wegenast:

mented before, contains a survey of the ages of families on relief. There is one thing in this table that might be of interest; it shows ~~x~~ how long people now on relief have been on relief -- how long the dependents on relief have been on relief, rather. In general, out of 752 dependants on relief, there are 122 have been on relief four years or more. There are 48 who have been on relief three to four years, 130, two to three years and 134, one to two years, and 318 less than one year.

That table might be taken, I suppose to indicate to what extent relief has become a more or less chronic situation.

~~xx~~ We have something like nearly one half on relief have been on relief not less than a year. 362 out of 752 have been on relief less than one year.

Mr. Savoie's table shows the spacing of children in families, nine or more of persons on relief. He has taken it out of the records, concerning twenty-three families, being all the families of nine persons or more on relief.

There are nine families here with seven children plus parents and in order that the number of individuals may be brought before the Court he has designated these families as 1, 2, 3 and so on and there is no disclosure of personal affairs.

In family number one there are nine members, including seven children. These were born as follows, one under one year, one two years and one three -- at an interval of a year -- and then three were born in successive years. It would take too
~~long to~~

To Mr. Wegenast:

long to read all this thing.

Q. The highlights?

A. No. 2 has five born in five successive years. The next one, family No. 3, runs this way: at intervals of two or three years, with two born in successive years. Family No. 4 has five children born in successive years.

Q. Five in a row?

A. Yes.

Q. There are thirteen in this family (indicating)?

A. Yes, eleven children.

Q. Here is another with two in a row, three in a row and here is one?

A. With six in a row.

To the Court:

Q. What number is that?

A. No. 15. Her is another three in a row and the others are spaced more widely. This is a case of ten children.

To Mr. Wegenast:

Q. Here is No. 22?

A. Yes.

Q. Eleven children?

A. Yes.

Q. Spaced over what?

A. Eighteen years. Here is one with eleven children spaced over seventeen years.

That is the way in which I think this table shows the situation. There is no use going into further things there.

The last thing in the ^{folder} ~~file~~/Mr. Savoie has prepared ^{Shows} ~~whos~~ the number of persons on relief has

^

To Mr. Wegenast:

gone down from May of this year, when I believe he took over, until the end of October, the results declining from 2250 to about 1200 during that period.

~~I~~ I think that is about all I can say about this.

~~Ex~~
Mr. Wegenast:

I would like to resume examination of Mr. Savoie.

The Court:

Any cross examination?

CROSS EXAMINATION

To Mr. Mercier:

Q. The cost of relief in the town of Eastview has gone down in the past five months? Since May?

A. That is right, sir.

Q. And the number of families on relief have been reduced since last May?

A. Yes, sir.

Q. And now only seventeen per cent of the population is on relief?

A. Right.

Q. And in May it was thirty per cent?

A. Yes.

Q. And in the month of May Miss Palmer arrived in the vicinity, according to information we received?

A. I don't know.

Q. I don't suppose out of these figures one could arrive at the conclusion the thirteen per cent reduction between May and October would be the result of the

~~xxx~~ To Mr. Mercier:

work of Miss Palmer?

A. It would be very gratifying to hear.

Q. I don't mean by any contortion of reasoning or indulgence of mind she would be the cause of that?

A. I don't think so.

Q. If that was so it might be well for the international powers to send her to international countries?

A. (No reply).

The Court:

You are calling Mr. Savoie?

To Mr. Mercier:

Q. There has been a drop in relief elsewhere as well as in Eastview -- there has been quite a drop in Eastview since February -- has there been any decrease for Canada?

A. I think I could find that out.

Mr. Beament:

These figures are in for part of 1934.

To the Court:

Q. I want to get some relation on the remarkable drop in Eastview and how it bears with the rest of the country. I want some information on that later on?

A. This table in the Labour Gazette for October, 1936, page 887, shows the figures on the top, ~~xxx~~ in part. It is for March, which is the peak.

Q. It is from December, 1935, to July of this year?

A. Yes.

Q. The figures were released in October of this year?

A. Yes.

Q. In February of this year there were 1,589,362?

To the Court:

A. Yes.

Q. And in July?

A. 1,063,546.

To Mr. Beament:

Q. March is the peak month?

A. (No reply).

To The Court:

Yes.

To the Court:

Q. But I was trying to relate the figures for Eastview with those of Canada?

A. For the town of Eastview, August is 20.91; May is 30.21; February was 34.61 of the population; July, 22.96.

To Mr. Beament:

Q. That is a drop of about fifty per cent?

A. From February to July?

Q. In Eastview?

A. Yes; the summer months are nearly always better.

People get ~~jobs~~ jobs.

(Witness retired).

Denis Savoie, already sworn, recalled, deposed:

To Mr. Wegenast:

Q. You have had some experience in this relief work before you came to Eastview?

A. Yes.

Q. Where?

A. Windsor and vicinity.

Q. What would be the worst month for relief during the winter?

A. Well, February is usually the peak.

Q. Now, judging from the course of relief last year, what would you estimate the cost of relief to run up to in February coming?

A. (No reply).

The Court:

That is a poser.

Mr. Mercier:

I don't think this witness can estimate what is going to happen.

Mr. Wegenast:

I think I can answer that myself.

Mr. Mercier:

That may be father to the thought.

Mr. Wegenast:

We have relief costs month for month in the year 1935 and 1936 up to the present time: last November, twelve thousand odd; December thirteen thousand, March eighteen thousand.

To Mr. Wegenast:

Q. If it keeps on going up, by the time February comes what might it be?

A. It will not be as high as last year, but it will

To Mr. Wegenast:

be higher than now.

To the Court:

Q. In September of last year the cost of relief was \$9,670.70 and in December?

A. \$13,672.04.

Mr. Wegenast:

It has started up and I am asking the witness what it will likely go to?

The Court:

August of last year, it was twenty thousand.

Mr. Wegenast:

Is your Worship just -- ?

The Witness:

A. It seems a difficult question to answer; I can't tell what the situation will be this winter; the peak comes in February or March.

To Mr. Wegenast:

Q. Then twelve thousand dollars a month would be a decent figure ~~for~~ -- in February, 1936, the costs shown were \$15,056.41?

A. Yes. A greater expenditure was made for ~~fuel~~ fuel last winter -- that expenditure developed -- and there should be about three thousand dollars' worth of food not included.

So
Q. ~~So~~/for February, 1936, there should be another three thousand dollars?

A. Yes.

Q. And for February, 1936, it was?

A. \$15,056.41.

Q. Add three thousand to that?

A. Yes, and August has a pretty good figure, \$6,791.14.

To Mr. Wegenast:

Q. Now, the number of dependents now is 1,236; what would you say it would run to in the ordinary course by February and March?

A. I don't expect it to go any more than seventeen thousand, I think. Sixteen thousand is high enough.

Q. Now the cost is borne in part by the province; can you give a proportion of the cost borne by the province with reference to any particular year?

A. 1936 is the only year I can tell you about.

Q. Take for the nine months?

A. I cannot tell what it will be for the rest of the year. The municipality shares the costs.

Q. Out of a total of?

A. \$130,000.00.

Q. Can you tell me what the division is at present -- you say it is \$130,000.00 and the town of Eastview contributes \$5,000.00?

A. That is an arrangement made between the municipality and the provincial government.

Q. By whom?

A. The provincial government and the town of Eastview.

Q. On what date did the town of Eastview get off with five thousand dollars?

A. I couldn't say; I wasn't here.

To Mr. Mercier: CROSS EXAMINATION

Q. It wasn't the birth rate?

A. No, I don't suppose so.

Q. Were you here when the arrangement was made?

A. No.

Q. Do you know whether the percentage of the population on relief had anything to do with it?

To Mr. Mercier:

A. No, the ability of the people to pay was the main factor.

Q. Is there a Protestant doctor in Eastview, do you think?

A. I don't know if there is one, or not.

Q. Do you know if there are any doctors in Eastview?

A. Yes, two: Dr. Dufour and Dr. DesRosiers.

Q. Dr. Dufour is in Eastview?

A. Yes.

Q. Is there any birth control clinic here?

A. I don't know.

Q. You would know if there was one?

A. I imagine so.

To Mr. Wegenast:

I thank you for your work.

(Witness retired).

The Court:

Adjourn to tomorrow morning.

(Court resumed at 10:00 a. m., 3rd Nov., 1936).

Professor Hubert Kemp, already sworn, recalled, deposed:

To Mr. Wegenast:

Q. Now, Mr. Kemp, I think you have some figures on various phases of the case and I think the best thing we can do is give you your head and we will get through faster than if I ask you questions. Let us see what you have in your budget?

A. I have tried to answer the questions as far as I could, whether there was anything in the particular conditions in Eastview that was relevant to the selection of Eastview for this work.

Q. Is there anything about Eastview that makes it appropriate or inappropriate to carry on this work and--?

A. I have looked into ~~the~~ seven different points with regard to Eastview. Perhaps I might mention these by giving them first and then going back and ~~is~~ elaborating.

Q. Yes?

A. The first is that Eastview is a town with a number of large families. Second, it is a rather poor district and third, there are in Eastview a number of families in which children have been born in very rapid succession.

Fourth, infant mortality in Eastview is high.

Five, relief costs are beyond the powers of the town of Eastview to meet.

Six is that the financial situation in the schools also indicates a rather poor population, and seven: is that there is no clinic for birth control in Eastview and so far as I have been able to ascertain

To Mr. Wegenast:

there are no Protestant physicians here.

Conning over these various points in succession to begin with, before entering on them, while what I have to say might concern Eastview, I don't mean Eastview is the only place in Canada where there would be reason for carrying on this work. I should think the absence of some of these conditions would be no reason why it shouldn't be carried on. There isn't a town in Canada that shouldn't have this information.

But, in Eastview, something clearly brought out by Mr. Savoie's figures yesterday and also by the ladies who gave evidence in the early part of the trial: that the town is poor and no particular proof is necessary. One can walk along the street and see it.

Apart from that the relief statistics I am going to mention later will throw further light on it.

There are families here in which children are born in very rapid succession; that also is shown very clearly by Savoie's figures, although they only represent twenty families in Eastview, they at any rate show such families are to be found here and the evidence of the ladies called here before also shows that.

I don't know if it is relevant to consider all the families like that and the fact there are some is apparently the important point.

With regard to infant mortality I have made a careful study and search of the records in the Dominion Bureau of Statistics every since they began

To Mr. Wegenast:

publishing reports on vital statistics. They began publishing them in 1921 and there are statistics in existence in fourteen published reports for which I have added figures for 1935, obtained directly from the Bureau.

From 1921 to 1935 inclusive there have been 2064 ~~xxx~~ babies born in Eastview.

During that ~~xxx~~ same period the number of babies who have died before reaching the age of one year was 373, making an infant mortality rate of approximately 140 out of every thousand babies born.

Things were a great deal worse in the earlier part of this period than in the last five years, during which figures are 859 born; number died before reaching one year, 78, making an infant mortality rate of about 91 per thousand.

Q. The rate must have been a good deal higher in the former period?

A. From 1921 to 1930 there are some perfectly terrible rates to be found; ~~xxxxxx~~ for instance, in 1922, 200 born and 38 died before one year, and the infant mortality was 190 per thousand. I suppose it can be equalled in a civilized country but it is terrible.

Q. What year?

A. 1922.

Q. How does that rate compare with other rates in Canada?

A. I have the other rates here, in the Canada Year Book, which gives provinces and also cities of Canada.

Take by provinces: this table is found on page

To Mr. Wegenast:

176 of 1936 Canada Year Book. As it hasn't been put in as an exhibit?

Q. I don't suppose we should have it as an exhibit, - what do you say, Mr. Mercier?

Mr. Mercier:

I have no doubt -- as it is the evidence of the witness -- I know he will not mislead the Court.

The Witness:

A. If the Magistrate wants to have it?

The Court:

I can always get a copy without difficulty.

The Witness:

*x A. Taking them, the death rates per thousand live births, this table shows averages from 1921 to 1925 and 1926 to 1930 and then the individual years 1931 to 1934 and the condition that existed in 1921 to 1925 may be shown by the figures for Ontario.

Quebec is not give at that time because it is not then included in the registered area. In Ontario then the rate was 83 per thousand live births. 1926 to 1930, the Ontario rate was 74 and Quebec shows the highest in Canada, - it was 127.

To Mr. Wegenast:

Q. This Eastview rate for 1921 was?

A. 1922 was 190 -- I beg to say for 1923 -- and it was over 180 in the next two years.

Q. So that we have a rate of infant mortality in Eastview more than twice what it is in the rest of Ontario?

A. Yes.

Mr. Mercier:

The same year?

Mr. Wegenast:

That period, 1922-23?

Mr. Mercier:

Yes, as to the figures for Ontario and Quebec,
1936?

The Court:

No, 1921 to 1925?

The Witness:

A. I have no figures for Quebec for 1921 to 1925,
because it wasn't in the registered area but Ontario
for 1921 to 1925 averaged 83 and the Eastview figures
figures for that period -- .

To Mr. Wegenast:

Q. Have it exactly: it is worth a minute's calcu-
lation?

A. The average mortality, infant mortality, in East-
view for 1921 to 1925 was about 195; the actual figures
being 869 born and 170 of them died before reaching
the age of one year. Now, do you want them for the
next five years?

Q. We might as well have it complete?

A. (No reply).

Mr. Mercier:

Although, your Worship, I don't suppose the figures
for 1921 ~~xx~~ and 1922 are very pertinent to this
case -- .

Mr. Wegenast:

We are coming to that later.

Mr. Mercier:

But we are in 1936 and conditions in 1936 are what
we must consider, although it shows improvement.

The Court:

There may be a large number of factors for a death rate of this kind. Statistics always must be used with a certain amount of suspicion as to conditions and circumstances at the time the figures were obtained. They do help to give a general background.

The Witness:

A. From 1926 to 1930, the rate in Eastview was 134 as compared with an average rate in Ontario of 74 for the same period.

To Mr. Wegenast:

Q. Still more than twice?

A. And in 1931 -- shall I give the actual totals for 1926 to 1930?

~~Q.~~ Q. Do you know the last -- ?

A. The last five years, 1931 to 1935, there were 859 babies born, 78 died before reaching the age of one year, making an infant mortality rate of about 91 per thousand born.

Q. Getting better?

A. As compared with the rate for Ontario; 70, 62, 60, 57. The last shows the Ontario rate for 1934.

Q. Can you compare them with Brantford: I want to have evidence as to Brantford?

A. I have the figures for Brantford, 1931, 1932, 1933 1934, which were 57, 50, 63, 45, respectively. The highest rate I see is for Three Rivers, Quebec, where in 1934 the rate was 287 per thousand and they are to be found -- they are ~~xx~~ scattered a bit.

Q. Let us have a few examples of the lowest rates?

A. Calgary, Alberta with 41.

To the Court:

To the Court:

Q. What year?

A. 1934. Here is Moncton, New Brunswick, 40; Moose Jaw, Saskatchewan, 35; St. Boniface, Manitoba, 30. Sandwich, Ontario, 35; that is a small population. Stratford, Ontario, 41. Victoria, British Columbia, 31. Those are some of the low rates.

To Mr. Wegenast:

Q. That will do for those. Now, I will let you go on in your own way?

A. I don't think it would be unfair to say in the present state of medical ~~know~~ knowledge at least half the babies dying in Eastview ought to be saved. Of these 373 children who have died from 1921 to 1935 I should think it probable that at least 150 ought to have been saved, having in mind what has been achieved in other places.

Q. Of course there is a very substantial drop in the rate here. Have you any idea -- this is not statistics but it may be you in your knowledge might suggest what has contributed to this?

A. I think it is largely due to a considerable attempt by the health authorities and medical profession in general throughout Canada. I think, too, the extension of social service work has had a good deal to do with it, especially inasmuch as extra food is provided by the public in many cases and I think the decline in the birth rate has to do with it.

Q. Has there been a decline in the birth rate in Eastview?

A. No, I have it for Eastview; there is a very slight decline but it is very small.

To Mr. Wegenast:

Q. How does Eastview compare with the rest of Ontario as a whole?

A. I can't make a fair comparison because the number of children born in a community depends on what the percentage of population are married is at an age suitable for bearing children. I asked the Bureau of Statistics for that information for Eastview and they said it wasn't tabulated in the census of 1931 so I can't make a fair comparison.

Q. Give whatever you think best?

A. I have mentioned that the infant mortality in Eastview is unfortunately high and I have been interested for a good many years in the statistics of population, and among other things in the relation between infant mortality and the high birth rate, and I have brought here what is probably the most extensive and complete study that has ever been made of it by a government department. This was made by the British census authorities on the basis of the census of 1911 and every married couple in England was included in the study.

All these married couples were required to state to the census how they they had been married, at what age married; how many children born to them and over what period children had been born and how many of the children were still living. As a result of that two volumes of material were collected and published in the English census of 1911 as volume 13, parts 1 and 2, and the material was also interpreted by Dr. T. H. C. Stevenson who was medical

~~statistic~~

To Mr. Wegenest:

statistical officer in connection with the British census and ~~x~~ was a very eminent statistician. He died two years ago.

The results of this study have been synopsisized in a graph which has been submitted to the Court.

Mr. Beament:

Exhibit 68-B.

The Court:

This is the exhibit.

Mr. Beament:

No, I put that on, your Worship.

The Witness:

A. This is a photostatic copy of a graph found in the ~~x~~ original article in the proceedings of the Royal Statistical Society for 1920-21 on page 404 and the article contains a description of exactly what was done and what was found. I would like to explain what this graph means or at least point out what it shows. This graph synopsisizes the experiences of 2,800 families in round numbers, being all families in England and Wales where the mother married between 21 and 24 years of age and were still living with the husband at the time of the census.

The different kinds of lines on this diagram show the different duration of marriage: for instance: the solid black line at the top left represents the marriages lasting zero to five years. The next is marriages that lasted five to ten years, according to the key in the lower gith hand corner.

Along the bottom it shows the number ^{of} children

The Witness;

born to the family during the entire married life. On the other side, the number of children who had died at the date of the census per thousand born.

Interpreting the thing, taking the black line first, marriages duration zero to five years. In such marriages where only one child was born, only about sixty per thousand died. If two born, about 110 per thousand dead, three, 175 per thousand dead; four born, 275 per thousand dead, five born, 350 per thousand dead, six born, almost half were dead, at the time of the census, showing as far as that line is concerned among families married five years the mortality of the children varied enormously according to the number of children born during that time.

This is direct evidence on spacing and it is the effect on the death rate of infants and children.

The results of families married up to five years are similar among those married five to ten years, indicated on the second line.

There is one anomaly in that second line,- the death rates in families of nine is a little lower than for eight. That is the only exception or anomaly on the graph and is really accounted for by the fact in England there are very few families with nine children born in ten years.

Looking at it in another way, if five children are to be born, what is the length of time desirable in which they should be born in order to keep down the mortality? If these five children were born in less than five years, 350 per thousand are dead. If

The Witness:

the births are spread over ten years only 210 per thousand are dead. If spread over fifteen years 165 per thousand are dead. Generally speaking by that method of reading the graph it is evident that the death rate may be practically three times as high where children are born in rapid succession.

If the same number are born in a longer period of time it will show a lower death rate and Dr. Stevenson himself sums up this part of the investigation saying that the death rate among children ~~varies~~ varies enormously both according to the size of the family and the rapidity with which the children are born.

This material of course dates from the census of 1911 and from another country and is relevant here only insofar as it may indicate a general tendency irrespective of the particular place or race or particular surroundings.

The next point I wish to bring out: before reaching this infant mortality subject there was one other point that ought to be stated. It would not be fair for me to give the impression to the Court that the infant mortality in Eastview could be brought down to the Ontario level merely by birth control ~~methods~~ methods.

I am afraid there is a good deal more here than that. However I think the evidence does at least warrant the conclusion that there is a close association between the high birth rate and high infant mortality and that there was reasonable cause for the Parents' Information Bureau to believe that the

The Witness:

work accomplished some good with regard to the birth rate in Eastview.

To Mr. Wegenast:

Q. The infant mortality?

A. The infant mortality in Eastview. The exact nature of the connection between the rapid birth of children and the infant mortality is something that the medical people can explain in greater detail but from what I have read on the subject I believe it is partly the strength of the mother is ~~is~~ diminished by frequent and rapidly repeated pregnancies and further she isn't able to devote the attention she ought to the child and already another one is on the way.

With regard to the relief costs in Eastview, Mr. Savoie has clearly shown that out of a cost of \$130,000.00 the authorities have agreed that Eastview isn't able to pay more than five thousand dollars itself which is very striking proof of the ~~whole~~ poverty of the town and there is some reason to believe that poverty is connected with the birth of large numbers of children, - with the existence of ^{very} large families.

In this connection I have made some search in the records of Ottawa, which has in some ways similar problems.

The Court has before it an ~~an~~ exhibit, a mimeographed copy of the Ottawa returns to the government in connection with direct relief recipients.

The larger of these two sheets -- they come in pairs -- one shows what is printed on the back of the original and the other is the front. Looking at the front of the larger sheet we have a classification

To Mr. Wegenast:

of those on relief.

The Court:

Q. Exhibit 57-B you are referring to?

A. First, the employable -- they are covered on the large sheet showing how many employables, 4072 male heads employable, 356 female heads employable, making a total of 4408.

The next column shows the number of employable dependants under these heads of families. The next shows the number of employable individual cases and the last section shows the total number of employable persons, being the total of the preceding columns. **

At the right side of the page there is a ~~sex~~ survey of the dependants of these heads of families and in columns fifteen and sixteen we have a classification of their children according to age.

The total number of these children according to age is shown in column nineteen, the last column on the page.

Now as these figures stand they probably appear to mean very little but it may be said as a general principle the members of the population more than sixteen years old have to support the ones less than sixteen years old, at least in Ontario. Therefore the ratio between the number more than sixteen who have to do the supporting and the number less than sixteen who have to be supported is one of the measures of the situation in a community.

Among the population on relief x this sheet indicates that for every one hundred persons over sixteen there were 65.8 persons under sixteen in the relief

To the Court:

population. Whereas, the census of 1931 shows for the whole population of Ottawa that for every one hundred persons over sixteen there were only 40.7 under sixteen.

That is, among the whole population, the whole population of Ottawa at the census of 1931, every one hundred people over sixteen had to support forty dependants under sixteen.

Among the population on relief, every one hundred of the people over sixteen had to support 68.5 under sixteen.

To Mr. Wegenast:

Q. Would have had to support them?

A. Of course, they were all being supported by relief.

The Court:

Q. They had a moral obligation to support them?

A. It seems so; their families are very much larger.

To Mr. Wegenast:

Q. Fifty per cent?

A. Roughly.

To Mr. Mercier:

Q. That is 1931?

A. Yes, comparing the population of Ottawa in 1931 with the relief in 1936.

I don't think there has been any wholesale decimation of children in Ottawa since 1931 and probably the situation is not very much different. That is the Ottawa situation. Again, it isn't Eastview; it ~~isn't~~ is relevant here only as indicating the situation in a nearby community for which we happen to have the information.

To Mr. Mercier:

With regard to the cost of education in Eastview, I have here the report of the Minister of Education for the province of Ontario for the year 1933. And what it shows -- I will read the figures -- is that in every community the cost of education is partly born by people living in that community and part by the provincial government in the form of grants and the usual grants from the provincial government are a good deal less than what is paid by the local community.

In Eastview in 1933 the grants from the provincial government were about equal to the sums paid by the local community, indicating that the town was then regarded as being more in need of assistance from the provincial government ~~than~~ than were other towns.

The exact figures showing this: I quote first, the public school system. In Eastview as is well known most of the children go to the separate school and the public school is a minority here. I happen to have the public school statement before me. In 1932 the school rates raised by the people of Eastview for public schools were ^{59,200.00} ~~59,200.00~~ \$90,200.00. The legislative grant was \$1,957.50.

The public school has rather a ~~small~~ small attendance compared with the separate school and it will be noticed that most of the cost of the public school in Eastview was met at that time by the Eastview people themselves.

In the separate school where I estimated four-

To Mr. Mercier:

fifths of the children are to be found, the town of Eastview raised \$11,091.15 and the legislative assembly gave \$11,688.63. The legislative assembly therefore provided more money for the separate schools than did the town of Eastview.

I don't want to be understood as drawing any odious religious comparisons here at all. This is just the way the statistics are in the book and there are many and obvious reasons to explain the particular situation.

But, compare Eastview with all the towns of Ontario. Put them all together, the towns themselves provided \$369,877.88 for the separate schools, while the legislative grants were \$67,660.20: in other words, taking Ontario as a whole the town put in five dollars for every one dollar they got from the legislative assembly, but in the town of Eastview the situation was such that the legislative assembly had to put in more than one dollar for every dollar the people in Eastview were in a position to find.

At the present date the situation in Eastview with regard to the costs of education is perhaps worthy of note too. I understand the public school system is now in default on its capital expenditure; that in Ottawa, the public schools in Ottawa, last year spent \$53.77 per head in the public as against \$30.56 in Eastview, and that the separate schools in Ottawa, \$25.71 as per or against \$12.77 in Eastview. I have misread my table here. These sums are not dollars per head: they are cents per head per day.

To Mr. Mercier:

They indicate the amount spent on education in the town of Eastview is one-half or three-fifths as much per pupil per day as in Ottawa and as I say the public schools are apparently in default on their capital expenditure.

~~Q. So many cents~~
To Mr. Wegenast:

Q. So many cents per head per day; would the year be 365 days or the number of school days?

A. I should be inclined to think in making this calculation they have probably made it on 365, but I am not certain.

Q. But the total cost per pupil per year, which one knows in a general way -- if you haven't it readily at hand let it go?

A. This is not of course brought in to suggest there are too many children in Eastview, but rather as an indication of the relative wealth or poverty of the various communities.

The last point I mentioned was that so far as I have been able to ascertain there is not in Eastview any birth control clinic where the people of Eastview could get information on this subject and so far as I have been able to ascertain there is not living in Eastview any non-Catholic physician from which I assume that information of this sort cannot be got from medical sources in the town of Eastview.

Q. There are drug stores, of course?

A. Yes.

Mr. Mercier:

That is admitted.

The Witness:

A. Apart from these figures relating to Eastview, there is one bit of statistical information relating to Canada as a whole which is probably relevant to the thing and it is also to be found in the Canada Year Book, page 107;

The population of Canada in 1901 was 5,371,315. In 1931, it was 10,376,786, or practically double in thirty years, which is a very rapid rate of increase for a northern country.

In addition to doubling the population Canada exported population by emigration to the extent of 865,889 in the first decade and 1,297,740 in the second decade, and 1,245,555 in the third decade. So that, if Canada had retained all the natural increase and the emigration of the last thirty years the population today would be between fourteen and fifteen millions and the country would have multiplied its population by some number between two and a half and three during the period of thirty years.

Actually there was a very considerable loss of population by emigration both of those born in this country and those who ~~had~~ came to this country from other places.

I think that is about all the statistics I have.

To Mr. Wegenast:

Q. I would like to ask one or two questions as an economist: do you know any objection from the standpoint of economics to this work of Miss Palmer?

A. (No reply).

Mr. Mercier:

Mr. Mercier:

I wonder if the professor is there as a judge. My learned friend might ask if certain things should be done and leave it to your Worship to decide.

Mr. Wegenast:

I think I am far enough away from questions// your Worship has to decide. This man is an economist; he can tell us from his broad general knowledge anything that is pertinent.

The Court:

It is a very broad way of putting the question. If you ask for any observations from the viewpoint of economics and if he says no there isn't much to go on there.

Mr. Wegenast:

There is the necessity of proving there is no excess in the acts, under the section. How could I put it?

The Court:

Let us see what the witness answers.

Mr. Mercier:

I must admit it has been done before.

The Court:

There have been a few things not strictly according to Hoyle.

Mr. Wegenast:

I still submit to your Worship that the ~~laws~~^{laws}/of evidence are not so inflexible that they ~~are~~ will not permit such evidence as is necessary to satisfy your Worship on this very exceptional statutory provision which puts a certain onus on

Mr. Wegenast:

us to prove a negative.

The Court:

That is why I have been stretching the rules about as far as I can go.

To Mr. Wegenast:

It must be in the nature of things, but it is open to me to show that negative. I have thought but can find no other way of putting it.

The Court:

I don't think it was the negative Mr. Mercier objected to but to the manner of ~~me~~ asking.

Mr. Wegenast:

I can always put it in the stock manner: "what?"

To Mr. Wegenast:

Q. What do you say as to that?

A. I find the question rather a general one. Do you mean what is my opinion as to the practice described in the case of the individual woman^e here in Court or do you wish my opinion on the general question whether birth control information should be supplied?

Q. I have in mind the existing situation here which you have given us in detail? ^{A.} / Actually I haven't any difficulty answering that question. I think the situation in Eastview is one in which there would be good and adequate reasons for believing good might be done by the judicial circulation of this information and in the case of the individual women who appeared in Court, having heard their stories, I think that they were the sort of people I would myself have selected as being the sort of people who

To Mr. Wagenast:

should have the information.

Q. Is there any exception to that -- it isn't sufficient for me to prove it was for the good of the community, but the onus is on me to show there wasn't anything that wasn't^t good within reason?

Q. Are you now referring to the actual cases who appeared here?

A. Yes, what Miss Palmer did?

A. There is evidence, ~~after~~^{if} the principle of selection had been exercised -- they were all with one exception married women; they were all without exception women who had had a child or children. They were ~~x~~ not all women who had had large families and as one rather pathetically remarked in Court when she had had ten children and Miss Palmer came, "it was rather late" to give her that information.

The only exception to the women being married was one unmarried girl and having more regard to her activities in the community than the economical considerations I don't think I would have excluded her from the list of people to whom the information should have been provided.

Q. I suppose it is hardly worth while to put this question to you, but I want to see how the answer will come from an economist; What the effect must be of the excessive birth rate in a place like this, on taxation?

A. There is no doubt if the people of Eastview continue to have more children than they can afford to support themselves, somebody else will have to support

To Mr. Wegenast:

them and that will be obviously reflected in the general taxation of the rest of the community.

I don't wish to be understood as saying that birth control will do away with the ~~the~~ depression or bring about an entirely new economic ~~heaven~~ heaven on earth. That would be an excessive contention to make for it. It may be regarded as one of a number of policies that might be considered as tending to lessen existing economic evils.

Q. It will not bring about a new economic heaven; what about its bringing about a state of childlessness in the community?

A. I am myself a teacher; I meet a great number of young people in the course of my everyday work and I notice they still want to get married and have children and I think the natural desire of people is to marry and have families and that will continue and we need not fear the dissemination of this knowledge will have any such effect as that.

There are of course some statistics, some statistical evidence that has already been mentioned in this Court of European conditions where it is found in Holland, where the information has been available for many years and very freely disseminated, the birth rate continues to be higher than in other countries where the circulation of the information is forbidden.

Q. Is there anything further you can usefully say: I want to extend an invitation to you : I have nothing more to ask you?

To Mr. Wegenast:

A. (No reply).

CROSS EXAMINATION

To Mr. Mercier:

Q. Mr. Kemp, you have stated that Eastview isn't the only place in Canada which might be in the same condition?

A. That is true.

Q. I don't believe you believe that from your evidence ~~HERE~~ hence so far, that birth control is the only method of improvement so far as improving economic conditions goes?

A. I believe I have already said many of the things that might be done.

Q. I would like you to exemplify on this: do you know of any better method of economics than birth control: let us begin by other methods?

A. I think in the first place in answering that, this ought to be done, and not that other things ought not to be left undone and the second answer is, during the impression in particular all the governments in Canada and all the economists have been racking their brains to think of other things to do and it is probably safe to say anything they have been unable to think of and anything the community has been able to think of has been and is being done.

Q. I believe, sir, we might get along much better if you will not follow the preceding reverend gentleman (Mr. Silcox) in the box and let yourself run away with my questions.

I believe you said birth control is one of the

To Mr. Mercier:

methods?

A. Yes, and there are other methods of curing economic evils.

Q. Mention some of them?

A. I am not quite sure as to whether or not my evidence in this trial in Eastview -- whether I ought to talk to you for a day or two of the many other things to remedy economic ~~xxx~~ conditions. I could easily labour at least one hundred, unless you ^{ask me to} desist.

The Court:

Q. Mr. Mercier will ~~qualify~~ qualify you as a Canadian brain trust?

A. (No reply).

To Mr. Mercier:

Q. That is a very good answer: you say hundreds, and maybe thousands of other ways -- will you tell me if birth control is the best of them all?

A. I would say that where the evil exists ~~it~~ is in the excessively rapid production of children to the extent the health of the children is hurt and the population is carried into poverty and there is no other remedy than a less rapid production of children.

Q. That is what you hold?

A. If the evil is the rapid production of children the remedy is the less rapid production of children.

Q. If a factory were built here in the town of Eastview -- there are after all only 242 families on relief here, and there are twenty large families in those, and the others seem to be getting along rather well?

To Mr. Beament:

Q. On relief?

A. Do you mean 161 families on relief are getting along well?

To Mr. Mercier:

Q. I say only twenty large families not getting along and on relief?

A. You base that family of nine as large?

Q. If I took you down right you said 20 large families on relief?

A. I was reading from Mr. Savoie's figures showing twenty families of nine children and more and on relief but I ~~wouldn't~~ wouldn't. ~~hesitate~~ hesitate to describe those with eight as being large.

Q. From the point of view of infant mortality there has been a decrease also in Eastview, I understand?

A. That is true.

Q. Do you think birth control is the best means of preventing infant mortality?

A. It is one among many. I would have to have a medical knowledge of conditions in Eastview to decide if it is the most urgent one to be dealt with.

Q. I believe you stated at least one hundred and fifty of these children might have been saved?

A. That is true.

To the Court:

Q. By medical knowledge?

A. My statement was that in view of the present state of medical knowledge it ought to have been possible to lessen the number of deaths ~~xxx~~ ^{by} that number, in the light of what other communities have done during the same period.

To ~~Mr~~ the Court:

Q. In other words there has been quite a reduction in infant mortality in Eastview in the last few years?

A. In Eastview and elsewhere.

Q. Which is due largely to the increased social welfare and public health work?

A. Yes.

Q. And if it had been extended to the extent it might you think at least 150 of those children might be alive?

A. I think all along infant mortality in Eastview has been almost twice as high as other parts of Ontario at the same time, so Eastview has lagged behind.

Q. You said you think one hundred and fifty of those might be alive today if all the medical knowledge of today had been applied?

A. Including the knowledge we are dealing with, yes.

Q. ~~Excluding~~ Including the knowledge ^{or} of the dissemination of birth ~~is~~ control?

A. Yes.

To Mr. Mercier:

Q. Do you not believe, sir, from the point of view of infant mortality it might be better to establish in Eastview certain baby clinics to give pre-natal care to mothers?

A. I think that would be a very desirable thing.

Q. As compared to birth control clinics, which do you believe now, in the present circumstances, would be the best?

A. I think you would have to tell me first what facilities are available now in Eastview for pre-natal

To Mr. Mercier:

advice to mothers: is there a deficiency in that respect?

Q. I am not here to answer questions?

A. (No reply).

Mr. Wegenast:

Give him more to work on before -- .

The Court:

Exhibit 53-B, report of June, 1935, of the Ottawa Council of Social Agencies, "survey of greater Ottawa", says:

"The Victorian Order of Nurses have a nursing service in the town, providing bedside nursing and operating a Well Baby Clinic. One of the Victorian Order Nurses from the city of Ottawa goes out to the Publich School one-half day a week".....

Mr. Mercier:

A well baby clinic?

The Court:

Yes.

".....and examines the children and makes home visits if necessary. The Publich School Board of Eastview pays the Victorian Order Nurse \$150 per annum. There is no nursing service nor medical inspection in the Separate Schools. The financial situation seriously handicaps the health work in Eastview and were it not for ~~the~~ the fact that a number of the people hold Metropolitan insurance policies, it would not be possible for the Victorian Order nurses to finance

The Court:

themselves there. The well baby clinic has an average attendance of thirty-eight babies."

The Witness:

A. This is all post natal work. The report doesn't seem to mention anything about pre-natal clinics.

To Mr. Mercier:

Q. Taking it for granted there is nothing in Eastview such as pre-natal clinics, do you think a maternity centre and baby clinic in Eastview would be more important than^a birth control clinic?

A. (No reply).

Mr. Wegenast:

I don't want to interfere but if my learned friend ~~want~~ wants to put a question: for instance, is there a physician in charge of the clinic. He should put it on all fours.

Mr. Mercier:

I consider this witness is an expert. He is put in the box as one.

Mr. Wegenast:

He is asking you for information.

Mr. Mercier:

He hasn't yet and I think he can take very good care of himself. I am asking him a question: if he can't answer I believe he will quickly tell me he can't.

The Witness:

A. Here is my difficulty: I haven't much experience in the matter. When a woman is expecting a baby in the group I am acquainted with she goes to see a doctor^a/long time before the baby is likely to be

The Witness:

born and the doctor gives her advice; talks about diet and various other things and she makes frequent visits; he takes care of her and eventually the children are born.

My children have never attended a clinic but I think they are well taken care of.

There are doctors in Eastview and if they do that for mothers as part of their service there may be no need of a clinic. I don't really know the situation in that respect.

To Mr. Mercier:

Q. Granting the need for a baby clinic in Eastview; do you believe it would be more important to have a baby clinic to take care of those little beings who have already come into the world and see they live or would it be more important to have propoganda to prevent more children; which is more important?

A. If I were a man of means and wanted to do good for Eastview I would put my money into both of these clinics.

Q. I think I will have to coin a phrase; I think you are answering a la Silcox. That is with all respect. If you can possibly tell me; which of the two things would you consider best to do?

A. (No reply).

Q. I am not asking this question to embarrass you but I feel you will give me your candid and fearless opinion on that?

A. Without trying to evade ^{your} ~~the~~ question I will answer by an analogy.

If a doctor came to you and said, "which is best:

To Mr. Mercier:

castor oil or quinine"? You would say for some diseases castor oil is the best and for some other diseases quinine is the best, but it is very difficult to tell which of the two is the better.

Mr. Mercier:

I wonder if they are giving a special course in Toronto on the way to answer these questions.

To Mr. Mercier:

Q. So you have no choice in the matter?

A. I would say in some conditions birth control advice is ^{the} appropriate remedy and for other conditions a well baby clinic is the appropriate remedy.

Q. Well, then, sir, I put it to you that in the town of Thetford Mines in the province of Quebec, there ~~is~~ was an exceptional situation there at one time I understand and that the infant death rate was exceptionally high -- it was three hundred per thousand. They had a maternity centre and baby clinic in charge of a nurse opened to give pre-natal instruction and baby care. At the end of three years the death rate dropped from three hundred per thousand to 90 per thousand. As a result the government appropriated ninety thousand dollars for such work in other communities?

A. (No reply).

Mr. Mercier:

I will put it in, your Worship, if you wish: it is, "Educating for Longer Life", page 16.

Mr. Wegenast:

May I see it?

Mr. Mercier:

It is from the Metropolitan Life.

The Court:

Exhibit 2x 90-B.

To Mr. Mercier:

Q. Do you not believe that would be a much better way to spend money than to prevent children coming into the world?

A. I think I can only repeat what I said before: I think it is a very excellent thing, what was done in Thetford Mines and I would like to see it done elsewhere but also I would like to see the other work go on too.

Q. You have given us some figures of 1911 in England?

A. Yes.

Q. On infant mortality there compared with the birth rate?

A. Yes.

Q. But of course science has advanced very much since then?

A. No doubt.

Q. Science has advanced considerably in those twenty-five years?

A. Yes, but I think it is still true that the excessively rapid production of children is not a good thing for the children.

Q. Pardon?

A. I think it is still true that the excessively rapid production of children is not a good thing for the children, notwithstanding the advances of science.

Q. That is your opinion?

A. Yes.

Q. It doesn't necessarily mean it is caused by that?

A. Oh, no.

Q. Talking about the cost of education in Eastview,

To Mr. Mercier:

comparing the separate and public~~h~~ schools, you know, I suppose, in Eastview as in many other municipalities where there are public~~h~~ and separate schools the rates for public~~h~~ schools are always lower?

A. I didn't know that that was the case in Eastview; in fact it would surprise me a little bit, as in Eastview there are only a little more than two hundred go to public~~h~~ schools and something like a thousand or more go to the ~~se~~ separate schools.

Q. I know in Ottawa that is so?

A. It is in most cases.

Q. There are a lot of separate school supporters who should pay their rates to the ~~the~~ separate schools and they pay them to the public schools?

A. I wouldn't be surprised and I don't ~~im~~ want you to feel I am throwing any reflection on anybody.

Q. And the fact of people being poorer might not be a ^{re}ason for the government having to assist, but it might be those who should pay to the separate schools don't and they pay to the public schools?

A. That may be so, but I don't think it would make much difference if they did pay to the separate schools.

Q. You mentioned the principle of selection: what did you mean by that?

A. I would say if you erect a bill board at the entrance to the city of Eastview and inscribed thereon certain information ~~thereon~~ there would be no principle of selection in choosing the people receiving that information, but I take it the woman^e brought before the Court to give evidence were probably in the opinion

~~xxxx~~

To Mr. Mercier:

of the Crown the worst cases that could have been selected. I don't wish to suggest you have done anything unfair.

Q. If that statement is made I will have to qualify it and I will have to say something I don't care to say. By all means all witnesses that might possibly have been called by the Crown have not been prepared or picked.

It is the duty of the Crown to show that some crime has been committed and if an accused has done a number of things some of which are inoffensive and others are crimes it would be appropriate for the prosecution to lay special stress on the actions supposed to be wrong and if that is so I would suppose it would be only the natural thing that these cases would be at best a typical selection and at the worst the worst cases the Crown was able to find.

A. (No reply).

Mr. Mercier:

~~ex~~ I think the evidence will show this prosecutor at any rate never interviews witnesses. They were brought here to show they received these contraceptives contrary to a certain section of the Criminal Code.

Mr. Wegenast:

Alleged to have been.

The Witness:

A. You asked me what method of selection: I would say ~~the~~ all/married women with the ~~ex~~ exception of one and I would think that one was a suitable one to receive the information. That is the principle of selection.

~~Exhibits~~

To Mr. Mercier:

Q. Have you read this pamphlet, Exhibit 5-B?

A. (No reply).

The Court:

Adjourn for five minutes.

(Court resumed at 11:45 a. m.):

To Mr. Mercier:

Q. Now, sir, after looking over this pamphlet -- every woman; you saw their mentality and way they acted in the box; their intelligence -- do you believe it proper for every one of those women to receive that pamphlet?

A. I see no reason why they shouldn't.

Q. Now, there was something you said -- regarding childless marriages -- you wouldn't fear that by circulating among the younger people this information -- their mentality is that they would love to get married and have children -- I believe you said that, sir?

A. (no reply).

Q. The danger of birth control information dissemination, granting it would encourage it?

A. I don't grant it.

Q. But granting that it would?

A. I don't grant it would.

Q. But in order to make a point sometimes you do grant ~~xxx~~ a certain set of circumstances -- granting it would encourage childlessness; do you believe it would be preferable to use other means?

A. I have already said explicitly I do not think birth control would cure the depression.

Q. But it was one of the means of curing it?

A. No.

Q. Of helping to cure it?

To Mr. Mercier:

A. It is a means of dealing with the conomic evils from which we suffer, of which the depression is one.

Q. Now, in Holland, with the dissemination of this literature the birth rate is higher?

A. Yes, than in Belgium.

Q. Now, has the climate of Holland much to do with that?

A. I don't think there is much difference.

To Mr. Wegenast:

Q. It is the same as Belgium?

A. Even in both and I don't think I heave heard the climate of Holland has to do with human fertility although ~~that~~ they grow nice flowers there.

To Mr. Mercier:

Q. Do you believe ~~it~~ the mechanization of industry has to do with the depression?

A. I don't think it does; I know there are people who do hold that view. There are many people think that is the main cause.

Q. And you would think they would be wrong because you don't hold that view?

A. (No reply).

Q. From 1913 to 1927 the population of the whole world in that period of fifteen years increased by ~~it~~ nine per cent. Production gained thirteen per cent and ~~the~~ material thirty-five per cent?

A. I don't know if those figures are correct.

Q. Granted they would be: the population of the world increased nine per cent; production thirteen per cent and material thirty-five per cent?

A. I don't know whether it would show anything that is particularly pertinent to the present case in Eastview.

Q. Of course I must not hold you to Eastview because

To Mr. Mercier:

the public good has been extended to the whole world. You are the first witness who has kept it to Eastview in bounds, more or less?

A. I think you would have to say where the increase in population took place and where the increase in wealth took place to make that more definite.

Supposing there was a great increase of population in China and an increase in wealth in the United States,-- I think that is what happened.

Q. That is, the whole world population increased nine percent, and notwithstanding that production increased thirteen per cent and material thirty-five per cent?

A. (No reply).

Q. If the figures are correct?

A. A very prefatory and superficial and ill-advised conclusion to draw from that is that the wealth of the people is increasing faster than the numbers of people and that doesn't show whether the increase in population took place where the increased wealth is. It is generally known that some of the most prolific countries are also countries in which this increased wealth isn't taking place to any extent.

Q. Isn't there room in Canada for increased production and increased raw materials?

A. Absolutely.

Q. Plenty of room in this country for more people?

A. If they all stood together, one to each square foot, we could have many more.

Q. But without going that far, there is room for increased production?

A. Yes. There is room for many more and I would like to see them there but I can't help looking back at that

To Mr. Mercier:

history of the population in Canada; I showed you that in spite of having all this room and natural resources we have a loss of three and one-half million people by emigration during the last thirty years, and I can think of many of my old school chums who ~~w~~ couldn't get employment in Canada as they would have liked and it is a great pity.

I think with all these resources there is only a certain rate at which we can absorb increased population. If we try to absorb faster than that it doesn't work; we have to keep at a steady rate.

Q. Isn't it better to adjust the country to economic possibilities and have a country with a bigger population -- isn't the aim of everybody to improve economic conditions rather than to restrict the birth rate and take away, as one author says, "the most prized possession, children"?

A. I think it is generally known if there is any way to improve economic conditions we should use it.

Q. And you will agree the possibilities are there?

A. The space and resources are here but there is a limit to the speed at which we are able to increase population and use ~~to~~ them.

Q. Would you agree there is enormous waste in production and distribution?

A. I think on the whole the industrialists of Canada are probably doing as well as they know how and comparing with what we are now doing, or might do, one hundred years from now, our present methods will likely seem inferior but most people are trying to improve their methods where they can.

To Mr. Mercier:

Q. There are certain classes of people have immense revenues and immense profits in this country?

A. I am willing to accept your word for it.

Q. I mean I suppose as an economics professor you might give me a much clearer answer than that; you should know better than I do?

A. There is undoubtedly rich and poor in Canada.

Q. And that labourers are receiving insufficient revenue?

A. I would certainly like to see them receiving more.

Q. And notwithstanding these conditions they are receiving insufficient revenue for the work they might possibly do?

A. I think the majority of people have wants they are unable to supply with their present incomes.

Q. Do you not think it would be better to adopt social conditions and environment to the family than diminish the number of children to the social organization?

A. I think my analogy of the castor oil and quinine comes in here again.

Q. That still stands?

A. I think probably we ought to be doing both but if the trouble in the family is that a mother is producing children at so rapid a rate that the health of the children and herself is harmed I don't know about your conditions and the ~~extra~~ environment. That may be a good thing for her children and undoubtedly it would be.

Q. Now, is unemployment always caused by over population?

A. No.

Q. Is over population one of the causes of unemployment?

To Mr. Mercier:

A. Sometimes.

Q. But unemployment doesn't always cause overpopulation?

A. No.

Q. Now, in England, I ~~was~~ am told, men over fifty-five years in 1901 were 10.6 per cent and in 1928 were 15.8 per cent. Could one deduct from that if the proportion continued it would be approximately 19 per cent in 1941 as against 7.5 per cent of children?

A. That is a question in arithmetic and I would like to know how you got those figures because if it was ten per cent at one date and fifteen percent later and you assumed it would keep on increasing at the same rate - ?

~~xx~~ Q. Yes?

A. It would eventually be one hundred per cent.

Q. In 1901 it was 10.6 per cent?

A. Yes.

Q. Of men -- an increased of aged persons and a decrease of children?

A. Yes.

Q. And in 1901 it was 10.6 percent; in 19²28, 15.8 percent?

A. Yes.

Q. In 1941 it would be ^{19 per cent} against 7.5 per cent of children less than five years old?

A. I should think those figures are possibly as to the past and as to the future I don't want to look into the thing before calculating what the possible future population would be.

Q. If infant ~~mortality~~ births continue to decrease,

To Mr. Mercier:

undoubtedly your older men will decrease also as time comes?

A. That is quite true.

Q. What would you say, that poverty isn't the result of overpopulation but unequal distribution of resources?

A. I think you asked me that question before and I replied: there are some people who hold that view. There are two separate views there and they need to be separately considered.

First, that poverty isn't the result of over population. The average wealth of a community is arrived at by dividing the total population into the total wealth. Whatever the quotient may be it results automatically from the simple division. If you have no change in wealth and double the ~~pop~~ population it is a matter of simple arithmetic, the average wealth will be half as much.

I think your point is: does a large population necessarily cause a diminution of wealth? You have examples in the world of both. I think in China it was the likely cause, that a large population is the cause of poverty. In the United States with a somewhat smaller population it hasn't had that effect.

As to whether it arises from the unequal distribution of wealth, many of us feel there is a greater inequality of distribution of wealth than we would like to see but the whole thing moves in a historic programme. A good deal of the industrial structure we have today ~~was~~ wouldn't have come into existence without centralization of wealth. Professor J. M. Keens,^(?) a recognized British economist, has a

To Mr. Mercier:

passage in one of his books: in the pyramids in Egypt are morals to be found for the Pharoahs' times and in England are to be found ^{in the railroads} the morals of the centralization of wealth in the Victorian times and without that centralization of wealth the railroads wouldn't have been built.

I wouldn't like to answer definitely without considering the question in its whole prospective.

Q. Of course, I have been learning a lot -- birth control as a remedy for ~~x~~ unemployment which is not caused by over population?

A. That is true.

Q. Sociology becomes very sentimental as to conditions of family life in all its daily needs. It advocates as methods of solving these, birth control. Granted that this birth control movement would ~~x~~ cause people who spend three hundred million dollars a year in contraceptives, in one year, in a period of unquestioned depression - ?

~~Q~~ A. Is that in the United States?

Q. ~~x~~ Yes, I understand those are the figures?

A. (No reply).

Mr. Beament:

Given by the American "Mercury".

Mr. Mercier:

Yes, that is what I understand they are.

To Mr. Mercier:

Q. Where would the people on relief get the money to pay for these instruments?

A. So far as Miss Palmer's clients are concerned the evidence is that they didn't.

To Mr. Mercier:

Q. They -- ?

A. (No reply).

The Court:

Not for these.

~~Mr~~ Mr. Mercier:

Not for the first installments and there is also the suggestion they might ask their friends or the relief and get it, the two dollars.

Mr. Wegenast:

The ~~xxxxxx~~ recipe is in the booklet?

The Witness:

A. The question is: how can people under present economic conditions afford three hundred million dollars on these things. The other question is: would it be cheaper for them to spend a dollar on contraceptives or have a baby.

To Mr. Mercier:

Q. Where would people get it if they are on relief?

A. From the same source they get it to buy contraceptives and pay for abortions and pay for unduly large families they are having.

Q. I don't suppose they would get anything from the Welfare to cause abortions?

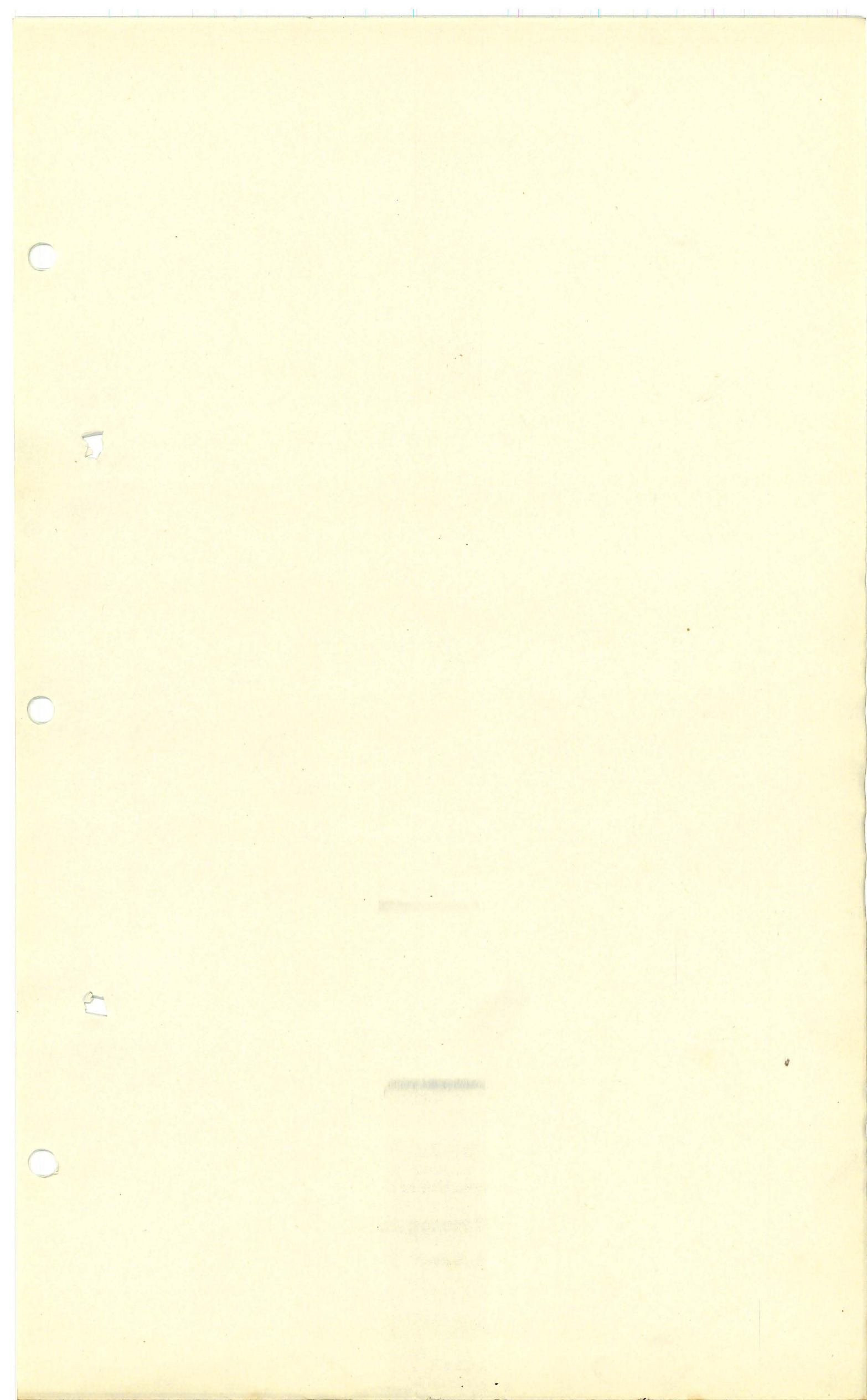
A. I hope not, but I am afraid they do get it some place as there is generally agreement that there are a large number of these cases regrettably occurring.

Q. That is all.

Mr. Wegenast:

Q. That is all, Mr. Kemp.

(Witness retired).



Mr. Hegnast

Rex vs Palmer

Friedman

G-1

to

G. 49

Morris Zeidman, duly sworn, deposed:

To the Court:

Q. Are you Jewish?

A. No, ~~pre~~ Presbyterian of Jewish descent.

To Mr. Wegenast:

Q. You are a Presbyterian, I believe?

A. (No reply).

To the Court:

Q. Your address?

A. 307 Palmerston Boulevard, Toronto.

To Mr. Wegenast:

Q. And you are a clergyman?

A. Yes, sir.

Q. And a bachelor of divinity?

A. Yes.

Q. From what college?

A. Knox College, Toronto.

Q. And you are ~~the~~ head of the Scott Institute, in Toronto?

A. Yes, sir.

Q. Tell his Worship what that is?

A. It is a mission and also provides social service in the community. At the present time it is feeding the unemployed and we are giving relief both to single unemployed and married people with families. We used to provide also a dispensary but that has been ~~a~~ done away with because of the near proximity of the general hospital and the hospital for sick children.

Q. You might tell his Worship what other organizations and movements you have been connected with and how?

A. In connection with the Scott Institute?

Q. In connection with welfare work, let us say?

To Mr. Wegenast:

A. I just don't -- ?

Q. You were on a commission appointed by the Mayor of Toronto?

A. Yes.

Q. Tell us about that?

A. It is a committee appointed by the Mayor of the city of Toronto to investigate and make a survey of all the relief in the city of Toronto.

Q. When was that?

A. In 1934, I believe, or 1933; 1934 I think it was.

Q. Who else was on that?

A. Representatives from practically every denomination; Brigadier-General Mitchell; Rabbi Sachs representing the Jewish people; Mr. ~~Krix~~ Fries representing the house of industry; Stevenson representing the labour people. Dr. Pocock, osteopath, representing the Catholic people of Toronto. Capt. Lambert representing the veterans.

Q. That will do to give a general idea of its scope.

~~Simon~~ What was the function or purpose of this committee?

A. An investigation of all social service and relief including relief work particularly among married people with a family and rent, hospitalization and also relief for single unemployed men and women.

Q. So you speak of your knowledge of conditions as you found them on that investigation?

A. Yes.

Q. Did you take any part in that investigation?

A. I did.

Q. I suppose it is reasonably safe to say you had as much or more practical experience as any of the other

To Mr. Wegenast:

members of the committee?

A. Some of them like Capt. Lambert had considerable experience; other had not as much practical experience as I had.

Q. Now, you know the issue here is as to the advisability of a nurse like Miss Palmer coming into a community like Eastview disseminating knowledge on birth control and putting people in the way of getting contraceptives. Now, ~~the~~ without leading from me I would like you to give his Worship your opinion of the advisability of ~~the~~ activities of that kind?

A. From experience I would say that in social service visitors are absolutely necessary. Visitors are, so to speak, pioneers who go into the homes and investigate just the conditions of the homes.

A visitor may be or is usually of very valuable service. For instance; a person coming to the relief office gives certain information and the relief officer can ask for a family history of that particular client but the social service worker who is a visitor can gather much more information and knows the whole background of that family.

For instance: a mother would confide to a social service worker particularly to a woman. They give information to a clergyman, information that we don't ask for and don't like to hear.

Myself, I am a bad visitor; I haven't the patience to listen to all the sotries.

On the other hand a lady social service worker goes into a home, sits down, talks sympathetically and

To Mr. Wegenast:

and the woman tells all her troubles and worries and worries she might have.

Q. As compared with the plan of having the woman come to the clinic and be examined ~~being~~ ^{by} a doctor, what would you say as to the methods employed by Miss Palmer?

A. If it was a clinic and a doctor attending the clinic and if a social service worker goes out and tries to induce them to go to the clinic and learn the methods I think it would be an advantage. It might take a lot of persuasion and education.

Q. Taking it generally from the standpoint of doing the most good how would you compare the two methods: a clinic established under supervision of a doctor waiting for people to come to it ~~xxxx~~ on one hand, and the social service worker on the other hand going out talking to people and getting in touch with them as Miss Palmer did?

A. That is rather a difficult question to answer. The doctor may sit in the clinic forever -- that is rather exaggerating -- but somebody would have to go out and inform people in the neighbourhood there is such a clinic in existence. Even then some of them are afraid to take advantage of things.

For instance, about fifteen years ago we organized a fresh air camp for children and I remember it was very discouraging for social service workers to go to homes and try to persuade mothers to send children to the camp.

Q. Did it cost them anything?

A. No, we offered everything free, with fare.

To Mr. Wegenast:

Q. Yes?

A. There was some fear, something of a string attached to it -- they knew it would do the children good and wouldn't cost money yet they were afraid to send their children. Now, after fifteen years, we wouldn't think of going out asking them to go to the camp; they ask to come back in March and February and they pay for it now.

Q. In other words you need a certain amount of pioneering?

A. Yes.

Q. Now, I wonder if you would care to give us some idea from the experiences of which you speak, of the work your own institute does?

A. From actual conversations I have had myself with mothers and from the information some of the other workers have brought to me I would say very lamentable conditions exist among some of the poorer classes.

If mothers have two, three, four, children, there seems to be a dread of having another child.

Q. You heard my friend saying about children being about the only right or pleasure of the poor: what do you say?

Mr. Mercier:

I did not say that: I am sorry to say so so brutally. It was "depriving the working man of his most prized possessions".

Mr. Wegenast:

That is right.

To Mr. Wegenast:

Q. What do you say?

A. I know of a family who attended the birth control clinic in Toronto. They were a young couple with one child. The little girl is about seven or eight and I know they have been using contraceptives and they didn't care to have any children until last spring when they decided they wanted another child and they had a baby girl, so no one deprives them of that pleasure: they can have a child whenever they want to have one.

Q. I was thinking of the other side of the picture.

What would you say: you have probably heard the story: they wouldn't give ten cents for another?

A. Some of them wouldn't give a penny for another.

We have had any number of them come to us and say, "take my daughter" -- "take my two or three children" -- "take them away from me."

Q. And as to "prized possessions" there are two sides to that picture?

A. I would say so.

Q. Now, when I asked about the extent of your experience I want you to give his Worship some idea of what your institute does, the breadth of its work and the breadth of relief work in Toronto generally: in a word?

A. Last year, I would say we were feeding an average of eight hundred to a thousand meals a day.

Q. Eight hundred to a thousand meals a day -- yes?

A. That was to single unemployed men and the occasional woman. Then, we distributed clothing to men and

To Mr. Wegenast:

women and children: I mean married men, married women and their children, at the rate of about four or five hundred articles every day.

Q. Is this an independent enterprise of your own or is it part of relief or of the Presbyterian church?

A. It is a private enterprise supported by private ~~subscriptions~~ subscriptions of Toronto people.

Q. What are your relations with the Toronto city council?

A. None whatever.

Q. They recognized your work?

A. Yes, but we don't get any financial support from them.

Q. They just say nice things about you?

A. That is all.

Q. I would like you to give two or three examples of the cases you have to deal with that bear on the problem here?

A. Our experience is, where there is a very large family, even if the father is employed and I would say about the average wage of the unskilled labourer would be between fifteen and twenty and the skilled between twenty and twenty-five, or a maximum of twenty-eight.

To the Court:

Q. Per week?

A. Per week, yes. If a family of, say, nine -- if the father brings home twenty dollars a week and there is another family, the neighbour who works at the same business in the same factory and gets the same amount of money and he only has three to support --

To the Court:

naturally the family of three will be able to carry through and the father with the family of nine or ten -- they cannot make ends meet andmm they have to come to the Scott institute for help, clothing or what not. I have a ~~xxxxxxx~~ letter -- .

Q. Give us information but you are not supposed to read a letter?

A. I will leave out the names:

"The Scott Institute:

"I am the mother of nine living children all under fourteen years. I gave birth to my tenth baby August fourteenth, a baby girl. And I have no carriage to take her out in and my husband is not able to work as he is one hundred per cent heart case and I am not strong and the doctor said I need lots of fresh air as I have not much blood and as I have two other small babies, I am handicapped without a carriage.

"I wonder if you could help me out; I would be willing to work for one in a couple of weeks when I get stronger.

"If you need a reference as to my honesty, that I really need one you can phone the Rev. onstreet as I am a member of his church.

"I am, yours respectfully,

"Mrs."

Mr. Mercier:

I can see what will happen if we get evidence of this kind before a jury. We are all prepared to admit cases of large families in distress and

Mr. Mercier:

I can cite a large number of them and also wealthy families.

Mr. Wegenast:

I wouldn't expect the witness to cite evidence like that.

The Court:

You asked him to cite cases.

Mr. Mercier:

We had gentlemen here before from the Salvation Army. We admit that there are homes with large families suffering considerably; that there is dire misery.

Mr. Wegenast:

I pointed out one way of dealing with this is statistics and the other is examples.

Mr. Mercier:

Every priest and minister knows them.

Mr. Wegenast:

We have had figures and now examples and I would like to clothe the figures with a little flesh. We might very well have to build up the case on examples.

The Court:

I think it is in order but the probity of it is in question.

Ho Mr. Wegenast:

Q. Give us some idea of the actual conditions, having in view the charge against Miss Palmer. You are at liberty to cite cases ~~but~~ but give us in the briefest way the result of your experience?

To Mr. Wegenast:

A. My experience is that most of the married women who come to the Scott institute have at some time or other because of their dread of having a child, brought on abortions. Some of them or most of them wouldn't know anything about^a birth control clinic and the only information on abortion when it came was gossip or hearsay from the neighbours.

Q. Yes?

A. I think if a properly qualified person who has experience and knowledge about contraceptives would go around and visit some of those homes I think it would be a wonderful help to some of those women. Some of them told me ^{doctor told them they} they had had several abortions.

Q. That is double hearsay?

A. It is a fact, the doctor told them they would most likely do it once too often.

Q. May I put this to you: why not leave this whole thing in the hands of the doctors for them to look after it?

A. The average woman in the community, the type we deal with, when you speak about a doctor, the first thing that crops up is "who is going to pay for it". The doctor expects a fee.

Q. He is not like Mr. Kaufman?

A. No, not at this time; now, because before the depression the doctor didn't mind giving free advice but now they have had too many of these cases. Another thing that would keep them from going to the doctor is that the average woman wouldn't think of going to the doctor unless she is absolutely sick. She wouldn't think of going to a

To Mr. Wegenast:

doctor about contraceptives. She would more likely expect some neighbour to tell her about it. In that way it would be much better for the social service worker or nurse to go around and give the information.

Q. Put it this way: if the average woman felt if she went to a clinic she would have to undergo a physical examination would that deter them?

A. Some of the most intelligent might go but most wouldn't go just like refusing to go to the dentist. ~~That~~ They know it is good for them but they just don't want to go.

Q. Having regard to the people in your institute, what proportion of them would be willing to undergo a physical examination at a clinic?

A. I would say only about twenty-five per cent; if the whole thing were thoroughly explained to them,--

Q. They would go to a clinic for examination?

A. Yes.

Q. Something has been said here about a sense of decency and people being shocked and there being something repellent about it: what do you say about your particular constituency in that respect: would you say your people would be any different from the witnesses who appeared here and answered questions whether they thought there was anything wrong: what in general would the attitude of your people be?

A. I think generally just the same as the women who appeared here in the witness stand.

Q. The same what?

A. They would welcome from the proper source such in-

To Mr. Wegenast:

formation and knowledge about contraceptives.

Q. Of course I ~~must~~^{needn't} ask you, ~~to~~ Mr. Zeidman, as to your own personal view as to whether supplying contraceptives is wrong?

A. It depends who does the supplying. For instance, if a barber or shoemaker supplied them, I would say it is absolutely wrong, but a person who has special knowledge and specializes in this work, I would say it is proper and decent.

Q. What do you think about giving contraceptives to an unmarried mother?

A. That is a debatable question; I am thinking of an unmarried mother who comes to our institute; whether sterilization would be better or contraceptives; I wouldn't like to pass on it.

Q. What I want: is there anything wrong in your opinion in giving it to unmarried mothers?

A. Well, by the time she has had one child she knows as much as a married woman and I see nothing wrong in giving her contraceptives.

Q. That is all I want to ask you, Mr. Zeidman.

CROSS EXAMINATION

To Mr. Mercier:

Q. You talked about a social service worker going into a home; what do you mean by "social service worker"?

A. I mean a person who does work in the community or neighbourhood.

Q. What kind of work?

A. Social service work is rather a wide term. It may

To Mr. Mercier:

include ordinary visiting. It may include teaching of certain things, languages, how to wash their curtains, to keep their room clean or a good many things.

Q. What do you think of a social service worker -- so-called -- employed for one purpose only: the advertising or distributing of either literature or the means of preventing conception -- employed for only one purpose, that of distributing information on contraceptives?

A. I would say she is just ^{as much} ~~simply~~ a part of the social service work as anybody else.

Q. According to you she is a social service worker?

A. Oh, yes.

Q. You have said, I believe, that -- what importance do you give to this distribution of contraceptives. Do you believe for instance it ~~we~~ should be given to everybody -- do you believe the giving of it ~~we~~ should be solicited?

A. No, it should not be distributed to everybody.

Q. Do you believe it should be distributed to everyone, every woman?

A. Every married woman.

Q. Do you believe it should be distributed to every ~~family~~ female?

A. Every married ~~family~~ female.

Q. Do you believe it should be distributed to that woman without the knowledge and consent of her husband?

A. That is rather a hard question: marriage is supposed to be a partnership and both should agree. Of

To Mr. Mercier:

course if the husband doesn't want to, I don't know what the wife would do in that particular case.

Q. Do you believe the wife should use contraceptives if her husband is not willing, marriage being a partnership as you state?

A. I wouldn't like to see any disruption enter into the family.

Q. Do you believe that it might be the cause of disruption in the family?

A. If the husband wants children and ~~the~~ the wife doesn't, that might cause it.

Q. The use of contraceptives might cause disruption in that family?

A. Yes.

Q. Might it not cause a certain amount of jealousy?

A. Pardon?

Q. I will give you a case where a woman might use contraceptives without the knowledge of her husband. They have been married five or six years, have two or three children, always have been very ~~ex~~ happy. A certain method of contraceptives comes into the home and the husband notices it and notices the wife has been using something. Might it not cause jealousy there and cause the husband to feel the wife might be going out with others -- might it not be the cause of jealousy?

A. You think the husband doesn't trust his wife?

Q. He has trusted her all his life, say, and in this case he finds it and might it not be the cause of distrust?

A. You mean she brought it there by surprise?

~~QxxKx~~

To Mr. Mercier:

Q. No, she brings it in and he finds it and is surprised then?

A. The average wife doesn't get stuff and bring it into the home without discussing it. In most marriages they discuss how many children and the spacing of children and if spacing them they would naturally begin to think of some kind of contraceptive.

Q. Do you believe the husband and wife should consult each other in these matters?

A. Absolutely.

Q. And do you believe the wife should be advised to consult the husband before using these contraceptives?

A. Yes, but it depends on families. There are some cases where the husband dictates to the wife and some cases where the wife dictates to the husband.

Q. That is in most cases, I believe?

A. Yes.

Q. And do you believe this should be done without mutual consent of both parties?

A. There should be mutual consent.

Q. And the social service worker going in there should assure herself that instead of bringing the means of unhappiness into the home between the husband and wife?

A. The average social service worker takes the average family, for instance: if a nurse comes into the home she does not ask the wife if the husband will object to her having a tooth brush and tooth paste in the family.

Q. No?

A. The social service worker takes it for granted the

To Mr. Mercier:

mother and wife knows what she is doing and if she feels the husband will object she will tell the worker, "my husband disapproves of those," and that is all there is to it.

Q. I believe that all comparisons are odious, and as to the comparison of the tooth brush?

A. Yes.

Q. And isn't the matter of contraceptives more important than the tooth brush?

A. All matters of hygiene are of equal importance.

Q. So the social worker going into the home should not worry more about contraceptives than about the matter of a tooth brush?

A. No.

Q. What do you say?

A. The worker coming into the home: it might be necessary to teach the family not to expectorate on the floor. If she comes in and specializes -- .

Q. In contraceptives?

A. Yes.

Q. Now, you have the idea of the social worker who should enter the home advising people on contraceptives: you have certain ideas on that?

A. Yes.

Q. Do you consider the matter of introducing contraceptives into the home very important?

A. Yes.

Q. From the point of view, moral, physical life and hygienics?

A. Yes.

Q. Taking that into consideration, what would you say

To Mr. Mercier:

should be the attitude of the social service worker going into a home for the purpose of advertising these contraceptives?

A. The duty of the social service worker would be to come into the home and begin the conversation.

Q. Yes?

A. And I would explain the value of contraceptives.

Q. What do you mean, "the volume"?

*

The Court:

"Value".

The Witness:

A. Explain the value of contraceptives; if she cares to have it nor not. If I were a social service worker I would endeavour to explain to her as conditions warranted, the value of these.

Q. And how to use them?

A. Yes.

Q. You don't believe the social worker should explain all the aspects of the case when going in interviewing the wife?

A. (No reply).

Mr. Wegenast:

Including economics and statistics?

Mr. Mercier:

Not as far as we have gone here today. The witness can take care of himself.

To Mr. Mercier:

Q. The worker goes in and says, "I have the means of contraception. You have how many children; does your husband work" -- ?

A. (No reply).

Mr. Wegenast:

If it is a hypothetical case?

To Mr. Mercier:

Q. If as a result of that -- ?

A. (No reply).

The Court:

If you are only asking a hypothetical case?

Mr. Wegenast:

Then it should be put fairly. This accused has no power to say whether it was right or not.

To Mr. Mercier:

Q. And if as a result of a conversation in this home the lady in question did receive the contraceptives and instructions how to ~~prevent~~ prevent ~~the~~ conception would you say that would be sufficient?

* A. (No reply).

Mr. Beament:

And that is a hypothetical case?

The Court:

He said -- .

Mr. Mercier:

I said I am putting it as such.

The Witness:

A. The social service worker disseminating the knowledge of contraceptives would be in that case a little bit different than any other social service worker because I believe every married woman at one time or another had already thought over the matter of how to perhaps either prevent a birth or how to space the birth of her children. That is, the social service worker wouldn't have to argue an awful lot about the value and good of that particular information.

~~The witness~~

To Mr. Mercier:

Q. The idea, as we commonly say, would be sold before she walked in there?

A. Yes, it is a good idea.

Q. You also said in your evidence this information should be disseminated by persons of proper knowledge: what did you mean as to that: qualify as to persons distributing contraceptives and contraceptive information?

A. I think the social service worker should be able to explain to the person how to use it and when to use it.

Q. And that is what you mean by a properly qualified person with experience and knowledge?

A. There is no end to a person qualifying himself for a certain calling.

Q. You would say the definition you have given me is that of a properly qualified person of experience and knowledge?

A. I wouldn't undertake to go around myself, but if a young woman has done that and is experienced I would say she is experienced. I wouldn't ask any social service worker who doesn't know anything about it.

Q. You have said a lot of women also would not like to go to hospitals as they were afraid they would have to pay?

A. (No reply).

Q. Further, in Toronto there are like in Ottawa certain clinics at certain hospitals where certain doctors devote themselves free to give free treatment in the hospitals to help bring children into the world free and they give free examinations: doesn't that happen

To Mr. Mercier:

in the clinics in Toronto?

A. I don't think there is any hospital apart from the birth control clinic that actually gives the information free. I don't know of any that gives information free and contraceptives free to women.

Q. There are some clinics giving these free?

A. Birth control, yes.

Q. Do they tell people down there they can get a second order for two dollars?

A. I don't think it is just like that. Any married women who wants the benefit of the clinic has to be recommended by a social service worker. For instance, people come into my institute and I would only recommend a married woman.

Q. I believe that; you told me that before?

A. Yes.

Q. Is there any paying to do at this clinic at any time?

A. If a person can afford to pay I believe they do. But if not, I understand they can get it free.

Q. Does social service or welfare department pay for it?

A. No.

Q. They do not. An unmarried mother: now I am asking you this as a man who has been dealing in things spiritual: don't you think very many of these unmarried mothers regret having their first baby and the means of putting contraceptives into their hands might encourage prostitution and prevent them leading a better life?

A. I am afraid those unmarried women are not average.

To Mr. Mercier:

Q. Yes?

A. They are sub-normals and they are special cases.

Q. You will agree with me a lot of unmarried mothers are very normal?

A. Not very many of them; the most we find are sub-normals.

Q. There may be some?

A. There may be some and those would be very ignorant.

Q. Do you believe there should be extreme care taken in the distribution of these contraceptives?

A. I do.

Q. You do not believe in the wide distribution of them?

A. No, not just giving them to everybody.

The Court:

Adjourn (at 1:00 p. m.) to 2:15.

(The Court resumed at 2:15 p. m. same date);

To Mr. Mercier:

Q. In your examination in chief this morning one of the pitiable instances you had was one of the woman going to you and offering you her children; did you accept them?

A. I did not, sir.

Q. Therefore you didn't get the reaction you would have got if you had tried to get them?

A. On second thought, we did take the children out to a camp for an extraordinary period, that is, a double period of camping. That didn't seem to work any hardship on the mother.

Q. You will admit with me, sir, in very few circumstances a woman even in dire circumstances and misery

To Mr. Mercier:

will be willing to let her children away from her?

A. There are ones, mothers, leave their children in creches and have them adopted.

Q. The percentage must be small?

A. I couldn't give you the exact statistics.

Q. What is from the moral -- I mean the religious -- point of view your opinion on the distribution of contraceptives?

A. As far as I know, taking the bible as our guide there is nothing there to indicate it is a sin or that it is ~~is~~ forbidden.

Q. And the ~~verse~~ divine command in Genesis: the Lord says he created man, male and female he created them, to go and increase and multiply and fill the earth: that has nothing to do with it?

A. No, it has not.

Q. What is the meaning of that part of Genesis?

A. Just what it says: be fruitful and increase and multiply and fill the earth.

Q. Fill the earth?

A. (No reply).

Mr. Wegenast:

It doesn't say "fill" -- it is "replenish" the earth. You have it in French.

Mr. Mercier:

I haven't it in French and I don't think holy scriptures can be interpreted but in the language in which they were written.

The Witness:

A. "And replenish the earth."

To Mr. Mercier:

To Mr. Mercier:

Q. "And replenish the earth"?

A. Yes, but even that has no bearing on it.

Q. That has no bearing on it?

A. Because the Lord commanded to be fruitful and multiply but did not say how many. That is left to the individual to multiply by one, two or three.

Q. And the divine command in Genesis: the Lord -- in the doctrine of ~~ENAN~~ Onan, "go and bring seed to your brother's wife"?

A. When you come to the bible it is rather unfair to take the Onan matter -- they were a desert tribe -- and to bring its customs before the bar of justice in the twentieth century -- if you want to take this as an example it would be right for us to go and commit adultery the way Judah did and Judah's daughter-in-law ~~and~~ committed adultery with her father-in-law; that is no criterion today.

Q. That is your opinion today?

A. It is not my opinion; it is the expressed word of God.

Q. It is your explanation of that part of the bible?

A. It is not mine.

Q. It is the one you give?

A. Not in regard to Onan. He was not killed by the Lord because the sin he committed was refusing to raise children for his brother.

Q. If being married -- the text said, "go and marry"?

A. I don't think the text says "go and marry."

Q. Look at it?

A. I remember the Hebrew: it says, "go and know her".

To Mr. Mercier:

Q. If that version says "go and marry", it is wrong then?

A. I would say the interpretation or translation is wrong.

Q. We might as well leave it at that.

Now, you know there have been several pronouncements of several religious bodies made on this question of contraceptives or birth control or voluntary parenthood as it has been called. I take it in the majority if not all of these pronouncements these churches are exceptionally careful. They do not recommend wholesale birth control but they raise it up very conscientiously and they do say: "use this if you must, if you will, but we implore you ~~not~~ not to use it too often." ~~These~~ That may be my interpretation of the concensus of opinion with the different churches and I am leaving out the theories of the Catholic churches?

A. I don't think there is any ~~warning~~ warning there at all to it. It is left to the good sense of the people.

Q. Do you believe the family physician should be consulted before the use of these contraceptives?

A. I don't think it is necessary.

Q. There is a pronouncement here it is on page five of "Federal Council of the Churches of Christ in America"?

A.(No.reply).

Mr. Beament:

Exhibit 77-B.

To Mr. Mercier:

To Mr. Mercier:

Q. I read here: it is a pronouncement of a majority of the committee of the Federal Council's committee on marriage in the home, in 1931. It is by the majority of the committee. In the middle of the page five:

~~It~~ "A majority of the committee holds that the careful and restrained use of contraceptives by married people is valid and moral. They take this position because they believe that it is important to provide..."

Further down at the bottom of the page:

"It is essential to consult the family physician or to go to established clinics or health centers for information or assistance."

Do you ~~you~~ believe that should be done or not?

A. In extraordinary cases there may be a necessity but I do not think in all cases.

Q. "It is essential to consult the family physician"?

A. I do not think it is essential.

Q. You do not agree with that pronouncement?

A. Not fully.

Q. "That serious evils, such as extra-marital sex relations, may be increased by a general knowledge of contraceptives must be recognized." ?

A. They assume what might happen. If you take this for a moment: it would be impossible for me to drive a car because I might assume what might happen to me.

Q. Do you believe that pronouncement is correct: do you believe according to your own ideas on the subject that serious evils, "such as extra-marital sex

To Mr. Mercier:

relations, may be increased by a general knowledge of contraceptives must be recognized."?

A. I don't think there is any serious danger of anything like that.

Q. At the top of page six:

"Guided by the past experience of the race as to the effects of scientific discovery upon human welfare, we should expect that so revolutionary a discovery as control of conception would carry dangers as well as benefits."

Do you agree with that?

A. Not with a general statement like that.

Mr. Wegenast:

I must point out my learned friend is giving only a line or two.

Mr. Mercier:

If you wish I will read the whole of it.

Mr. Wegenast:

There is a certain continuity.

To Mr. Mercier:

"Such knowledge, however, is already widely disseminated, often in unfortunate ways, and will soon be universally known. Guided by the past experience of the race as to the effects of scientific discovery upon human welfare, we should expect that so revolutionary a discovery as control of conception would carry dangers as well as benefits. Society faces a new problem of control with each fresh advance of knowledge. If men generally cannot properly use the knowledge they acquire, there is no safety and no

To Mr. Mercier:

guarantee of the future. These members of the committee believe that the undesirable use of contraceptives will not be indulged in by most people, and that if the influence of religion and education is properly developed the progress of knowledge will not out run the capacity of mankind for self-control. But if the sex impulse and the use of contraceptives are to be kept under moral control, the church and society, including parents, must give greater attention to the education and character building of youth and to the continued education of adult opinion."

I have read the whole of this: what danger do you think it would carry as well as benefits?

A. I haven't met in my experience ~~me~~ yet with any case where any danger accrued.

Q. That is one pronouncement: am I fair in stating that you partly disagree with it or fully disagree with it?

A. It is ^a general and vague statement that is there made but you can't give just a yes or no answer.

Q. I will ask you a general question and will ask you not to try to illustrate it: I will go further on page six and read the third paragraph:

"In view of the widespread doubt among Christian people of the morality of the use of contraceptives, and the scruples experienced by many in making use of them, it appears to these members of the committee to be the plain duty of the Christian church, when control of conception is necessary to uphold the standard of abstinence as the

To Mr. Mercier:

ideal."

Do you believe that abstinence should be the ideal?

A. (No reply).

Mr. Wegenast:

Read a few more words.

Mr. Mercier:

"Recognizing it as a counsel of perfection, and that Christian morals are much more exalted than is generally supposed."

I don't think that is weakening it any.

To Mr. Mercier:

Q. I take it these reverend gentlemen believe that the soundness of Christian morals is more exalted than generally supposed?

A. What is Christian morals?

Q. You should know better than I do?

A. The statement is made about Christian morals.

Q. I don't happen to be a moralist or theologian; I don't believe I could answer that to you: you have those pronouncements; you have an understanding of these things I have not?

A. A Christian moralist is a man legally joined to his wife and nobody has a right to dictate when they should have children or how many.

Q. Nobody should interfere with them?

A. Not to pass judgment whether their actions are Christian or not.

Q. On page seven, the second paragraph:

"Finally, the entire committee unites in calling attention, and most earnestly, to the importance of a spiritual adjustment of the physical re-

To Mr. Mercier:

lations between husbands and wives. All natural desires, however sound and wholesome, must be kept within bounds. If this applies to eating and drinking, how much more to the fateful and powerful impulse of sex. If marriage centers upon sex indulgence, it is sure to result in unhappiness and usually in disaster. A high degree of self-control, especially during the early years of married life when marital habits are forming, is necessary to the happiness of the mates and the spiritual life of the home."

What do you say as to that pronouncement?

A. I would say birth control would come in very nicely there.

Q. It would keep natural desires within bounds?

A. If you ask the question, within bounds of what?

Q. I am asking you to interpret this thing: I take "within bounds" would be within the bounds of reasonable sexual intercourse. My opinion, if you will confirm it if you can or will,- the pronouncement of the churches is that they were exceptionally careful and before advising any method of birth control they advise people to use self control?

A. They were advising the two sexes to use self control and on the other side the husband has a right to his marital privileges.

Q. ~~Q.~~ And that is why they advise people their sexual relations should be kept within bounds?

A. (No reply).

Mr. Wegenast:

I am not quite sure if the witness caught that

Mr. Wegenast:

this part was from the minority report.

The Court:

He said that.

Mr. Wegenast:

I know, but the witness?

The Witness:

A. I did not know but that this was a unanimous report.

To Mr. Mercier:

Q. I have spoken of a majority report and then a minority report and now the entire committee;

"Finally, the entire committee unites in calling attention, and most earnestly, to the importance of a spiritual adjustment of the physical relations between husbands and wives. All natural desires however sound and wholesome, must be kept within bounds. If this applies to eating and drinking, how much more to the fateful and powerful impulse of sex. If marriage centers upon sex indulgence, it is sure to result in unhappiness and usually in disaster. A high degree of self-control, especially during the early years of married life when marital habits are forming, is necessary to the happiness of the mates and the spiritual life of the home."

I have endeavoured to make myself clear and endeavoured to get your opinion on the subject. If you wish I will be glad to read it all over again?

A. As a general statement I believe most of it is true but I don't see what birth control has to do with that.

Q. It has everything to do with it; it has to deal with

To Mr. Mercier:

the methods; it contains the pronouncements of religious bodies compiled by the committee on marriage and the home of the Federal Council of the Churches of Christ in America. It includes the Lambeth conference report?

A. (No reply).

The Court:

Show the witness a copy.

Mr. Wegenast:

Yes, with deference to my friend.

The Witness:

A. I agree with the general content of it but you must realize this isn't given ex-cathedra.

To Mr. Mercier:

Q. But it is an opinion worthy of respect, I submit?

A. Yes.

Q. And I am trying to get your opinion as to whether or not these churches and religious bodies have not although admitting the principle of birth control, have not surrounded it with the utmost recommendations of careful attention before anybody indulges in it?

A. This may be true of a good many cases but taking a case in mind: a woman has been several times in the office because of abortions; her husband works late at night, comes home at two or three in the morning. The wife is fast asleep and before she even knows it she is pregnant. Has the wife no rights?

Q. Tell me -- ?

A. That isn't an extreme case at all. What is the Council of Churches going to do?

Q. Then it is the duty of the social worker or the

To Mr. Mercier:

association dealing with this question; would it not be better to begin trying to show people what there is in sexual control and keep them in bounds?

A. Yes, but it isn't being done and we have seen workers advise wives against husbands.

Q. Even if the church gives all these considerations; the church recommends birth control shouldn't be too widespread?

A. It depends how wide you make the term.

Q. I said before all things are relative in this world?

A. I said they should be widely distributed between married people.

Q. All birth control information?

A. Yes.

Q. Let us continue with page seven, third paragraph:

"To attain this command of the sex impulse, and this mutual and sensitive consideration for one another, husbands and wives are urged to keep ever in mind that marriage is a divine institution and that they are co-operating with God in their union and in the conception and rearing of children. Their personal relations are therefore sacred and in the divine care. These relations are always at their best when the two live together in the daily consciousness of the presence of God. Things they might not be able to accomplish unaided are abundantly possible through His help."

Do you think there they recommend the wide use of contraceptives -- that every married woman should know

~~xxxx~~

To Mr. Mercier:

it or that they ask for divine guidance?

A. I would say this report here wasn't composed in the slums of New York or Toronto or Chicago, but in some office.

Q. Then you take it for granted these gentlemen would make an interpretation for one class, of the divine words, of God, and another for the people in the slums?

A. They set a standard.

Q. Didn't they mention it; isn't it a fact these men passing these resolutions are learned men in social matters and theology?

A. (No reply).

Q. Do you think there is a law for the poor and a law for the rich?

A. (No reply).

Mr. Wegenast:

Is it in the circular?

Mr. Mercier:

It is entitled, "pronouncements".

The Court:

It is a finding of the committee.

Mr. Wegenast:

It does call itself a pronouncement, so I have to back up my learned friend on that.

To Mr. Mercier:

Q. And if you think it had been prepared in the slums?

A. I do so.

Q. And now, the Lambeth conference, page eight, third paragraph and second paragraph:

"It must be recognized that there is in the Catholic

To Mr. Mercier:

church a very strong tradition that the use of preventive methods is in all cases unlawful for a Christian. We acknowledge the weight of that testimony, but we are unable to accept that tradition as necessarily final. It must be admitted that it is not founded on any directions given in the New Testament. It has not behind it the authority of any Ecumenical council of the church. Moreover, it is significant that the communion which most strongly condemns in principle all preventive methods, nevertheless in practice recognizes that there are occasions when a rigid insistence on the principle is impossible. If our own communion is to give guidance on this problem, it must speak frankly and openly, with a full appreciation of facts and conditions which were not present in the past, but which are due to modern civilization.

"We are convinced that many of the results which have followed from the use of the discovery of more effective methods are very grave. They have encouraged illicit intercourse among the unmarried by removing the fear of consequences. They have been frequently used to avoid the responsibilities of parenthood and as a ~~means~~ means of escaping from the self-control which should be exercised in married as well as in single life. They have become a danger to many civilized nations by a disproportionate reduction of their best stocks. We think that some of those who are most active in the advocacy of birth control do not give sufficient weight to these consider-

To Mr. Mercier:

ations."

What is your opinion of that?

A. My opinion is that these gentlemen are just about a hundred years too late; when was that Lambeth conference?

Q.~~ix~~ Six years ago?

A. All these conditions existed one hundred years ago.

Q. That is your opinion on that?

A. Not my full opinion. These fears existed one hundred years ago.

Q. Give me your full opinion and that therefore these gentlemen assisting in the Lambeth conference were in arrears about one hundred years?

A. I believe so and it is no argument against birth control or contraceptives.

Q. But is it an argument against the wide spread distribution of birth control or do you not think it should be taken more carefully?

A. It should be distributed most carefully and widely among married people.

Q. I think all these people had in view -- you don't agree with them -- they were one hundred years too late?

A. Some are not too late.

Q. Which are not too late?

A. They speak about conditions that have existed one hundred years ago and all their arguments and fears of danger of immorality existed one hundred years ago and it is not birth control or the use of contracep-

To Mr. Mercier:

tives brought these conditions into the world. They take it for granted birth control brought these conditions into the world.

Q. What conditions do you refer to?

A. Unmarried people gaining a knowledge of birth control.

Q. That is their meaning there?

A. Of one paragraph you have read. The second paragraph:

§ "We are convinced that many of the results which have followed from the use of the discovery of more effective methods are very grave. They have encouraged illicit intercourse".

We have had illicit intercourse as far back as the time of Adam.

Q. We have it now?

A. Yes; it is not birth control or the use of contraceptives brought this on.

Q. Do you believe the use of contraceptives might encourage illicit intercourse among unmarried people?

A. I didn't get that.

Q. "They have encouraged illicit intercourse among ~~the~~ the unmarried by removing the fear of consequences."

Do you believe that?

A. (No reply).

Q. Do you believe that a knowledge of contraceptives encourages illicit intercourse between unmarried couples?

A. I don't think so.

Q. In the next paragraph:

To Mr. Mercier:

"It is axiomatic that parenthood is for married people the foremost duty; to evade or disregard that duty must always be wrong. It is equally axiomatic that the state of marriage is a divinely ordered relationship in which intercourse between man and woman calls for the highest exercise of the Christian virtues of self-discipline, self-control and self-sacrifice. There are multitudes of married people who have found in that mutual sacrifice a bond of ~~an~~ deeper unity as well as an ever-increasing moral strength. It follows, therefore, that it can never be right to make pleasure or self-indulgence the motive for determining to limit or refuse parenthood. Equally it can never be right for intercourse to take place which might lead to conception, where a birth would involve grave danger to the health, even to life, of the mother, or would inflict upon the child to be born a life of suffering; or where the mother would be prematurely exhausted, and additional children would render her incapable of carrying out her duties to the existing family."

What do you think as to that?

A. I myself, and I would say that hundreds, if not thousands of priests and ^{nuns} ~~ministers~~/would ~~say~~ agree with that.

Q. I am not asking you what the hundreds and the thousands of priests and ^{nuns} ~~ministers~~/would say on that?

A. (No reply).

To Mr. Mercier:

Q. And by the way I have not heard of ~~hundreds~~ nuns being authorities on theology, but I am asking your opinion?

A. It is, I say, meaningless that parenthood is the foremost duty of married people. I think they are wrong and I think Catholic doctrine opposes that too.

Q. I told you before I am not a theologian but you think it is wrong?

A. Yes, that parenthood isn't the foremost duty of married people.

Q. What is the foremost duty of married people?

A. To glorify God.

Q. That is their foremost duty?

A. That is their foremost duty.

Q. Isn't that everybody's duty?

A. Everybody's.

Q. And more especially so for married people?

A. I wouldn't say it is more so for married people than single people.

Q. Why then make that statement that the foremost duty of married people is parenthood: why say it once and then say the foremost duty is married people is to glorify God?

A. (No reply).

Q. I said isn't that the duty of everybody and you said yes?

A. Many things may come in; I have known some of the finest saints of God who are married and have no children.

Q. I will agree with you there, but why should this be

To Mr. Mercier:

there, that parenthood is the foremost duty?

A. Because the old idea was that marriage is simply an institution to bring children into the world.

That is not all.

Q. That is not all?

A. No.

Q. What is it?

A. The main duty of any individual human being is to glorify God and if two people get together, I would say, for the benefit and comfort of each other -- .

Q. Page nine, second paragraph;

"The primary and most obvious way of dealing with such circumstances as seem to make the limitation of parenthood obligatory is total abstinence from intercourse, even it may be for long periods. Such abstinence brings with it to those who claim and receive divine grace the opportunity for the highest exercise of Christian love and self-denial!"

Q. What do you say as to that?

A. I don't believe that.

Q. A little further down; ~~xxx~~

"Yet there exist moral situations which may make it obligatory to use other methods. To a certain extent this obligation is affected by the advise^e of medical and scientific authority. But in all such cases, as in those where abstinence is the way chosen, the final decision must still be determined by reference to the spiritual ends for which marriage was ordained; and the attainment of these still calls for the same exhibition of Christian self-discipline and virtue. Each couple must decid^e for themselves, as in the sight of God, after the most careful and conscientious thought, and, if perplexed in mind, after taking competent advice.

To Mr. Mercier:

both medical and spiritual?"

Q. Now, what do you say to that?

~~ANSWER~~

A. (No reply).

Q. "And the attainment of these still calls for the same exhibition of Christian self-discipline and virtue. Each couple must decide for themselves as in the sight of God, after the most careful and conscientious thought, and, if perplexed in mind, after taking competent advice, both medical and spiritual".

Q. What do you say to that?

A. To sum it up I have never read that brochure but most of the excerpts you read -- there is a lot of good advice in it; I am not saying it is wrong but the gentleman who made up these statements evidently lived in the sky, they were not on the earth. They were not rubbing shoulders with the human being.

Q. But I believe before we get through you might make one admission; they were very careful about advising the use of contraceptives?

A. Yes, they were very careful about advising the use of contraceptives.

Q. Then, the paragraph following this; "In our judgment the question which they should put to themselves is this: Would conception be for any reason wrong? If it would clearly be wrong, and if there is good moral reason why the way of abstinence should not be followed, we cannot condemn the use of scientific methods to prevent conception, which are thoughtfully and conscientiously adopted".

To Mr. Mercier:

What would you say ~~me~~ to that?

A. This is characteristic of the rest of the pronouncements.

Q. In what sense?

A. That over emphasizes they were thoughtful and conscientious and from the way this is drawn up you would think that the people are without morals and have no understanding or have no sense themselves. There is practically nothing left for the imagination of the person or his reasoning.

Q. Practically nothing left there?

A. No.

Q. Plainly they say in the 5th. paragraph "Other reasons^{ances} are often urged for the use of such methods--circumstances of income, housing and education, are all advanced in justification. These need careful scrutiny. We are unable to accept conception control as the right solution of unsatisfactory social and economic conditions which ought to be changed by the influence of Christian public opinion?"

A. The whole thing is characteristic of Gamaliel.

Q. Who was he?

A. A certain type in the New Testament. He was one of these pharisees who heard about Christ and his Gospel and he thought he would take the safe way out of this question and was not going to oppose it, but at the same time he was not whole heartedly in favour of it.

That is the stand they take; they are cautious, they know they cannot oppose it. "Let this thing go along, see what happens, if it is a success we will jump on the band wagon. Some day we will build

To Mr. Mercier:

a monument to Mr. Kaufman and Miss Palmer"

Q. That is your opinion?

A. Yes.

Q. It finishes in the last paragraph on page 9.

"In all these matters of sex, self-deception is all too easy. Let none forget that in this as in all relationships of life Christ calls to a heroism to which by His power His servants can attain."

Do you believe there is something in that?

A. It is a very good statement; it does not mean anything. Can you explain to me what it does mean?

Q. I am here to ask you?

A. They are a lot of very good statements.

Q. Perhaps I would like to have an opinion of these learned gentlemen, of their comments on your work.

Now, sir, we will come to more recent pronouncements.

This is the 1936 report of the United Church.

The Court:

Exhibit 84-B.

Mr. Wegenast:

You know this gentleman does not belong to this communion. ~~Mr. Hexter~~

Mr. Mercier:

Does he belong to any of the others?

Mr. Wegenast:

He is a Presbyterian.

Mr. Mercier:

I have raised this up with the utmost care, that birth control should be thought over very carefully?

The witness:

A. That is what I say.

To Mr. Mercier:

Q. But, with their views you disagree almost entirely²,

To Mr. Mercier:

A. They don't give any views.

Q. They don't give any views?

A. No, they don't, give any definit^e views; they are for it and against it.

Q. And in your opinion those pronouncements should be entirely disregarded?

A. I would say so.

Q. Then, I don't not suppose, sir, - - I will ^{not} ask your views on the report of the United church of Canada in 1936. We will let it go at that.

RE:--DIRECT EXAMINATION

To Mr. Wegenast:

Q. My learned friend refers to a pronouncement - and I admit the word "appears" at the head of document 77-B. Now you notice - you know something of theology?

A. I know something of the bible.

Q. Of the bible - you are drawing a distinction. What I want to ask you is as to whether these so-called pronouncements can be laid alongside pronouncements of the Roman Catholic Church and whether they are of the same effect in their own constituency?

A. No, no.

Q. What difference would you draw?

A. The difference is this; in the church of Rome ~~this is~~ disobedience of a pronouncement or encyclical -- .

Mr. Mercier.

I would say the church of Rome has nothing to do with that.

Witness.

The Witness:

A. I know that but a pronouncement or pastoral or encyclical of the church if pronounced by the highest authorities of the church - even if given by an ordinary bishop or priest - if a member disobeys his disobedience is a grave affair. In the Protestant Church every man and woman is a priest.

Q. Explain that; it is epigrammatical?

A. There is no mortal sin or venial sin in disobeying this pronouncement.

Q. Every man for himself?

A. Yes.

Q. Governed by whom?

A. God.

Q. Interpreted by whom?

A. The Bible.

Q. And that is interpreted according to his own conscience?

A. Yes, that is interpreted according to his own conscience.

Q. There is the difference - you have seen Mr. Kaufman's Clinic in Toronto?

A. I have sir.

Q. And referred people to it?

A. I have sir.

Q. Do you know of any other clinic in Toronto doing that work?

A. I don't think so.

Mr. Mercier:

Does that arise out of cross examination?

Mr. Wegenast:

I think so.

To Mr. ~~Wegenast~~Wegenast:

Q. You are familiar with the work of Mr. Kaufman's clinic?

A. I have been there several times, and listened to lectures.

Q. What do you think of it?

A. I think it is a wonderful contribution to social service and a wonderful contribution to the life of the nation.

Q. I have already asked you some questions about the differences between going through ^{to} a clinic and having a nurse come to the house. I want to ask you this; Whether in your opinion from your experience there is any necessity or desirability of calling the doctor in in this matter at all?

A. I would say under normal conditions, that is to all appearances, if the mother or wife is in good health I don't see any necessity for inviting in the doctor, particularly for certain contraceptives.

Q. I don't just happen to remember if you spoke of this or another witness, so, I will ask you again with His Worship's permission; where do these women get such knowledge as they have?

A. They get it from such a thing as a quack doctor and through ordinary gossip and they get it through many ways.

Q. To what extent do you think a married woman ought to know about contraceptives?

A. I think at the present time it is practically universal even if they don't use it, they know something about it.

Q. Then, what is the use of the work like Miss Palmer's?

A. The use would be - take for instance in the matter of

To Mr. Wegenast:

of contraceptives - in the matter of abortions some of the most ridiculous information goes about and then there is a certain amount of publications - sort of a cheap kind pornographic literature being sold everywhere throughout the continent and there are advertisements there about this and that and these people send a few pennies or a dollar or \$5.00 for these pills and get them and find they have lost five or six dollars and they are not helped any.

Now, the benefit of the social worker; she goes to the mother, makes a visit, and usually when the mother has any troubles and does not know how to meet them and has too many of them -- the mothers, most of them, are only too anxious to have the worker come in.

They sit down, talk it over, and the first thing the mother will tell the Social Service worker how many operations she had, who had the measles, who had whooping cough, and so forth, and she ^{pours} pores her heart out -- that is far better than seeing a doctor who runs in for a few minutes and has not the time to listen to her.

Q. We found on some of the applications which Miss Palmer put into the Parents' Information Bureau, Limited there were a certain number of abortions reported.

Then we found women here in the court room saying they had not had so many abortions; what do you say to that?

A. I know many women speak to me -- I don't get so shocked now -- but then they speak to me of things I would not like to repeat and I would say a woman

To Mr. Wegenast:

talking to a Social Service Worker in the privacy of her own home would be freer to open up her mind in her own home.

Q. Than even under oath?

A. Yes, even, if derogatory to her husband or church,

Mr. Mercier:

I don't think their evidence is under question.

To Mr. Wegenast:

Q. What do you think of the Social Service worker approaching the ^{home} ~~crime~~ with ^{an} ~~the~~ argument or dissertation on theology, economics and eugenics and this and that. This is very important -- I suppose you will admit that; having people put in the way of getting contraceptives is important?

A. Yes.

Q. My learned friend says because it is very important you must handle it with gloves and educate these women all about contraceptives and so forth?--

A. I would say, not to put it down ^{lightly} ~~likely~~ or frivelously or anything like that, neither should it be necessary to go into a discussion of morality or economics.

Q. Another thing -- What about explaining to these women the process of reproduction -- the bees and flowers and everything ?

A. (No reply).

Mr. Mercier:

I suppose she could not explain the bees and flowers and so forth.

The Court:

And the bulbs of Holland.

Mr. Mercier:

The witness can give us a very learned answer to that question.

Mr. Wegenast:

Q. What do you think of it?

A. I took some biology at university and I think I have forgotten all about it. But I don't think it is necessary to do that.

Q. A married woman after all is a married woman.?

A. Yes, and she knows the process of having children.

Q. My friend has pressed you on the question of whether a wife had any right to refuse to become a mother as between her and her husband -- .

A. (No reply).

Mr. Mercier:

I don't think I asked it that way. The use of contraceptives without the knowledge of the husband -- that is as far as I have gone in this case at any time.

To Mr. Wegenast:

Q. Speaking of the right or propriety of a married woman using contraceptives without the husband's consent or talking it over with him -- now, I put it to you as an expert in social welfare; is it necessarily proper or desirable that the Social Worker should take the matter up with the husband himself and discuss it?

A. No, if I were a Social Service worker and a lady, I don't think I would discuss that question with the husband.

Q. Why not?

A. Usually the husband is ignorant about the whole matter -- I think the proper person to discuss the ~~matter~~

To Mr. Wegenast:

matter is the wife; after all it is she goes through all the suffering and it is her health is being undermined and she has to nurse the child when it is born and the husband usually is ignorant of the dread that some of the women have looking forward to a child being born. No man can realize that.

Q. It isn't a man's job?

A. No, he doesn't - .

Q. The theory is this: I want your theory of the marriage being a partnership and some would say it is a sacrament and the two, having come to a certain agreement or understanding in the relationship, it isn't up to either one to make up his or her mind not to have children. If either one or the other is to have the veto, the veto power, who should it be?

A. I would say the wife.

Q. Then, just see how far you would go?

A. The ideal would be if you get a husband who is considerate and thoughtful; that question would never arise.

Q. That is what these men in offices in high office buildings like. You have a man who wants children or a child or doesn't care whether there is one or not, and you have women who do not care whether there is one or not. Who wins?

A. I would give the right to decide to the wife.

Q. That is all.

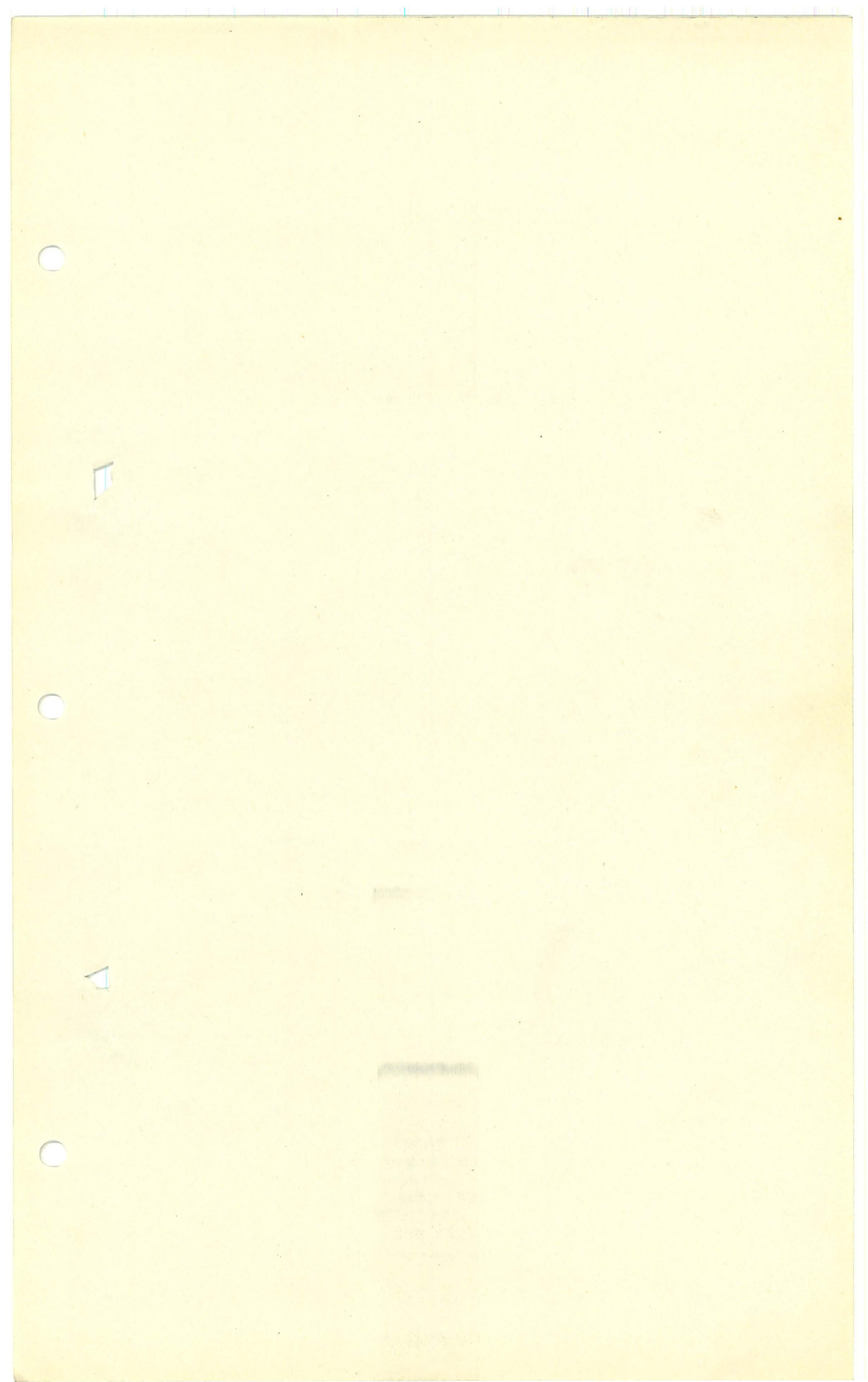
(Witness retired).

The Court:

Adjourn for five minutes.

- - - - -

(page H-1 follows)



Mr. Hegnast

Rex vs Palmer

Summerhays (H-1 to H-12 already supplied).

Zickman recalled.

Press item.

pp H.13

to

H.25

Canon Thornton Frank Summerhayes, duly sworn, deposed:

To Mr. Wegenast:

Q. Mr. Summerhayes, you are what we ordinarily call an Anglican clergyman?

A. Yes, sir.

Q. There are other ways of putting it?

A. Yes.

Q. And you are entitled to the title of canon?

A. No, plain reverend.

To the Court:

Q. What is your address?

A. 45 Chisholm Avenue, Toronto.

To Mr. Wegenast:

Q. And you are secretary of the Toronto Anglican Diocesan Council for Social Service?

A. Yes.

Q. That I take it represents the general sort of work Mr. Silcox's organization is doing generally, but yours is confined to the Anglican ~~parish~~ church?

A. We are a member of his unit.

Q. And you also have your own independent operations?

A. Yes.

Q. Now, we have heard a number of times about the Lambeth Conference: I suppose you are reasonably familiar with that?

A. Yes.

Q. I want you -- ?

A. I have a copy handy.

Q. I want you to tell his worship just in a general answer how the activities of Miss Palmer in Eastview as so far developed in the evidence tally with the views as embodied in the resolutions of the Lambeth

To Mr. Wegenast:

Conference?

A. The Lambeth Conference of bishops laid it down that what they called conception control, meaning by other means than self control, were permissible where there was a moral reason for limiting parenthood, providing it were done according to Christian principles.

I think that was resolution fifteen and was carried by a majority, I think, of 193 to 67.

Q. We might as well, Mr. Summerhayes, put on record what the Lambeth Conference represents?

A. The Lambeth Conference is a conference held every ten years of all bishops of the Anglican church throughout the world.

Q. Including the Episcopal?

A. Including the Episcopal bishops of the United States.

Q. Will you tell us to what extent its findings are mandatory?

A. They are not binding legally -- that is, it doesn't legislate, but it expresses opinions which coming from our whole body of bishops, are highly authoritative.

Q. How much experience have you had in this social service work, Mr. Summerhayes?

A. Well, I have been ordained over thirty years and a parish priest for about fifteen and a member of the Council for about fifteen and secretary for about ten of the fifteen.

Q. Now, I want to ask you to measure what you have heard of Miss Palmer's activities here alongside of your experience in social service work and say what, if any part, of Miss Palmer's activities were out-

To Mr. Wegenast:

side the bounds of propriety, outside the bounds of what you as a man experienced in social service work would recommend?

A. That is rather a large proposition.

Q. Yes, but I thought it would be simpler in that large form?

A. Speaking quite generally I would say, with one exception, I don't think there is anything I have heard Miss Palmer did or said that I would say was beyond our idea of what was proper under the circumstances.

Q. You will have to let us know what that exception is?

A. It is possibly in connection with the woman who admitted she wasn't married.

Q. You saw that woman in the box?

A. Yes.

Q. She had had one child?

A. Yes.

Q. I put it to you whether you would say that Miss Palmer did something ~~was~~ that wasn't for the benefit of the community here in letting that woman be put in the way of getting the pamphlet?

A. No, I wouldn't say she hadn't done what was right, if either she was misled, or even if the woman wasn't married there might be a benefit in the community in preventing or allowing to be prevented the birth of an illegitimate child with a heredity of that sort.

Q. Now, what do you say of the obligation of a wife to have children if her husband wishes it?

To Mr. Wegenast:

A. If you mean whenever a husband wishes it and under any circumstances, I very distinctly don't.

Q. Would you mind saying under what circumstances a wife would be right in refusing to have children or using contraceptives even if the husband is not in agreement?

A. There are two questions there. First of all, as far as the wife is concerned I am clearly of my own opinion the wife is justified in refusing to have children if her physical or nervous health isn't sufficient or if the family circumstances are such she can't bring up children properly.

Q. You said "she" and I think my learned friend will take you up on that. What do you say as to her right to decide?

A. I wouldn't say the wife has the sole right to decide; I certainly think the husband has an equal right and both should settle it together.

Q. If both can't settle it together?

A. I would not like to lay down a hard and fast rule; circumstances alter cases, and I would say each case would have to be judged on its merits.

Q. You wouldn't off hand condemn a woman for using a veto?

A. Not without knowing the circumstances.

Q. Now, I want you to say anything further, Mr. Summerhayes, that you think will assist his Worship in this case. I am not in a position to ask specific questions but if you have anything in mind which will illustrate or support what you have already said I would ^{wish} you

To Mr. Wegenast:

would let his Worship have the benefit of it?

A. You mean as regards husband and wife or Miss Palmer's activities?

Q. Both, because after all we are dealing with Miss Palmer's activities in this?

A. First of all, as between husband and wife: I myself personally think it comes well within the ruling of the Lambeth Conference that a wife may use contraceptives for either the fact of her own health, the family circumstances or the future child's sake who I think has a right to be well born, well nourished, well educated and well trained.

If the husband is not the kind that can be trusted to deal with his wife properly, that is, with that consideration that an affectionate husband ought to have for his wife, then I feel that is one of the moral circumstances that would justify her in using a contraceptive and I have had cases in my own experience where I would have advised the wife for the sake not only of her own health and the family's, but to keep peace in the house, to use one.

So far as the other half of the question is concerned, about Miss Palmer, we feel in our Council and I feel, and we have a woman worker in our Council, that in the first instance a woman is the best one to go into the home. She can size up both the woman and the home and the children and the way they are dressed and speak to ~~the~~^{their} mother and the way she deals with them -- that is, if she is fit to be a worker or visitor at all -- and a woman will often say things to another woman she will not say to a

To Mr. Wegenast:

a man.

Q. Just on that, Mr. Summerhayes, may I ask you about the method of approach. It has been suggested that since this is a matter that is very important ~~and~~ there ought to be very great care taken by the social worker ~~in~~ not to take chances of any description in family life by starting talking about something the husband might not approve. Now, you are a social worker: I want to ask you what in your opinion would be the proper method of approach for a social worker, let us say in a French Catholic home in Eastview?

A. Something would depend on whether she was invited or not.

Q. Take that and the case where not invited. One where invited, one where referred by someone else and where she would go on her own?

A. If invited, the natural way would be for her to say, "what do you want" or "how can I help you". If referred it would be much the same; she would say, "one of the neighbours told me you were inquiring," or however it came about and it would proceed that way. She would find out the family's ages, the number, spacing, family circumstances and so on; things that are normal routine of a visitor.

Mr. Wegenast:

YourWorship, may I see one of those application forms: (receives form from His Worship).

To Mr. Wegenast:

Q. This is Exhibit 24-B. By the way, you have seen some of the work of Mr. Kaufman in Toronto?

A. Yes.

To Mr. Wegenast:

Q. Have you seen his clinic?

A. Yes.

Q. Have you had occasion to go there?

A. I haven't personally but our social worker has.

Q. I might ask you a stock question, whether the work Miss Palmer was doing is social service work?

A. Yes, preparatory, not final.

Q. I put in your hands Exhibit 24-B, which is a form of blank Miss Palmer uses to send in to the headquarters at Kitchener, containing an application for contraceptives on the one side, with some remarks by the nurse and on the other side some information. Now, just take a look over that and ~~let~~ let us have your view or opinion as to the propriety and adequacy of the information asked for on that form?

A. Without going over every word of it, it appears to me to be similar to the application form and history cards given me in Toronto as part of our inspection and speaking at the time not as a doctor and nurse but as a social worker, I think these are very adequate for the purpose.

Q. Now, I put this to you: we have several witnesses -- .

The Court:

I rather follow up there are three possibilities in the method of approach: one, invited; another, referred, and the third?

To Mr. Wegenast:

Q. Use her own judgment?

A. You are quite right, your Worship.

To Mr. Wegenast:

Q. Yes?

A. In that case it would require more care in approaching a stranger about a delicate matter of this kind, especially under the circumstances I have heard in the Town of Eastview, and it seems to me also both a moral and medical necessity that any such woman approached should have an idea of what the subject of the conversation were about.

But, I see no reason why such an approach should not be made.

Q. Who is to decide whether the approach is to be made or not?

A. I suppose in the first instance the worker decides whether she will make the approach, but obviously the woman in the house decides whether she will permit her to continue.

Q. You have this document, Mr. Summerhayes?

A. I have an unmarked copy.

The Court:

Do you want to put it in?

Mr. Wegenast:

It is an expression of his Grace the Archbishop of Toronto.

The Court:

It is in Exhibit 78-B: "Education for Marriage in the light of the Lambeth Conference.

To Mr. Wegenast:

Q. That is all.

A. Did you want me to ask about the authorization of that pamphlet?

Q. No, it is in.

EX

CROSS EXAMINATION

To Mr. Mercier:

Q. Now, sir: you have stated at the beginning of your evidence that birth control in certain cases -- now, if I am in any way, or you feel my questions are unfair, I want you to draw my attention to it, I want to be fair as far as I possibly can and if anything sounds to you unfair it is not any fault of mine; that birth control could be practiced in any circumstances according to the Christian principles?

A. Yes.

Q. Would you mind telling me what you mean by that?

A. Give an example, you mean?

Q. Yes, or the general meaning?

A. A case within my own experience: a woman worked for me and my wife. She was eight months pregnant. She had a large family. The husband was shiftless, good hearted, used to drink a bit, but as I say he had begotten a large family. This was just before the depression. There was no relief at the time and she had to go out working in order to eke out a scanty income for a large family. She was very poorly clad and her circumstances were such I would say it was entirely in accordance with Christian principles that she should use a contraceptive not only to delimit further family but also because if she refused her husband ~~that~~ what theologians call the marriage bed he would have gone possibly to another woman and cause unhappiness, disease and so forth in the home.

To Mr. Mercier:

Q. As a member of the Anglican church, what are the Christian principles as related to birth control; I suppose they would be according to the laws laid down by the Master of all Christian religions, - Christ?

A. Yes, I agree with that: any principles or teachings laid down in the New Testament.

First of all I would see is ~~birth control~~ self control and that I and all our church teach of course as the chief principle in this regard.

Q. Would you at that point tell me if that would be the ideal?

A. Yes, and we strive to make it.

Q. And would you add to this evidence if it is fair for me to ask you, that before people are advised to use some sort of contraceptives that method should be taught them?

A. Most decidedly.

Q. Would you go as far as saying before they are approached about the use of contraceptives?

A. I don't know; I would say exactly before.

Q. You wouldn't go that far?

A. No, not under all the circumstances.

Q. Now, in certain circumstances connected with Miss Palmer's work do you think a woman should receive these things if she would want them only out of curiosity?

A. If she really wanted to know what it was for, I see no reason why she shouldn't have them and learn about them.

To Mr. Mercier:

Q. What would you say about this woman who said:
"I thought it was a free sample and I thought I
would get them"?

A. I think that is going a little afield.

Q. You wouldn't entirely approve of people getting
them for that reason?

A. Not unless they had a reason for finding out.

Q. As a father of the church and a social worker
lot of people in certain circumstances are glad
to receive samples provided they are free?

A. Yes.

Q. They might accept dangerous things if they are
free?

A. Oh, yes.

Q. Now, sir: as to both husband and wife agreeing
together, would it be putting the question fairly
to you, putting it this way, to say that first
of all/ⁱⁿthe use of contraceptives one should make
sure what use would be discussed between the hus-
band and wife and that in the event of the husband
not wishing to use them and the wife wishing to
use them for what you call good Christian principles,
would you say either of them should use them with-
out first obtaining spiritual and medical advice?

A. I don't think you can lay down a hard and fast
rule because circumstances differ so greatly in
different households between the husband and the
wife.

Q. If the wife has what she thinks are good reasons
on Christian principles and wants to use contra-

To Mr. Mercier:

ception and the husband doesn't; do you think that the woman should find out spiritually whether she should use them without the consent of her husband?

A. I think she should find out from someone who is skilled in giving such advice. That is the advice given by our bishops.

Q. From someone skilled in giving the information?

A. Yes.

Q. In any event you say the wife should not use contraceptives until the wife consulted the husband?

A. If the husband is anything like what he should be I would certainly suggest she should, but in the case I mentioned I would certainly say she would be justified in doing it without asking.

Q. In that case, yes, - but the majority of husbands?

A. They ought to be.

Q. They should be decent enough to be approached on that subject?

A. I should think so.

Q. And then I take it also, sir, that a woman going into a home, a social worker, where not invited, it would require, I believe you said, more care about a delicate matter?

A. It should.

To Mr. Mercier:

Q. You consider this a very delicate matter?

A. Yes, and important.

Q. Even the fact of whether a person should use them or not?

A. Yes.

Q. And they should be brought up very delicately?

A. Yes.

Q. During the Lambeth conference, if you were here during the ~~XXXXXX~~ cross examination of the last witness?

A. Part of it.

Q. At the Lambeth conference the church of England has surrounded its findings on the matter of birth control with the utmost care. The reverend gentleman^e who came to these conclusions more or less told these people: "you may use these under certain circumstances. We beg to ask you to use self control than use these methods or we would rather not that you should use them" ?

A. If you had stopped short before and not said, "we would rather you wouldn't".

The Lambeth conference did not find only for the weakened brother but it has a value in the marriage altogether apart from the purpose of procreation of children and where children are not desired the husband and wife are permitted by this moral right to enjoy the marital relationship by using contraceptives.

Q. Why do you stress the self-control?

A. Insofar as the weaker ~~brother~~ brethren are concerned, - most certainly. That is the primary ~~principle~~ principle;

¶

To Mr. Mercier:

if not the only one.

Q. You also stated in the case where the social worker was not invited?

A. Yes, sir.

Q. And there would be a medical and moral necessity that woman should have an idea what the subject conversation was about?

A. Yes.

Q. What would you mean by the moral and medical necessity: always you are taking, I presume, this is a delicate subject?

A. Moral, if any one is going to use artificial contraceptives they must know what they are and why they are doing it and know if they are acting right.

The medical necessity is that they shall know their own condition, physical, nervous, heredity and that kind of thing before using it, to see whether it is right or not.

Q. You believe that should be the method of approach?

A. I believe that should be included in the approach.

Q. Taking the present case, for example, and knowing that the majority -- half the number of the people who were witnesses in this case -- I don't say all -- who might have been approached, but those who were witnesses in this case, were French Catholics and the majority I think were French Catholics -- I am fair in saying that they had a more or less adequate knowledge of the English language?

A. (No reply).

Mr. Beament:

I would agree they did have a more or less adequate

~~To~~ Mr. Beament:

x knowledge of the English language.

Mr. Mercier:

A more or less adequate knowledge of the French language.

Mr. Beament:

It is more or less.

The Court:

A slight knowledge.

To Mr. Mercier:

Q. A slight knowledge of the English language, and taking it for granted these people for generations have been - ?

A. (No reply).

Mr. Wegenast:

My learned friend is treading on dangerous ground on this side of the Ottawa river.

Mr. Beament:

An analysis of the actual evidence -- .

To Mr. Mercier:

Q. It has been brought up by my learned friend a few moments ago there were French Catholics in Eastview?

A. (No reply).

Mr. Wegenast:

That was the moral side; not language.

To Mr. Mercier:

Q. And an uninvited person calls on them and I would like to know on what grounds, what difference there is on this side of the river?

A. (No reply).

Q. That was not my ground; I didn't wish to go into it?

A. (No reply).

Mr. Wegenast:

I am assuming primarily, first, everyone on this side of the river speaks English as a matter of course.

The Court:

What is the objection?

Mr. Beament:

I have made a careful analysis and only six of the women examined were examined in French; one spoke through ~~the~~^{an} interpreter and another gave French completely and two didn't recognize the accused.

Mr. Mercier:

One or two.

The Court:

I count it one or two.

Mr. Beament:

If it is confined to one or two, my objection is to the saying, "the majority of them"; the majority statement.

To Mr. Mercier:

Q. I believe you have understood enough of my question; answer that; it was a case of approach where the person was not invited. Let us say in the case of a French Catholic person approached in the town of East-view with a slight knowledge of ^{the} English language and the person is known as a Roman Catholic. I believe I can take that for granted?

A. (No reply).

Mr. Beament:

Most of them said they were, in any event.

To Mr. Mercier:

Q. Having always in view it is a delicate thing and most

To Mr. Mercier:

Q. An important matter what do you say as to the approach in a case like that?

A. One is language and the other religion; might I answer that?

To the Court:

Q. Answer any way you see fit?

A. As far as language is concerned I was here during all or almost all and even in the cases speaking through an interpreter I am not satisfied they didn't understand English. I have had quite a bit to do with families in Toronto and where they couldn't speak English fully, in nine ~~ex~~ out of ten cases they could understand me and I wouldn't have to speak through an interpreter.

To Mr. Mercier:

Q. Take the other side: supposing they couldn't speak English fully?

A. They should understand fairly well.

Q. It should be ~~ex~~ explained to them delicately and importantly?

A. The evidence was rather sketchy; I myself don't feel you have heard all the story.

ToThe Court:

Q. Take it as it stands?

A. (No reply).

To Mr. Mercier:

Q. Yes, take the evidence as it stands?

A. (No reply).

The Court:

That is understood.

The Witness:

The Witness:

A. On the religious approach if it were a similar case among my own people I would feel very apprehensive about such an approach being made on something I was teaching my people on something I thought was ~~being~~ wrong but I don't think the way to meet new facts is to stifle them, but to meet them in the light of other facts and the light of reason.

Mr. Wegenast:

This is a religious education. ?

Mr. Mercier:

A most thorough instruction on the subject?

The Witness:

A. I always believe whatever is being done should be done properly.

To Mr. Mercier:

A. I am satisfied with that. Now, at the last Lambeth conference will you say they treated the matter very delicately?

A. Yes.

RE-DIRECT EXAMINATION

To Mr. Wegenast:

Q. But by acknowledging it is a delicate subject do you mean to say Miss Palmer should start talking theology?

A. No.

Q. Is it necessary to talk morality and religion at all?

A. Well, I have said that ^{the} social workers' approach is the beginning and not the end and it is to find out

To Mr. Wegenast:

all the women of the house can tell them.

Mr. Mercier:

My learned friend is re-examining on a matter brought out in examination in chief and I have cross examined on it and he is re-examining on it.

Mr. Beament:

He is entitled to re-examine on anything brought out in cross examination?

The Court:

No, on new matter in cross examination.

Mr. Beament:

It is the whole essence of re-examination to clear up any misunderstanding brought up in cross examination.

The Court:

If any misunderstanding?

To Mr. Wegenast:

Q. § If the moral and spiritual end of the story be gone into, who is the right one to discuss it with?

A. Their own parson is the person I should think.

Q. Now, is it the policy of your church to build a fence around your people and warn all others off on religious propaganda matters?

A. (No reply).

Mr. Mercier:

That, I suppose is a matter brought out in cross examination?

Mr. Wegenast:

It is all pertinent.

The Court:

The Court:

In the last part of cross examination the point was raised as to what or whether he would feel apprehensive about anybody approaching his own flock.

Mr. Wegenast:

Yes.

To Mr. Wegenast:

Q. When you say it is delicate and important, you say a social worker, English speaking, has no right to go to a Catholic home and talk to them?

A. No, I didn't say that.

Q. Whose business is it if it is a matter of teaching self-control, the social worker or the spiritual adviser?

A. There is there primarily the duty of the spiritual adviser, but I see no reason why the social worker shouldn't mention it. Our own social workers would be expected to do so, she being a church worker.

Q. Would you say that a social worker who wouldn't bring out that phase of it was doing something that was wrong, assuming she wasn't an Anglican?

A. No, I don't consider it her primary duty to mention the moral angle; she is there for the social purposes.

Q. That is all.

RE-CROSS EXAMINATION

To Mr. Mercier:

Q. I understood you clearly to say your own social workers would be permitted to approach people on the moral side?

To Mr. Mercier:

A. Yes, because specifically she is a church worker.

(Witness retired).

Mr. Wegenast:

I would like to ask your indulgence to recall Mr. Zeidman to ask him a question I overlooked before?

Mr. Mercier:

I have the right ~~to~~ to cross examine?

The Court:

On anything arising out of this.

Morris Zeidman, already sworn, recalled, deposed:

To Mr. Wegenast:

Q. What I wanted to ask you, Mr. Zeidman, - you are up there in the ward at Elizabeth and Elm, isn't it?

A. Yes.

Q. And that is where the Scott institute centres its operations?

A. Yes, sir.

Q. How do you get along with the languages: do you find it necessary to use an interpreter or how do your social workers get their message across?

A. (No reply).

Mr. Mercier:

I might tell my learned friend he might be opening a very wide field if there is rebuttal there too.

Mr. Wegenast:

My friend ~~has~~ opened the question too.

Mr. Mercier:

There are hundreds of witnesses might say that they know a little.

The Court:

I think it has been raised already.

To Mr. ~~Zeidman~~ Wegenast:

Q. All right, Mr. Zeidman: what do you say?

A. We have no interpreter.

To Mr. Wegenast:

Q. How do you get along?

A. We depend mostly on the good sense of the workers and then we find that it is really a help to the worker and others who will visit,- that is, the people being visited are anxious to hear the English language and the worker who does the visiting picks up here and there a little bit of French and ~~sometimes~~ it tends to good will and unless a person wants to delve into theology or philosophy or an argument on their fine points I don't think it is necessary for them to have the English language.

It is necessary for the worker to have a pleasant disposition and there is such a thing as a universal language of kindness.

A worker comes in with a smile and the person visited is likely to receive the visitor with open arms. The same thing can be applied to missionaries who have gone out to foreign fields. I think the best work is done in the first few years when they can't talk the language and they just go about and ~~x~~ through conversation by and by they learn a little bit and the ~~people~~ best thinking is done.

The same thing happened with the soldiers overseas. Some of them brought home French wives.

~~QxDe~~

~~RE~~CROSS EXAMINATION

To Mr. Mercier:

Q. Do you think proposing the subject to a woman is a delicate and important matter?

A. I think so.

To Mr. Mercier:

Q. I suppose you might have seen where a person could not understand very well and might be made to sign a contract to buy a sewing machine or washing machine?

A. Not very many do that.

Q. Some of them might do that or sign a card without knowing what they are doing: a worker with a smile and the milk of human kindness -- a lot of people buy motor cars on that?

A. Yes.

(Witness retired).

The Court:

Adjourn (at 4:30) to ten o'clock tomorrow morning
(4th November, 1936).

Press item re
Kemp's evidence re
Eastview infant
mortality.

~~Mr. Mercier:~~

(Court resumed at 10:00 a. m., November 4th, ~~1123~~ 1936):

Mr. Mercier:

Before Court continues there is an item in the press: a statement attributed to Professor Kemp:

"If proper medical attention and advice had been available in the town, 175 of the 373 children who died over a ten-year period should have been saved, the witness said."

(Reporter: "Evening Citizen" of Ottawa, issue of November 3rd, 1936).

Mr. Mercier:

It is possible one or two of these doctors here in Eastview might be incensed over this report: the evidence might be looked up.

The Court:

As I recall it he put some questions to Professor Kemp on that point and my recollection of the answers is that they were if social welfare and public health had been extended to the extent it might have been in Eastview, the lives of some of these children might have been saved; the reporter might read his notes.

Mr. Wegenast:

after
If all this isn't like the House of Commons, - it is a bit unusual for a private individual to come here and complain.

The Court:

Really it should be to the paper.

Mr. Beament:

Yes, he should sue the newspaper.

The Court:

It may arise half a dozen times on either side.

Mr. Beament:

If the newspaper hasn't reported it right it is their libel.

Mr. Mercier:

I just raised it to rectify what is a wrong impression.

The Court:

That is true but I don't think it is the purview of this Court to review it, although there might be discretion.

Mr. Mercier:

Then I submit that portion of the evidence -- .

The Court:

Strike it out.

(page J-1 follows).

