KAREN BLUMENTHAL

# JANE AGAINST THEWORLD

ROE V WADE AND THE FIGHT FOR REPRODUCTIVE RIGHTS

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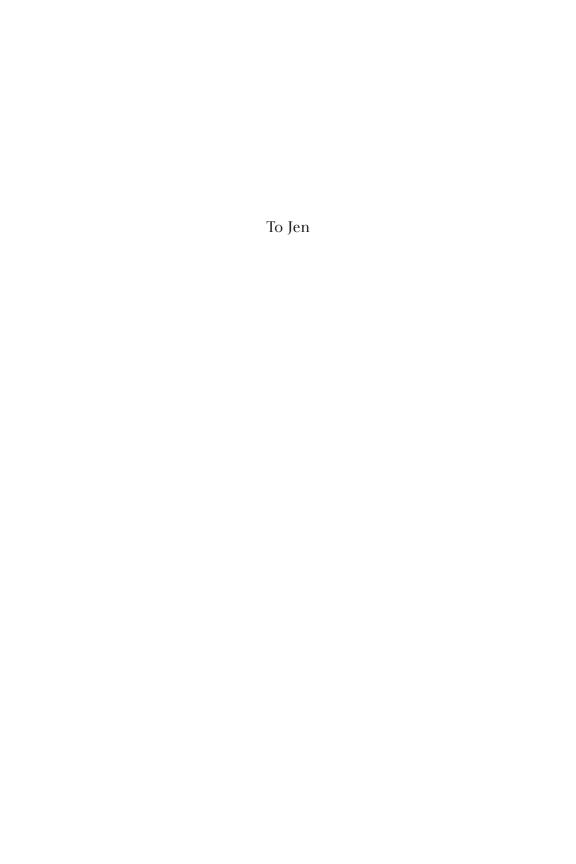
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"Unwed Fathers"

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Imagine that you're sixteen years old and still in school. Now imagine that you have just discovered that you're pregnant—or your girlfriend is pregnant.

What does that mean to you?

What does that mean to your life from now on?

What do you want to do?

What can you do?

What are you going to do?

### PROLOGUE

#### Jane

Martha Scott and Jeanne Galatzer-Levy didn't set out to become illegal abortion providers.

They were just women who thought other women should have control over whether and when they had a child.

That was a revolutionary idea. For much of the world's history, girls and women had little access to reliable birth control and few safe or legal choices to address an unintended pregnancy. It was almost as true in the United States in the 1960s as it was in ancient Greece and Rome.

Until 1965, almost half the states still had laws on their books restricting the sale of birth control, and for some years after that, many doctors flat-out refused to provide it to unmarried females because they didn't believe they should have sex. In addition, for much of the twentieth century, abortion, or intentionally terminating a pregnancy, was illegal in every state unless the life of the woman was in danger. Despite that, hundreds of thousands of women—perhaps as many as a million a year—sought the illegal procedure.

In the 1960s, that began to change. Lawyers began to question why women who were victims of rape or incest, or who faced serious health issues were forced to either continue a pregnancy or endure an illegal abortion. Doctors were troubled by the increasing number of women who arrived at emergency rooms injured by or dying from backroom abortions. Attitudes about premarital

sex shifted at the same time that women began to demand rights that had been denied to them. In a gathering wave, women and men, ministers and rabbis, society ladies and feminists began to insist that women be able to control whether and when they bear children.

It was an uphill battle. Medical schools had drummed into generations of doctors that abortion was both illegal and wrong, except in very specific circumstances. The powerful Catholic Church was firm in its opposition to both medical birth control and abortion, even if a woman was raped or her long-term health might suffer from a pregnancy. For everyone involved, this was a deeply personal and moral issue with little middle ground.

In the early 1970s, Scott and Galatzer-Levy (then Galatzer) joined a group of Chicago women who supported women's reproductive rights and went further than most.

Initially, the group had referred pregnant callers to reliable, though illegal, abortion doctors. But the cost was high—at least \$500 a procedure, or \$3,600 or more in today's dollars—and some of the providers were rude or abusive to their patients.

For a time, the group hired its own abortion provider. But he wasn't a medical doctor, and after some months, he wanted to relocate. Rather than find a replacement, he began to teach a handful of the women volunteers, including Scott, how to perform safe abortions themselves. By modern standards, that was a shocking choice. But it also hearkened back to the thousands of years that women quietly and often secretly helped each other with contraception and abortion.

Pregnant women seeking an abortion in the Chicago area learned about the service from small advertisements, doctors,

and friends, who suggested they "call Jane." One group member would return the messages and others would help women through the process.

Officially, the Chicago women called themselves the Abortion Counseling Service of Women's Liberation, or "the service" for short. But everyone else called them "Jane."

For women like Sunny Chapman, who was nineteen, pregnant, and terrified, Jane was a lifesaver. "I would rather die than have a baby," she said years later. Panicked, she had tried to end the pregnancy by jumping off a friend's garage roof and taking scalding baths. She made herself sick with quinine but didn't miscarry.

She was referred to an abortion provider, but his \$600 fee was "a fortune—beyond belief," equal to more than seven months of rent. "I couldn't imagine getting that much money together," she said. Finally, Jane was able to help her for what she could afford.

Some volunteers, like Galatzer-Levy, learned to be assistants, prepping women for their abortions.

On appointment day, pregnant women, their friends, their partners, and sometimes their kids would go to an apartment called "the Front" to wait. A Jane driver would pick up the women and take them to another apartment, "the Place," where the abortions were performed. With Jane members doing the work, the price fell to \$100, or about \$650 today. But Jane accepted whatever the women could afford to pay.

The calls increased. Married women, single women, teens, and mothers wanted help. Jane members were performing up to thirty abortions a day, three days a week. Thousands of women came through the service.

Then, on May 3, 1972, Chicago homicide detectives knocked on the door.

The police questioned those at the Front and the Place. They seized Jane's equipment. Everyone in both apartments, children included, was rounded up.



From left, Martha Scott, Jeanne Galatzer-Levy, Abby Parisers, Sheila Smith, and Madeline Schwenk volunteered with Jane and were arrested in 1972.

In one wagon heading to the police station, three Jane members ripped the day's schedule into tiny pieces. In another, one of the Jane workers pulled about thirty index cards from her purse. She and other Jane members quietly tore off the corners with their clients' names and contact details. Then, they ate the scraps to protect their clients' privacy.

Seven Jane women, from Galatzer-Levy, a twenty-one-year-

old former student, to Scott, a thirty-year-old mother of four, were arrested and charged with serious crimes. They each faced the possibility of many years in prison.

But there was a small glimmer of hope. A lawsuit called *Roe v. Wade*, which challenged the Texas law prohibiting abortion, was pending before the all-male U.S. Supreme Court. The court's ruling—which would become perhaps the most famous legal decision in American history—would determine their fate and that of millions of women across America.

# PART

# RESTRICTIONS

Lust defiles the body, debauches the imagination, corrupts the mind, deadens the will, destroys the memory, sears the conscience, hardens the heart, and damns the soul. It unnerves the arm, and steals away the elastic step. It robs the soul of manly virtues, and imprints upon the mind of the youth, visions that throughout life curse the man or woman. Like a panorama, the imagination seems to keep this hated thing before the mind, until it wears its way deeper and deeper, plunging the victim into practices that he loathes.

—Anthony Comstock, writing about obscene publications in *Frauds Exposed*, 1880

# MADAME RESTELL

#### 1800s

ore than a century before the women of Jane secretly ran their illegal service, Ann Trow Lohman ran a thriving and very public abortion and birth control business in New York City.

Lohman, a native of England who had immigrated to the United States in 1831, claimed to have learned to become a midwife from her grandmother. In truth, she may not have had any formal training. In the late 1830s, she hung out a shingle, called herself Madame Restell, and began advertising her Preventative Powders (\$5 a package, for birth control) and Female Monthly Pills (\$1 each, to restore missed menstrual cycles) in the local newspapers.

Customers bought her medicines by mail or came to her offices in New York—and later in Boston and Philadelphia—for a consultation or to arrange a surgical procedure. She also ran a boardinghouse for single women who were pregnant, helping them through the birth and then arranging adoptions for the babies, for a fee.

In her more than thirty years of practice, Madame Restell enjoyed an unusually lucrative business. She dressed in "elegant silks and costly furs," news accounts noted, and traveled in a carriage with two handsome horses. She and her husband accumulated a fortune that exceeded a million dollars.

She also earned a nickname: "the wickedest woman in New York."



THE FEMALE ABORTIONIST.

An illustration of Madame Restell from the *National Police Gazette*, a tabloid-like publication, in 1847.

In newspaper advertisements, Madame Restell boasted of her "experience and knowledge in the treatment of obstinate cases

of female irregularity, stoppage, suppression." But there were many others doing the same thing, part of a rush of women and men who took advantage of the growing newspaper industry to aggressively hawk solutions for late or missed menstruation beginning in the 1840s.

The services Madame Restell and others offered were as old as civilization. At least since the beginning of recorded human history, women have sought to regulate their childbearing or end pregnancies. The Kahun Papyrus, the oldest medical text known from Egypt, dating back to around 1850 BCE, includes a recipe for crocodile dung and fermented dough to prevent pregnancy. (Exactly how the concoction was used isn't known.)

The Ebers Papyrus, another Egyptian medical scroll from around 1500 BCE, listed a formula "to cause a woman to stop pregnancy." The ingredients included unripe fruit of the acacia tree, colocynth (also known as bitter apple), and dates. The mixture was to be moistened with honey to form a compound and inserted into the vagina.

The pills and powders that Madame Restell and others sold in the 1800s were somewhat less exotic but still relied on herbs and plants that were believed to somehow prevent a pregnancy or cause uterine cramping that resulted in miscarriage. (Some of them, unfortunately, were also poisonous and very dangerous.)

The potions often didn't work, but Madame Restell and her competitors had plenty of customers, and in a time well before formal pregnancy tests, women had a window in which they could address their situation.

# PREGNANT PAUSE:

#### Where Babies Come From

Today, we know that human babies come from a female's egg (or ovum) and a male's sperm, which combine to form an embryo that splits and grows. But understanding that basic fact took thousands of years and relatively advanced technology. Early on, humans figured out that sexual intercourse could eventually result in new life. But many theories persisted throughout history about how that happened, virtually all of them formulated by men who had little understanding of women's bodies. Here's a short history:

Aeschylus (Greek, around 500 BCE), in keeping with ancient Greek myths in which male gods were the creators, proposed the men provided the seed and women were the field where the seed became a child.

Aristotle (Greek, 384–322 BCE) recognized that women stopped menstruating when pregnant and theorized that male semen and female menstrual blood mixed to create an embryo.

Galen (Roman, around 150 BCE), in a theory that hung on for hundreds of years, concluded that females were just men inside out, with ovaries matching testicles and a vagina being the reverse of a penis. He believed that embryos were created from male semen and female fluid or semen.

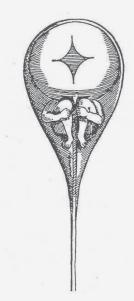
Anton van Leeuwenhoek (Dutch) developed a crude but powerful microscope in the 1670s, and in 1677, he used it to look at his own semen. There, he saw hundreds of tiny, swimming "animalcules" for the first time.

Scientists, building on van Leeuwenhoek's work and influenced by their belief in a powerful God, concluded that minuscule fully formed humans existed in every sperm of a man and in the sperm of each of the fully formed humans in a man's sperm and so on, like Russian nesting dolls in reverse. This pre-existence or "preformation" theory was embraced from the late 1600s through the 1700s.

Lazzaro Spallanzani (Italian) took the opposite viewpoint

after unusual experiments in the 1760s, in which he put tiny taffeta pants on frogs to see if the nattily attired fellas could fertilize frog eggs. When only the naked frogs were successful, he theorized that tiny humans were formed inside all of a female's eggs and male semen only got the process moving. But no one knew for sure if women had eggs because no technology was available to actually see them.

Finally, Karl Ernst von Baer (Estonian) in 1827 discovered that all mammals have eggs, and in 1875, Oscar Hertwig (German) saw in his microscope the nuclei of sperm penetrate the nuclei of an egg and the two become one.



A drawing of a fully formed man inside sperm, as envisioned in 1695.

For much of history—from the ancient Greeks and early Romans, through the writing of the U.S. Constitution and well into the 1800s—a fetus wasn't considered alive or human until the woman felt the fluttering of fetal movement, a stage called *quickening*. For hundreds of years, the Catholic Church and Protestant churches considered quickening to be the point in a pregnancy when the soul entered the fetus.

Before quickening, the focus was on what was missing—a woman's monthly menstrual bleeding—rather than what might be growing. After all, the absence of menstruation isn't always a sign of pregnancy; malnutrition, stress, overwork, and any number of chronic diseases can result in females missing a period. If a woman was pregnant, though, her breasts may have become swollen and tender during those early weeks. She might have felt

nauseous or unusually tired; her belly may have thickened. But the official proof of pregnancy was feeling the fetus kick, typically in the fourth or fifth month.

After quickening, aborting a pregnancy was a crime under common law, or law based on long-held understandings and court precedents rather than a written statute.

Starting in 1821 with Connecticut, however, some states began to include written laws restricting abortion as part of broad revisions to their criminal codes. Initially, the laws prohibited giving poisons to induce an abortion, a safety issue for women. Then, they became broader.

By 1840, ten of the nation's twenty-six states had some kind of abortion law on the books. Not all of them made a distinction for abortions that happened after quickening, but courts and juries almost never convicted anyone of a crime unless it was after the woman had felt the fetus move.

Despite the written laws, abortion grew more common, so much so that abortion practitioners became, according to one historian, "one of the first specialties in American medical history."

Madame Restell was at the forefront, in large part because of her advertising, which was once estimated at nearly \$60,000 a year. But authorities also kept a close eye on her. In 1841, she was arrested, tried, and convicted of performing an abortion on a young woman who died of tuberculosis. She appealed and was acquitted in a second trial. She was tried again in 1847 for performing an abortion on a young woman named Maria Bodine.

Restell had urged Bodine to move in and deliver the baby. But Joseph Cook, a widower who employed her as his housekeeper and seduced her, had insisted she get an abortion. He eventually came up with the \$75 that Restell charged her.

Newspapers closely followed the trial and its salacious details, especially since Bodine's morals were on the stand as well. Bodine was quizzed in detail about changes to her body during the pregnancy, how often she had sex with Cook, and whether she had been a virgin before him. One attorney accused her of being a prostitute.

In her testimony, Bodine described Restell as a concerned and involved practitioner. Once she had been paid, Restell examined Bodine and likely punctured the amniotic sac to induce a miscarriage. Painkillers weren't widely available, and antiseptics and antibiotics—to prevent or treat infections—hadn't yet been developed.

After the procedure, Restell checked on her regularly over two days and spent the second night with her. Once Bodine miscarried, Restell took care of her for another two days and then gave the tearful young woman money for transportation home.

The jury was asked to find Restell guilty of manslaughter if Bodine was "quick with child." But on the seventeenth day of the trial, the all-male panel found her guilty only of a misdemeanor, for procuring a miscarriage. Still, Restell was sentenced to a year in prison.

By 1848, news accounts were using a new synonym for abortion: "Restellism."

Advertising and the wide availability of abortion providers had a profound impact: What had been fairly rare ten or twenty years before was now almost routine. Historian James C. Mohr estimated that in the mid-1800s, there was one abortion for every five or six live births among white women.

After the Civil War, a technological revolution expanded

opportunities in growing cities, while making a living off the land grew tougher. Millions of people, including many single young women, moved from rural homesteads to expanding urban areas to find work. Many single women who became pregnant hurried to the altar with a male partner. But those who had been raped or were abandoned by boyfriends had few places to turn. If the pregnancy continued, they would lose their jobs and become social outcasts, bringing shame to themselves, their families, and their children.

In addition, more and more, white, Protestant, middle- and upper-class married women were looking to plan their pregnancies for health reasons, because they could not afford another mouth to feed, or to avoid the very real dangers of childbirth. On a farm, more children meant more workers. But in the cramped confines of city living, raising and feeding a large family was far more difficult. For help, they looked to abortion specialists when their birth control methods failed. At one point, the *New York Times* estimated that about two hundred lesser trained doctors operated in the city, handing out medicines—including fake ones—and inducing miscarriages.

Overall, the birth rate for American white women declined dramatically during the nineteenth century: In 1800, a typical woman bore seven children, though not all were likely to live to adulthood. By the 1860s, however, the average number of children delivered had dropped to close to five, and by 1900, it would fall to 3.5, half the number of the previous century.

The experience of black women, however, was very different, especially for enslaved women in the South. Many slaveholders looked at black women's bodies as a source of free labor and

often forced relationships or raped enslaved women to produce more children. Generally, enslaved women who bore children were considered more valuable than those who didn't.

At the same time, the backbreaking work expected of the women, the lack of medical care and healthy food, and abusive treatment often resulted in miscarriages, premature births, and stillbirths. Those losses led some southern whites to conclude that enslaved women knew secret ways to manage their fertility.

Though the practice probably wasn't as common as was assumed, some black women did use remedies such as cotton root or looked to a black midwife to end their pregnancies. In doing so, they were asserting some control over their own bodies—and perhaps hoping to avoid the heartbreak of having a child born into slavery or sold away from the family. But the birth rate for black women didn't notably decline until after the end of the Civil War.

By the 1850s, easy access to abortion ran into fierce opposition from an unlikely source: medical doctors.

At the time, doctors who had trained at medical schools competed with many others with less formal training: botanic specialists, herbalists, homeopathic practitioners, midwives, and, of course, abortion providers like Restell, who sometimes called herself a doctor. To set themselves apart, medical doctors formed the American Medical Association in 1847 to establish expectations, create ethical standards, and oversee medical education.

The new organization gave a platform to Horatio Robinson Storer, a twenty-seven-year-old, ambitious Harvard University-educated doctor. In 1857, Storer started his medical practice in Boston, with an interest in obstetrics, like his father. His father

opposed abortion because it was dangerous for women. The younger Storer, however, took a moral position: A fetus was alive and thus worth preserving, he argued, no matter how many children a woman was struggling to feed. Abortion, he wrote later, went against "nature and all natural instinct, and against public interests and morality."

At the annual AMA convention that year, the young doctor urged like-minded delegates to take a stand against the practice. In response, the organization agreed to study "criminal abortion" and asked Storer to chair the effort.

Based on that work, the AMA and medical doctors took the lead in opposing abortion. Among their first steps, in 1859, was to declare that nothing scientific happened when a woman felt a fetus move, since the fetus had been growing and changing well before that. Doctors were dedicated to preserving life, even the beginnings of life. So, they argued, both doctors and the law should drop the distinction of quickening, ending centuries of practice and expectation.

That conclusion put the power of declaring a pregnancy in the hands of doctors, who were virtually all male and who had only recently focused on women's health.

Following Storer's lead, many doctors opposed abortion except to save the life of the mother and began to lobby for changes to criminal laws after the Civil War. In response, male legislators began to revise or enact dozens of laws criminalizing abortion at any time during pregnancy—even though many Americans, including jurors hearing the cases, were slow to accept that abortion was wrong before quickening.

Storer's effort also paid off handsomely for the medical pro-

fession. With tougher abortion laws, the scientifically trained doctors over time ran many competitors out of business, including female midwives and abortion providers.

That gave doctors more control over women's bodies just as women were beginning to speak up for their own rights, including the right to own property or vote. Under the laws in place in the 1800s, a wife was her husband's property. He could beat his wife without breaking the law. He could ask for a divorce, but she often could not, nor could she get custody of her children, who belonged to the husband. He worked for wages, she raised children—and depended on him.

Susan B. Anthony and Elizabeth Cady Stanton joined up in the late 1860s to fight for a woman's right to vote. But they also lobbied for a woman's right to education and divorce. Stanton, in particular, was an advocate of "voluntary motherhood," the right of a wife to say no to her husband and choose periodic abstinence. Allowing a woman a voice in a couple's relationship was empowering and groundbreaking in itself. She also believed in "the sacred right of a woman to her own person," including the right to have fewer children.

Storer and his AMA colleagues fought against women's rights and waged an intense battle to prevent women from being recognized as doctors. From Storer's viewpoint, women existed solely to marry and bear children. "This, as we have seen, is the end for which they are physiologically constituted and for which they are destined by nature," he wrote in *Why Not? A Book for Every Woman*, published in 1866.

Storer and other antiabortion doctors also had another agenda: They worried publicly that white, Protestant, American-born women were choosing to have fewer children at a time when they should be having babies to counter an influx of immigrants.

Beginning around 1845, millions of Catholics moved to the United States from Europe. There was room in the nation's expanding West and South for "countless millions yet unborn," Storer wrote. "Shall they be filled by our own children or by those of aliens? This is a question that our own women must answer; upon their loins depends the future destiny of the nation."

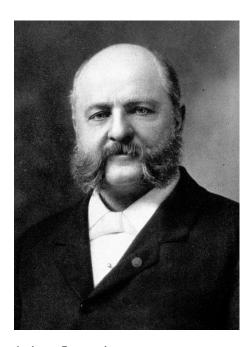
The doctors often invoked the name of God in their arguments, though Protestant clergy of the late nineteenth century were largely silent on the issue. In Catholicism, abortion was a sin, but it wasn't considered murder until after quickening. That changed in 1869, when Pope Pius IX declared that ending a pregnancy at any time would lead to automatic excommunication from the church, reflecting a belief that all life was sacred beginning at conception.

Sidelined by an infection after surgery, Storer retired from his work in 1872 at age forty-two. But that very same year, Anthony Comstock joined the opposition for very different reasons. A deeply religious salesman, Comstock was shocked at the lewd pictures and books available around New York that other men seemed to enjoy. He was horrified to see advertisements in many New York newspapers for contraception—including a relatively new one, rubber condoms for men—as well as medicines aimed at women's needs, which he thought were vulgar.

Comstock began buying what he considered obscene material

at bookstores and reporting it to the police. Bookseller arrests followed.

Emboldened, he went to Washington in 1873 to lobby for a nationwide ban on sending indecent materials through the



Anthony Comstock.

mail—including women's pills and rubber condoms. He didn't single out contraception and abortion. He just saw anything connected to sex and human reproduction as religiously and morally wrong, even if it was legitimate medical information.

Congress agreed. That March, it banned selling or advertising obscene material by mail—as defined by Anthony Comstock. His

list included any products intended to prevent pregnancy or produce a miscarriage. President Ulysses S. Grant signed the legislation, which became known as the Comstock Act.

The young crusader, a stocky man with thick red whiskers on his cheeks and a shaved chin, soon was named a special agent of the U.S. Post Office, which gave him enormous power to enforce the law. He wrote letters to birth control providers across the country, pretending to be a believer in free love or a desperate woman in need of help. Then, when they

responded with products, he made or arranged arrests and sought convictions.

In his first two years attacking vice, he helped arrest more than a dozen abortion providers in New York City and Albany, New York. He also confiscated 130,000 pounds of books, almost 200,000 photos and "bad pictures," more than 60,000 items made of rubber "for immoral purposes," and more than 3,000 boxes of pills and powders.

Not satisfied with the federal law, he also lobbied for and won tougher laws in New York banning any drug, medicine, or article to prevent pregnancy or end it.

On January 28, 1878, Comstock, wearing his characteristic black suit and bow tie, knocked on the door of Madame Restell's elegant New York home on Fifth Avenue at East 52nd Street. Comstock innocently asked her if she had any medicine to prevent conception.

The madam, now widowed and in her mid-sixties, brought him a sealed package that contained a bottle of dark liquid, some pills, and instructions. He asked if it would work. No medicine is perfect, she replied, but in nine cases out of ten, this was effective. The user must follow the directions, though, she said, or "it would be of no more use than so much chalk."

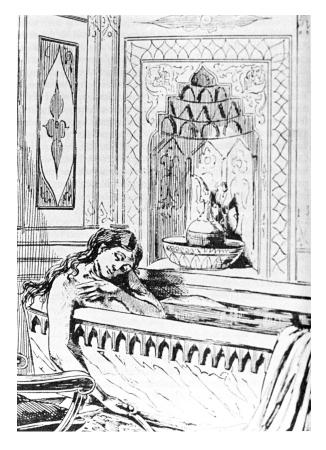
If the medicine failed, she went on, the woman could come see her, though treatment would be expensive—\$200.

Another customer knocked, and Comstock overheard a conversation from another room that would soon make shameful testimony. A married woman with children told Restell that she had been indiscreet while her husband was away and needed some medicine. Restell sold her some and returned to Comstock, saying, "A great many ladies come to me for this medicine."

Comstock paid her \$10 and left with his package.

He returned two weeks later with two officers in plain clothes and a warrant. The three searched her house, removing boxes of pills and powders, and arrested Restell. While Comstock alerted the city's newspapers, Restell was moved to a local jail called the Tombs. She was held for a few days before returning home.

New York's newspapers couldn't get enough of the sensational story of one of the city's best-known women and Comstock's trap. But while the headlines buzzed, Restell agonized about a possible



A rendering of Madame Restell after her suicide, from an 1887 book.

conviction and the possibility that she would spend her remaining years imprisoned. As a trial approached, she grew frightened and anxious, wringing her hands and pacing nervously.

On April 1, the day her trial was to begin, she rose before the sun and filled a tub with water. Once in the bath, she used a large kitchen carving knife to cut her throat from ear to ear. A house-keeper found her body that morning.

She was neither the first nor the last of Comstock's victims to take her own life—though he had little concern about that. In his case notebook, he wrote in purple ink: "A bloody ending to a bloody life."

Over the years, Comstockery, as it was dubbed, censored George Bernard Shaw's plays, James Joyce's *Ulysses*, and artists' paintings of nudes. But more than anything else, Anthony Comstock's personal moral code most deeply affected American women. His work drove basic information about reproduction and the practice of safe birth control and abortion underground and impacted women for close to one hundred years.

# PREGNANT PAUSE:

A Short History of Birth Control: Ancient Times to the 1870s

Probably the oldest and most common form of birth control (even today) goes by the funny name of *coitus interruptus*. That's when a man withdraws his penis from a woman's vagina before he ejaculates, in hopes of keeping his sperm from mating with an egg. It can work, but not reliably, and requires a woman to

depend on a man's willingness and discipline during sexual intercourse.

Because trying to restore menstruation before quickening was not considered an abortion, women, for thousands of years, used herbs and plants to either prevent pregnancy or bring on bleeding. Information was passed along woman to woman.

Among the most commonly used were aloes, birthwort, black cohosh, colocynth, cotton root, ergot, juniper oil (also known as savin), myrrh, pennyroyal, seeds of Queen Anne's lace, rosemary, sage, tansy, and thyme. Some of these were poisonous and deadly in the wrong quantity.

Women also tried douches, or injections of water, vinegar, or other fluids into the vagina.

A woman who thought she had missed a period might insert a sharp object—like whalebone, a corset rib, or a knitting needle—through her cervix to her uterus to cause bleeding (and hopefully not puncture the uterus or cause an infection). In addition, nineteenth-century medical guides recommended lifting heavy objects, horseback riding, vigorous exercise, jumping from a modest height, and having a tooth pulled, on the theory that the shock could jolt the body into restoring menstrual flow.

# MARGARET SANGER

#### 1900-World War II

The legacies of Horatio Storer and Anthony Comstock left many women with few resources for controlling child-bearing, especially in the early years of the 1900s. Margaret Sanger was determined to change that.

Born Margaret Higgins in 1879, six years after the Comstock Act was passed, Sanger was headstrong, intelligent, and passionate, with a tendency toward exaggeration. She was driven to escape her family's poverty. Her older sisters helped pay for her to go to boarding school.

Afterward, she studied nursing and found her life's calling while working as a nurse and midwife on the Lower East Side of Manhattan. One summer day in 1912, she was summoned to help care for Sadie Sacks, who was desperately sick from a botched abortion, likely self-inflicted. By then, every state had some kind

of law making abortion illegal; usually the only exception was if it was necessary to save a woman's life.

When Sadie was better, she begged her doctor for the secret to preventing another pregnancy. His flippant answer: "Tell Jake to sleep on the roof."

A few months later, Sadie died from another abortion attempt.

Biographers have questioned whether Sadie was a real person or a mix of women Sanger met in her work. Regardless, Sanger was deeply troubled that poor women turned to dangerous abortions. Upper- and middle-class women who couldn't find a regular doctor to help them could afford to pay doctors operating illegally. But poor women like Sadie went to illegal abortionists who charged \$5 for questionable procedures or tried to induce a miscarriage themselves, using poisons, buttonhooks, hairpins, or any other pointed object they could find. Thousands of women are believed to have died each year from these procedures in the early part of the 1900s.

Police generally ignored the illegal abortion business unless a woman died. But if a woman showed up at a hospital bleeding heavily or feverish with infection, doctors often refused to treat her until she told police who had performed the procedure. In the days before antibiotics, there was little they could do to help her.

Experts estimated that anywhere from one hundred fifty thousand to a million illegal abortions were performed each year in the early 1900s. The rate climbed to as many as one in four pregnancies during economically tough times immediately after World War I and during the Great Depression.

Sanger understood that abortion was sometimes necessary but believed that having access to preventative methods was a far better option. She was credited with coming up with the phrase *birth control*, which seemed like a more specific and direct term than *voluntary motherhood*.

She began to write articles about female anatomy and birth control, and for several months, she published a magazine called the *Woman Rebel*. In 1914, she was charged with violating the Comstock Act for sending the *Woman Rebel* through the mail. Officials declared the content obscene and lewd.



Margaret Sanger, around 1913.

Rather than face trial, she left her husband, William, and three chil-

dren in New York and escaped to Europe for nearly a year. Sometime after that, a man visited her husband and asked for a copy of Margaret's pamphlet "Family Limitation," which explained birth control in detail. A month later, Anthony Comstock arrested William for sharing "obscene, lewd, lascivious, filthy, indecent, and disgusting" information.

William Sanger was tried in September 1915. He argued that the law violated free speech and that Comstock had "an incurable sexophobia." But the judge sided with Comstock and sentenced William to thirty days in jail.

Only then did Margaret Sanger return to face the accusations against her.

Ironically, the seventy-one-year-old Comstock fell ill

immediately after William Sanger's trial and died soon after, ending the long reign of a one-man morality police force. His laws, however, endured.

The *Woman Rebel* case against Margaret Sanger was dropped eventually. But she suffered a much more painful loss: Her youngest child, five-year-old Peggy, died of pneumonia soon after she returned from Europe.

Sanger found her focus in redoubling her efforts to make birth control available.

On October 16, 1916, she opened America's first birth control clinic in an immigrant neighborhood in Brooklyn, New York. It was, she knew, a direct violation of state law.

Over the next few days, more than four hundred women, many



Women with babies in carriages wait outside Sanger's new birth control clinic in October 1916.

with babies in carriages, lined up to get information about how to prevent another pregnancy. The cost was ten cents.

"It is wrong to keep these women in ignorance," she told a reporter. "Why should not that poor, worn-out woman possess the knowledge which is common property in the homes of the wealthy?"

The state disagreed. At 2 p.m. on October 26, a female detective and two male officers came to shut down the clinic. Sanger, her sister Ethel Byrne, and an aide were arrested for imparting birth control information, mostly about items available at drugstores, like condoms and pessaries, which were inserted into the vagina to block the opening of the cervix. Sanger, who relished a good fight, lost her temper, yelling at the female officer, "You are not a woman. You are a dog!"

Sanger and Byrne were tried, convicted, and sentenced to thirty days in jail.

World War I would soon dominate American daily life. Realizing the threat of sexually transmitted infections to the military, the United States began to provide condoms to soldiers. Attitudes were shifting.

Sanger appealed her conviction, and in 1918, a New York appeals court judge reached a new conclusion: A doctor could prescribe birth control to cure or prevent disease, though not to prevent pregnancy. He upheld Sanger's conviction because she wasn't a doctor. But his decision opened the door for her to try another clinic.

The Sangers' marriage, long strained, ended in 1921, and in 1922, Margaret married Noah Slee, a wealthy businessman who adored her and helped bankroll her mission. In 1923, she opened

a birth control "research clinic." During the 1920s, she founded the American Birth Control League to provide research and information about birth control, edited the *Birth Control Review* magazine, and helped open clinics in almost two dozen cities nationwide.

In 1932, Sanger and her lawyer, Morris Ernst, finally found a way to challenge the federal Comstock Act.

One day, U.S. Customs officials intercepted a package shipped to Sanger for testing; it contained cone-shaped rubber diaphragms, or pessaries. Spotting an opportunity to make a point, she arranged for more of the devices to be shipped to her clinic's doctor, Hannah Stone. When those were confiscated, too, Sanger launched a legal challenge, which became known as *United States v. One Package of Japanese Pessaries*.

In 1936, a federal judge ruled that the devices were legal if they were used for the health of patients. An appeals court upheld the ruling, effectively overturning the federal Comstock ban on sending contraception through the mail.

The next year, the American Medical Association formally recognized birth control as part of the practice of medicine and committed to teach birth control methods in medical schools.

Without question, Sanger was a birth control revolutionary. But she remains controversial because of her affiliation with the eugenics movement, which promoted the idea that society could be improved through better breeding.

The eugenics movement took root around the turn of the century with the notion that personality traits like intelligence, criminal behavior, and "feeblemindedness" were inherited, as were diseases like epilepsy. The theory was promoted as science, though genetics was little understood at the time.

It gained widespread popularity: Prominent philanthropists such as the Rockefellers and Carnegies funded eugenics groups. A range of Americans, including presidents Theodore Roosevelt and Woodrow Wilson, and W. E. B. Du Bois, a notable civil rights leader, embraced some of the ideas.

Some eugenics supporters used the theory to perpetuate white supremacy. Some eugenicists wanted American-born white women to reproduce more, and some wanted immigrants, African Americans, and the poor to have fewer children.

Sanger, however, wanted voluntary birth control for all women. Regardless of one's race or class, she believed all women should be able to control when they had children. She helped open a birth control clinic in New York City's Harlem neighborhood and worked to launch a pilot project, supported by prominent African American leaders, that opened clinics for black women in Tennessee and South Carolina in the late 1930s.

Some critics have charged that her intent was racist because the clinics aimed to reduce black births. The race and gender scholar Dorothy Roberts disagreed. True, Sanger wanted white leaders to run the clinics rather than black managers. But Roberts concluded that Sanger "was motivated by a genuine concern to improve the health of the poor mothers she served rather than a desire to eliminate their stock."

Still, Sanger also believed that women with low intelligence or "inherited" diseases like epilepsy should not have children. Facing fierce opposition from the Catholic Church and others, she also was willing to join forces with more openly racist eugenicists, hoping that they would help birth control become more mainstream.

The broader eugenics movement helped lead a dozen states to adopt laws allowing men and women who were confined to institutions as "mental defectives" to be forcibly sterilized—that is, to undergo surgical procedures that would prevent them from ever having more children.

In Virginia, seventeen-year-old Carrie Buck became a test case. Her foster parents committed her to the state's Colony for Epileptics and Feebleminded after she was raped by a family member and became pregnant. The state asked a court to allow a doctor to sterilize her. An expert witness, a prominent eugenicist, concluded Buck was feebleminded, as was her mother and infant daughter. Her illegitimate pregnancy, he said, typified a "low grade moron."

The U.S. Supreme Court in 1927 upheld the state's right to ster-

ilize her, saying it would be better for society. "Three generations of imbeciles are enough," wrote Justice Oliver Wendell Holmes Jr. in the chilling decision.

By the mid-1940s, more than forty thousand people had been forcibly sterilized under



Carrie Buck and her mother, Emma, in 1924.

state laws, with California and Virginia accounting for half of them.

California's sterilization efforts were so aggressive that Nazis in Germany looked to them in creating laws that justified the sterilization of more than two hundred thousand allegedly feebleminded people. Later, they were used to support the massacre of millions of Jews, gays, and others in the Holocaust. Not surprisingly, eugenics fell out of favor in the run-up to World War II.

But the eugenics movement left a complicated legacy. It helped change the reasons for birth control from increasing women's rights to controlling the population, which was inextricably tied to racial issues.

In North Carolina, for instance, Dr. Clarence Gamble, an heir to the Procter and Gamble fortune, agreed to fund a large, statewide effort to establish birth control clinics for poor black and white women in the late 1930s. Gamble believed in contraception for the less fit and a higher birth rate for college graduates, and he wanted to reduce the number of black people receiving public assistance.

Despite the reasons behind the clinics, black women also wanted access to the same options as white women. Fifty women showed up the day a clinic opened in a cotton-farming area, including a woman who had delivered six children in seven years.

Neither Sanger's programs nor the North Carolina effort forced black women to use birth control or threatened them if they didn't. But the experiences, treatment, and attitudes toward black women and white women were worlds apart.

## PREGNANT PAUSE:

### When the Rabbit Died

If quickening was no longer proof of pregnancy, how—and when—did a woman know for sure that she was expecting?

That was a tricky question until at least the 1930s. Other than the obvious symptoms of missing monthly menstruation and feeling tired or nauseous, there was no formal confirmation, though for a time several hundred years ago, so-called piss prophets in Europe thought they could tell based on the color of a woman's urine or how it mixed with wine.

Scientists didn't identify the hormones tied to fertility and pregnancy until around the beginning of the twentieth century. The first real pregnancy tests, developed in the late 1920s, called for injecting rodents, then rabbits, and, finally, frogs with a woman's urine to see if pregnancy hormones caused changes in the animal's reproductive system. The tests took days or weeks and weren't always accurate.

Unfortunately, to determine the results of the test, the animal also had to be dissected. ("The rabbit died" was an old-fashioned way of saying someone was pregnant.)

Animal testing was used until the 1960s, when scientists devised biochemical tests. Even then, there were false positives. Finally, in the early 1970s, researchers came up with an accurate test, though a visit to a doctor's office was still required.

In 1977, the first home tests were sold under the name e.p.t, for "early pregnancy test." They required mixing chemicals and waiting two hours, but they allowed women to make the discovery in private. Today, home pregnancy kits require only urine and produce an almost immediate response.

## A CRIME

### World War II-1960

A sthey were training to be doctors, both Alan Guttmacher and Edgar Keemer were taught that abortion was wrong, something that good doctors didn't do, except to save a woman's life. Then, as young doctors, they both faced painful abortion decisions that changed their lives.

Guttmacher, who was white, became one of the nation's most highly regarded obstetricians and a prominent spokesman for women's health and abortion reform. But for years, he declined to support abortions that weren't "therapeutic," or approved by a committee of other doctors for health reasons.

Keemer, who was black, chose a different path, agreeing to provide abortions in his Detroit office to the women who came to him—an illegal abortionist in the eyes of society. Other doctors referred patients to him but shunned him both professionally and socially. Though he believed he was helping preserve women's

lives, the state saw him differently. He was arrested and convicted and spent time in prison.

What both doctors agreed on was that the official medical establishment's approach to abortion favored white women with connections and pretty much ignored everyone else.

As a new doctor at the Johns Hopkins Hospital in Baltimore in the 1920s, Guttmacher was asked to help a pregnant fourteen-year-old girl whose father had sexually abused her. The Children's Aid Society asked him to end the pregnancy.

Guttmacher was "fired with moral indignation" that a young teen would have to carry and deliver her father's baby. He begged the obstetrics chief to let her have an abortion at the hospital.

But abortion was illegal in Maryland except to save a woman's life. This girl was healthy. The obstetrics chief wouldn't approve an abortion unless the Baltimore district attorney would say in writing that the procedure would be allowed.

The district attorney, however, wasn't about to authorize someone to skirt the law. But he told Guttmacher that he wouldn't investigate if an abortion were performed.

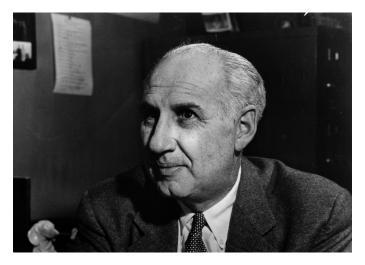
That wasn't enough for Guttmacher's boss. The girl later gave birth to her father's child.

Soon after, Guttmacher said, the wife of one of his fellow doctors was allowed to have a legal, "therapeutic" abortion at the hospital because of her health. The issue? She was underweight, so the reason listed was "severe malnutrition."

The obvious discrimination between how women of different social classes and races were treated made a deep impression on Guttmacher, the son of a rabbi and a mother who became a social worker. The common saying at the time, he recalled, was "the rich get richer and the poor get children."

He came to believe, he wrote later, that "abortion, above all else in American medicine, reeked of class privilege. Money could, and still can, buy a safe abortion, but poverty purchases butchery and death."

From his Baltimore base, Alan Guttmacher became something of a radical. He volunteered his services to the Planned Parenthood Federation of America, the successor to the American Birth Control League. He also treated women who had not been able to get pregnant, becoming an early practitioner of artificial insemination. He believed women should know about their bodies, and he wrote several books explaining fertility, pregnancy, and fetal development, starting with *Life in the Making* in 1933.



Dr. Alan Guttmacher in the 1950s.

In 1942, Guttmacher pushed for a change to abortion laws that would allow doctors to consider cases where pregnancy threatened a woman's health, not just her life. Already, he noted, 100,000

to 250,000 criminal abortions took place every year in New York City alone because of hospitals' rigid rules. The "holier-than-thou attitude of the medical profession in regard to this problem is revolting," he said.

Starting around the same time, many hospitals changed their procedures and created "therapeutic abortion" committees of three or more doctors—nearly always men—who would decide whether an abortion was appropriate under state law and the hospital's standards. Often, the committees allowed women to have abortions but then also required that they be sterilized, especially if they were poor. If they couldn't have more children, they wouldn't ask for an abortion again.

Once the committees were in place, the number of legal abortions the hospitals performed dropped, and then fell further in the 1950s and 1960s, to as few as one a year. "The fewer abortions, the better we look," one Philadelphia hospital administrator said.

Guttmacher supported the change because it formalized the process. But it also meant even fewer women had access to a legal abortion. Each hospital committee had a different standard for what threatened a woman's life, Guttmacher said later. One would consider cases of rape, while another would not. A hospital might allow an abortion if a woman was exposed to rubella (also then called German measles) in the early months of pregnancy, which was linked to birth defects. Others would turn her away.

Overall, the women who did get approved were overwhelmingly white and able to pay. Public hospitals that served the poor performed very few therapeutic procedures.

In response, even more women sought illegal procedures,

which were estimated at perhaps one million or more a year after World War II. That demand encouraged all kinds of people—barbers, salesmen, surgery technicians, and hospital attendants—to perform abortions for a fee and persuaded more women to try to abort themselves, sometimes with horrific results. Los Angeles County Hospital treated more than two thousand women a year with abortion-related complications in the mid-1950s, while Chicago's Cook County Hospital saw more than three thousand women a year. The number of cases was even higher in the 1960s.

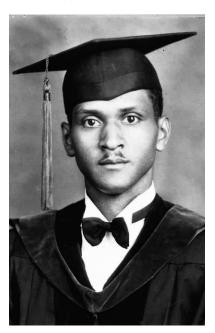
When Edgar Bass Keemer Jr. was a young doctor in Indiana, a nineteen-year-old woman came to him, begging for an abortion.

Her father was prominent in town, and she didn't want to embarrass him. Keemer, like Guttmacher, had been taught that abortion was a terrible thing. He turned the young woman down and urged her to talk with her father.

Soon after, the woman, an excellent swimmer, died from drowning.

The next time a young woman came to him seeking an abortion, he agreed to do it.

By the 1940s, he had set up his practice in Detroit,



Dr. Edgar B. Keemer Jr., around the time of his graduation from Meharry Medical College, in 1936.

Michigan, mostly serving inner-city black and white women who had few choices. Early on, police ignored such doctors unless a woman died. But after World War II, law enforcement began to crack down on abortion providers, raiding their offices and tracking down their patients to testify. Exactly why isn't clear. It may have been a backlash to a surge in abortion procedures, a response to the increased independence of women during the war, or a law-and-order mind-set in the 1950s.

In August 1956, Keemer was arrested with another doctor and two office assistants and charged with running a lucrative abortion ring. Police said they charged \$200 or more per procedure, equivalent to \$1,900 or more in today's dollars.

His lawyer urged him not to testify—and if the doctor did take the witness stand, he should deny performing abortions. But Keemer insisted on trying to explain that he performed abortions to preserve women's lives. But unlike hospital doctors, he didn't have the stamp of the medical establishment.

As his lawyer had predicted, a jury found Keemer guilty.

In a statement, the doctors accused the court of asking the jury to "play doctor" and determine whether the women had been properly diagnosed and treated. "We are guilty," they said in a statement, "guilty of conspiring, agreeing to and advising and doing any and everything in our knowledge as doctors to alleviate physical and mental suffering, improve health, and save the lives of every patient that had confidence enough to consult us professionally."

Keemer served fourteen months in prison and lost his medical license. For a time, he moved to New Jersey. But in the early 1960s,

he won his license back, returned to Michigan, and began doing abortions again.

In 1952, Guttmacher left his hometown of Baltimore to become director of obstetrics and gynecology at New York's Mount Sinai Hospital. There he tried, only somewhat successfully, to be sure women who didn't have money had the same access as women who did. Still, he wrote in *Redbook* in 1959, "After thirty-odd years of medical practice, I am convinced that the abortion laws in the United States make hypocrites of all of us."

As the gap between state abortion laws and reality grew in the 1950s, doctors and lawyers began to discuss whether the current laws should be changed.

In April 1955, Planned Parenthood Federation of America and its medical director, Dr. Mary Steichen Calderone, convened the nation's first in-depth conference on abortion, bringing forty-three men and women together to discuss legal, medical, and human aspects of "a socially pressing and tragic problem." The gathering provided detailed statistics on legal and illegal abortions and abortion deaths, as well as insights into how white, well-off women had far more options than black and poor women, and how difficult the problem was.

"I know the terrific frustration of a woman who wants a child and cannot have one," said Sophia J. Kleegman, an infertility expert and obstetrics and gynecology professor at New York University's medical school, during one discussion.

But, she said, "it does not compare with the intensity of emotion and determination of the woman who does not want a child, is pregnant, and *won't have it*. I have learned that such a woman, on the private practice level, determined to have an abortion, usually finds some way of getting it."

Often, she said, women pay exorbitant prices, as much as \$1,000 or \$1,500, to end their pregnancies. "I firmly believe," she told the group, "that you will never be able to prevent illegal abortions by restrictive legislation in the case of women who want them and can afford to pay for them."

One of the star presenters was George Lotrell Timanus, a doctor who performed abortions in Baltimore, Maryland, from the late 1920s until his arrest in 1950.

The tall, thick-haired, blue-eyed doctor of Swedish heritage said he performed thousands of abortions on women desperate to end a pregnancy, mostly married young women but also teens, nurses, and doctors' wives. Initially, Timanus said, he charged as little as \$25, which later rose to \$200. In the 1940s, he tried to retire. Area doctors urged him to continue, he said, but he increased his price to \$400, to make the operation less attractive.

He also taught Johns Hopkins medical students how to do a dilation and curettage procedure, which was used for early abortions as well as to treat other conditions. During a D&C, a woman's cervix is dilated and a spoonlike instrument called a curette is used to carefully remove the contents of the uterus.

As was also true for Dr. Josephine Gabler in Chicago and Dr. Keemer in Detroit, Timanus got many referrals from local doctors; friends shared his name with friends.

In 1950, a dozen police officers raided his office, arresting Timanus, his staff, a woman on the operating table, and everyone in the waiting room, including two small children. At his trial, his lawyers argued that he was legally performing abortions for the safety of the women, as allowed under Maryland law. The state argued that legal abortions were done only for certain diseases, not mental health reasons.

Over all the years he had performed abortions, Timanus told the conference, he had required that referring doctors send a letter stating that the woman needed the procedure. After his arrest, he wrote to 350 doctors who had referred patients to him, asking them to speak up for him at his trial. Not one responded.

He was found guilty and served four and a half months in prison. In the end, he faulted his colleagues' willingness to look the other way, rather than the legal system. "It was the profession that convicted me," he said, "in spite of the fact that they were the very ones who had used my services."

In 1959, a group of judges, lawyers, and legal scholars at the American Law Institute recommended that states change their laws to allow abortions if the mental or physical health of the woman was in danger, in cases of rape or incest, and if the fetus was likely to have serious birth defects.

In 1962, the institute included those recommendations as part of a major overhaul of the nation's criminal code that addressed issues from obscenity to insanity to abortion.

That same year, Guttmacher left his prominent post at Mount Sinai to become the president of Planned Parenthood and one of the world's chief advocates for access to birth control. He hoped that legal changes would give doctors more options and help reduce illegal abortions. But it would be years before any states adopted them—and even then, they would come up painfully short.

## PREGNANT PAUSE:

### **Another Double Standard**

Though women with private doctors or other connections often had more access to birth control and abortion than other women, doctors were reluctant to allow them to be sterilized so that they couldn't have more children.

White middle- and upper-class women who wanted to have their tubes tied—a procedure in which the fallopian tubes are cauterized—couldn't just ask. Typically, they had to get approval from a hospital's committee, presumably reflecting a belief that a woman's main purpose is to reproduce.

Many doctors and hospitals followed the "rule of 120," created by the American College of Obstetricians and Gynecologists. That guideline said a woman should not be sterilized unless her age multiplied by her number of children equaled 120. In other words, a thirty-year-old had to have four children or a twenty-five-year-old had to have five before she could be considered for a permanent fix.

The rule persisted until the early 1970s. (The rule did not apply to vasectomies, or male sterilization.)

The rule of 120 was often ignored, however, for women of color. In many hospitals in the 1950s and 1960s, in the South and elsewhere, doctors might decide on their own that a poor black or Puerto Rican woman had given birth to enough babies or couldn't afford to have more. The doctor might see "unusual bleeding" as a reason to remove a woman's uterus during a cesarean section delivery, leaving her unable to have more children. Or he might ask her during the pain of labor if she would like to have her tubes tied. She might consent but not understand what she had just agreed to until later. Sometimes, the woman was never asked for her permission.

Fannie Lou Hamer, a prominent Mississippi civil rights activist, went to her local hospital in 1961 to have a small uterine tumor removed. She woke up without a uterus. She called her hysterectomy a "Mississippi appendectomy" and said that she

believed six of every ten black women who went to that hospital for something else were sterilized without their consent.

No formal statistics were kept. Many doctors performed sterilizations—or denied them—believing they were practicing good medicine.



Fannie Lou Hamer, 1964.

# PREGNANT PAUSE:

A Short History of Birth Control: 1870s to 1950s

As people learned more about where babies came from, they also got more sophisticated about birth control.

The first condoms dated back to the ancient Egyptians in 3000 BCE and were probably made from animal skins.

By the time the United States was founded, condoms were made from animal skins or intestines or fabrics, such as linen, and tied on with a ribbon. They were neither comfortable nor dependable. (And if they were washed and reused, they got pretty stinky as well.)

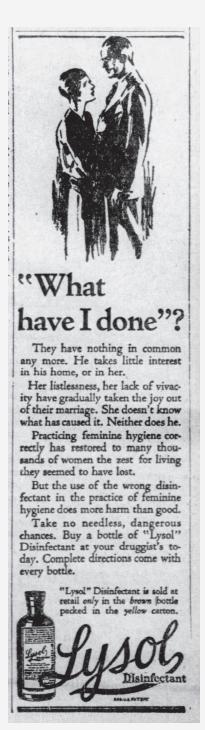
That changed when Charles Goodyear created vulcanized rubber in the mid-1800s. By the later part of the century, thick, sulfur-smelling rubber condoms were widely available, until the Comstock Act made them hard to get. (That's why condoms are sometimes called "rubbers.")

Women had fewer reliable choices. Douches, including a watered-down Lysol disinfectant heavily advertised for "feminine hygiene," were used regularly during the first half of the twentieth century. Margaret Sanger even included diluted Lysol in her "Family Limitation" pamphlet. Women also could buy pessaries, like the Mizpah brand, at drugstores to support a drooping womb. It covered the cervix and could help prevent conception.

By the 1920s, improvements in rubber also led to better diaphragms, rubber domes connected to a round spring. A woman had to be fitted for the proper size and the diaphragms, filled with a spermicide jelly, had to be inserted before sex. They could be messy, but they prevented pregnancy and were popular in the 1940s and 1950s.

Modern-day latex condoms were introduced in the 1930s and were more comfortable and dependable than the rubber ones. After World War II, condoms were likely the most commonly used birth control devices.

As scientists learned more about ovulation in the 1920s and 1930s, they began to think they could predict when a woman was in a safe time for sex without conception. Counting days from a last menstrual period was known as the rhythm method, and the Catholic Church adopted it in the 1950s as a natural birth control method. Unfortunately, the failure rate was high because women don't ovulate on a fixed schedule.



An advertisement for Lysol, 1930.