

THE BATTLE TO LEGALIZE BIRTH CONTROL

Buying a condom in Canada wasn't always a snap

BY ANGELA BIANCHI

THIS YEAR marks the 20th anniversary of the legalization of birth control in Canada.

Twenty years ago this year, in a historic landmark decision, the Liberal government of Pierre Elliott Trudeau amended a 100-year-old criminal law that forbade the practice of contraception. As of 1969, it was no longer criminal or morally offensive to sell birth control means or information.

Canada has come a long way in promoting birth control. Gone forever are the days when it wasn't even safe to whisper the word "contraceptive." Today, not only is contraception readily available, but the use of latex condoms to prevent the spread of AIDS is promoted on radio and television. Twenty years ago, staging one of these 30-second announcements could have landed a body in jail.

The culprit, legislatively speaking, was a provision in Canada's Criminal Code that made it illegal to either promote birth control or sell contraceptives. Section 150 2(c) of the code read "... everyone commits an offence who knowingly without lawful justification or excuse, offers to sell, advertise, publish an advertisement, or has for sale or disposal any means, instructions, medicine, drugs or article intended or represented as a method of preventing conception or causing abortion or miscarriage."

Canadian courts, realizing that the law was vague and left much room for interpretation, rarely saw fit to enforce it. However, there were people who were actually charged under the law. The most famous case was that of Dorothea Palmer. In 1936, this birth control worker for the Parents' Information Bureau in Kitchener, Ont., was arrested for supplying birth control information to a French Roman Catholic family near Ottawa.

Fortunately for Palmer, there was a legal loophole in the provision through which she managed to escape conviction. After a lengthy sensationalistic trial, Palmer was found to have acted in the public good and was acquitted of all charges.

The last person believed to have been charged under Section 150 2(c) was Toronto wholesale pharmaceutical supplier Harold Fine. Police were alerted to his activities by the Knights of Columbus who reported "his business practices" in 1960.

It turned out that Fine was buying condoms in bulk from London, England, and having them shipped to his home in Forest Hill. There, at his dining room table, he individually packaged them and sold them through a direct mail service.

"I remember truckloads of condoms arriving at our house ... they smelled horrible," recalls Fine's daughter, Judylaine.

"I also remember the day the police came to our house and served dad with a warrant. They charged him for selling condoms and giving away family planning information. But before the police left, dad gave them a few samples (condoms)."

Fine was found guilty on both charges, fined \$100 and earned himself a criminal record. His case caught the public's attention and that



Barbara Cadbury

of a middle-aged couple who later became the founders of Planned Parenthood of Toronto (PPT).

"I was reading the newspaper when the article on Fine's conviction caught my eye," said 79-year-old Barbara Cadbury. At the time, Cadbury had been actively involved with family planning movements in England and Southeast Asia.

"I was shocked to be reading about this happening in the '60s. We decided then and there that we had to get this law removed from the Criminal Code."

George Cadbury, Barbara's husband, was a former economic adviser to the United Nations and chairman emeritus of the International Planned Parenthood Federation. He was equally adamant about the need to bury the law.

"Canada was really in the Stone Age where it concerned family planning," he said. "Internationally, it sat silent on population control issues until the late '60s. It was embarrassing."

IN MATTERS OF birth control program development, England and the United States were years ahead of Canada, as was Sweden and most Third World countries.

"In India, condoms are given out for one cent and in China the Pill is free, but in Canada family planning was being done through legislation and not education," said Dr. Robert McClure, another of the founders of PPT.

While condoms had been available in many drugstores and from family doctors in Canada since the 1920s, they weren't available to everyone. Unfortunately, those who found themselves without ready access to birth control were those most in need, including native Canadians, the poor and recent immigrants.

"They couldn't always get contraceptives because of their economic status," Barbara Cadbury said. "However, contraceptives were readily available to the upper classes, and that wasn't fair."

The law further compounded the problem by effectively stifling attempts to establish family planning agencies in Canada.

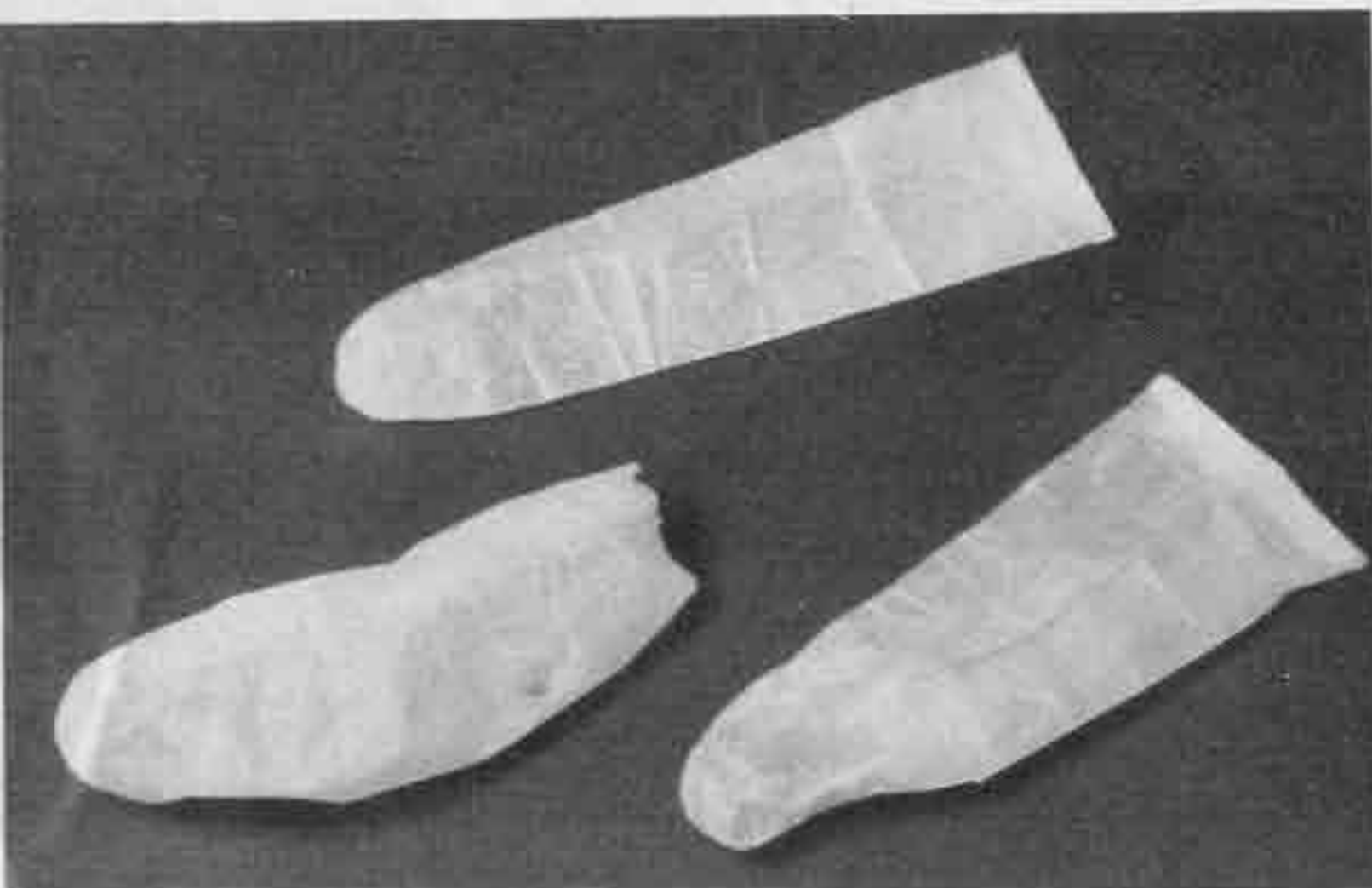
Then, in the early '60s, a family planning grassroots movement began to take shape in Canada. The Cadburys and other family planning advocates formed the Canadian Federation for Family Planning and with support from the United Church of Canada, enthusiastic doctors, nurses, women's groups, the National Council of Jewish Women and the media, a nine-year battle to remove contraception from the Criminal Code got under way.

Among other things, a highly effective cross-country lobbying campaign was launched to enlighten Canadians on effective birth control methods. Constituents were encouraged to write their MPs and demand the anticontraception law be eliminated.

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Harold Fine with his daughter, Judylaine



Condoms have been available in many drugstores in Canada since the 1920s

'It was an uphill struggle all the way'

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In 1966, a delegation of religious leaders and doctors went to Ottawa several times to meet with the standing committee on Health and Welfare about amending the Criminal Code. But most Canadian politicians realized birth control was not a political vote-getter. And who wanted to risk offending the country's large Catholic population?

"The government feared backlash from Quebec Roman Catholics, but it was well known at the time that René Lévesque (then provincial health minister) was setting up birth control clinics in his province," George Cadbury said. "In fact, we got little opposition from the Roman Catholic Church."

Nevertheless, there were few MPs brave enough to stick out their necks on the issue of family planning. In the early '60s, Robert Prittie, an MP from Burnaby-Richmond, introduced the first Private Member's bill to legalize contraception; it died on the table.

Many with political clout made no bones about their opposition to the whole idea. Toronto Liberal MP Ralph Cowan was so dead set against family planning that he'd attack the movement whenever possible.

"There was a young boy in the U.S. who had died after he'd swallowed his mother's birth control pills," remembered Barbara Cadbury. "So the next time Cowan met with us he said, 'I figured if you didn't get the boy one way, you'd get him another.'"

The Canadian Federation for Family Planning was constantly being blasted in public by small groups of ultra-extremist Protestants. A Toronto Italian-language paper attacked the group's birth control policy as being contrary to church doctrine.

The federation battled eight years to legalize contraception and "it was an uphill struggle all the way," the Cadburys said.

In 1963, although Canada was admitted to the International Planned

Parenthood Federation, the world's second largest country still made it a criminal offence to promote birth control.

By the mid-'60s, planned parenthood had become a national issue, but Ontario and the Maritimes were still unenthusiastic about the idea. The most receptive provinces, the Cadburys said, were British Columbia and Quebec.

The Cadburys and PPT volunteers managed to win support from the media, trade unions and the Victorian Order of Nurses, clergymen and social agencies.

"The Anglican Church helped our cause quite a lot," Barbara Cadbury said. "So did journalists Pierre Berton and Michele Landsburg."

The first PPT office was set up in the Cadbury bedroom in Toronto and that's where most of the birth control information was disseminated. Despite the law, Barbara had birth control leaflets printed in five languages. They were distributed in laundromats, medical offices and published in the press. "Where to Get Help in Toronto" was primarily a medical service guide with hospital names, but it also provided details on where to buy contraceptives in Toronto at the cheapest price.

Media attention gave the planned parenthood movement added muscle to fight Ottawa. The flood of publicity attracted new supporters and helped speed up legislative changes to Section 150 2(c).

George Cadbury remembered an incident in which several women chained themselves to the gallery in Ottawa and yelled, "Abortion now!" in an attempt to bring the question of birth control to the government's doorstep.

The House of Commons was adjourned and the next day every MP was sent a telegram by the Canadian Federation for Family Planning to convince them that abortion was not a result of family planning and had no part in the organization's program. Eventually, with the help of a changing social climate and gradual acceptance of facts about family planning, the federation was able to win its cause. When, in 1969, section 150 2(c) was dropped from the Criminal Code, Prime Minister Trudeau immortalized the moment by delivering his now-famous line, "The state has no business in the bedrooms of the nation."