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United States v. Dennett: The Battle for Sex Education in the Early 1900s

Hannah Breda

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United States v. Dennett:

The Battle for Sex Education in the Early 1900s

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Hannah Breda

Advisors: Dr. Kendra Smith-Howard and Dr. Michitake Aso

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Abstract

The 1873 Comstock Act outlawed the production and distribution of any materials that were deemed to be obscene or capable of arousing adolescents. Mary Ware Dennett, a women's rights activist and pioneer in birth control and sex education, was one of the many who fell victim to this law. Dennett was arrested in 1929 for distributing her sex education pamphlet, *The Sex Side of Life*, written for her teenage sons after finding the sex education materials produced by the government to be insufficient. This paper argues that Dennett's pamphlet was scrutinized in *United States v. Dennett* because it emphasized not only the procreative and health aspects of sex, but also the emotional and physical pleasures of sex, which were topics that were avoided within the government's work. This paper compares *The Sex Side of Life* to the government's sex education materials from the early 1900s to provide insight into the inadequacies she found within them and to show the specific ways in which the content of her pamphlet differed from the work produced by the government.

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On March 3, 1873, Congressman Anthony Comstock's "Act of Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use" became law. This federal statute, which later became known as the Comstock Act, outlawed the production and distribution of any materials that were deemed to be obscene and capable of "arousing young and inexperienced minds, lewd or libidinous thoughts."¹ Shortly after the passing of his law, Comstock was asked in an interview, "Is it your opinion that this evil [of obscenity] is of great injury?" He replied, "It is the worst thing I know of in this: It reaches beyond this generation, and saps the moral character and physical energy of the next ... [But] I should not attempt to prosecute a private person for owning, lending, or exhibiting any such thing."² However, Comstock would later go back on this statement, as countless individuals were arrested under the statute that he created.³

Mary Ware Dennett, a women's rights activist and pioneer in birth control and sex education, was one of the many who fell victim to the Comstock Act. In 1915, Dennett wrote *The Sex Side of Life: An Explanation for Young People (SSOL)* to educate her two teenage sons, as well as other male and female adolescents, on sex and sex hygiene. Dennett's pamphlet includes four explicit diagrams, the use of the correct medical terminology for male and female sex organs and their functions, and explanations of the physical, emotional, and physiological

¹ Mary Aldean Hopkins, "Birth Control and Public Morals: An Interview with Anthony Comstock," *Harper's Weekly* (New York City), May 22, 1915, 1998, accessed December 4, 2018.

² The Cincinnati Enquirer, "'Anthony Comstock, the Moral Detective -- Talk on the Social Evil," *The Cincinnati Enquirer*, April 2, 1879, October 13, 2017, accessed December 4, 2018.

³ Amy Werbel, *Lust on Trial: Censorship and the Rise of American Obscenity in the Age of Anthony Comstock* (New York: Columbia University Press, 2018). Werbel researches and discusses numerous individuals in a variety of fields who were arrested under the Comstock Act for different reasons.

aspects of sex.⁴ She also detailed safe sex, the consequences of unsafe sex, contraceptives and birth control, masturbation, and sexual freedom, writing that “the climax of sex emotion is an unsurpassed joy, something which rightly belongs to every normal human being, a joy to be proudly and serenely experienced.”⁵

Dennett wrote *SSOL* after finding other sex education literature for youths to be inadequate, especially for her own children. She found “none that [she] was willing to put into [the children’s] hands, without first guarding them against what [she] considered very misleading and harmful impressions, which they would otherwise be sure to acquire in reading them.”⁶ That is, she found that resources on sex education for children had inadequate detail and clarity. Rather than educating, they instilled fear of things like venereal disease and sexual promiscuity, also lacked anatomical correctness.⁷

Dennett’s radical and outlying pamphlet stood out from these existing works and grew to be extremely popular. Hence, Dennett sought a publisher. *SSOL* was published by the *Medical Review of Reviews* in 1918, and also by *The Modern School* later that year.⁸ As a result, Dennett received an overwhelming amount of requests for copies and she had the pamphlet reprinted; she then began to sell the booklet by mail for twenty-five cents per copy, offering discounts for those who placed bulk orders, such as the YMCA, YWCA, and a number of state public health

⁴ John Craig, “‘The Sex Side of Life’: The Obscenity Case of Mary Ware Dennett,” *Frontiers: A Journal of Women Studies* 15, no. 3 (1995): 150.

⁵ Mary Ware Dennett, *The Sex Side of Life: An Explanation for Young People* (New York: Mary Ware Dennett Publications, 1928), 4.

⁶ *Ibid.*, 2.

⁷ *Ibid.*, 2.

⁸ Craig, 150.

departments and public schools.⁹ However, Dennett's quest to educate young people about sex was halted when the widespread distribution of *SSOL* came crashing into the Comstock Act.

In 1922, she received a notice from the United States Postal Services that warned her of her violation of the Comstock Act, and informed her that they would no longer send any of her mail that contained the pamphlet. Dennett ignored the warning and continued to send her pamphlet – this time, in sealed envelopes as she believed that the post offices would not open them. However, she was wrong. In 1929, she received another notice - this time from the New York State court system. This notice stated that she was found guilty of breaking the Comstock Act, and that she was being charged a \$300 fine, but Dennett refused to pay. Instead, she took the case to the Supreme Court in *United States v. Dennett*.¹⁰ This case became an extremely publicized battle between Dennett and her supporters, and the government. Her prosecution blurred the line between the constitutional right to freedom of speech and suppression, and also showed the profound differences in beliefs about sex education and obscenity during the early 1900s.

By tying Dennett's work into various approaches to sex education via literature during the early 1900s, this paper will provide insight into the materials that she found inadequate for her own children. In doing this, this paper will show the ways in which the content of *The Sex Side of Life* set it apart from the rest of the sex education materials being circulated at the time. The pamphlet's popularity and Dennett's graphic and explicit depictions of the physical and

⁹ *Ibid.*, 150.

¹⁰ Lakshmeerama Malladi, "The Embryo Project Encyclopedia," Arizona State University, 2018, accessed December 5, 2018.

emotional aspects of sex for both boys and girls are what made this different from other sex education documents being published by public health journals and government organizations. Together, these differences between Dennett's approach and the rest are what led her and her pamphlet to its aggressive criticism and scrutiny in *United States v. Dennett*. Specifically, Dennett's pamphlet was banned because it emphasized not just the procreative and health aspects of sex, but also the emotional and physical effects and pleasures of sex. These beliefs were much more progressive than the conservative messages put out by the United States government regarding sex education; thus, Dennett's beliefs posed as a threat to the government's strict ideas of sexual morality.

First, this paper will provide a general overview of sex education in the early twentieth century, with detailed looks at various documents that were circulated at the time without legal repercussions under the Comstock Act. Specifically, this paper will look at documents produced by the American Social Hygiene Association via their *Journal of Social Hygiene*, and the United States Public Health Service. An overview of the topic allows for a deeper understanding of the complex climate around sex education and obscenity at the time and gives way to the vast array of opinions and approaches to the subject. More specifically, looking at these documents will demonstrate the messages portrayed by the authors in regard to sex education. Analyzing sex education as a whole as it existed in the early 1900s, as well as detailing the various works, is crucial to the argument of this paper as this analysis will provide proof and connections to show that Dennett's pamphlet was scrutinized for its anatomical-correctness and overall accurateness.

Next, this paper will analyze the content of *The Sex Side of Life* and examine the differences between it and the previously analyzed documents. This paper will also tell the story of Dennett's trial, which shows where Dennett and *SSOL* collide with the government and the Comstock Act. This will be used to show the dramatic peak of Dennett's story and how the government, and specifically the Supreme Court system, went about persecuting Dennett and her work under the Comstock Act. This analysis is important to understanding exactly why Dennett and the pamphlet were put on trial, and what reasons the government cited for Dennett's arrest.

Lastly, this paper will analyze the aftermath of Dennett's trial and its effects on the future of sex education, as well as connecting this issue to the present. These connections to the future will provide insight into the effects that Dennett's work had on sex education and will also provide relevance for the topic in a way that shows that the line between sex education and obscenity is still being contested.

Analyzing sex education as a whole as it existed in the early 1900's and detailing various works during this time period is crucial to the argument of this paper as this analysis will provide proof and connections to show that Dennett's pamphlet was scrutinized for its accurateness and anatomical-correctness. Much has already been written about sex education during the early 1900s. Specifically, the focus has been on sex education that was created and distributed legally, and thus allowed under Comstock Law, by the government and its agencies. However, this rich coverage does not hold true for Dennett. Constance Chen wrote the only biography of Dennett, "*The Sex Side of Life*": *Mary Ware Dennett's Pioneering Battle for Birth Control and Sex*

Education.¹¹ Chen succeeds in writing an extremely detailed biography of Dennett, but the book has some limitations. Chen strays away from the title of the book – Dennett’s “pioneering battle for birth control and sex education.” Rather, she focuses heavily on the events leading up to this moment, like Dennett’s childhood and young adulthood. While this background information is helpful in that it provides context for Dennett’s life, the biography would have benefitted from more context of what the title describes. The book lacks any description and analysis of the social and political climate at the time as they related to Dennett’s primary concerns: women’s rights and sex education. Chen also is too quick to contrast Dennett with Margaret Sanger, who is considered to be the leader of the early-1900s birth control movement. Unlike Chen, I believe that Dennett is worthy of being analyzed and understood as an independent player in the movement in which she prospered most – the movement for sex education.

Other works about Dennett are in the form of journal articles with more narrow focuses on her trial.¹²¹³ These articles, like Chen’s book, could also benefit from insight on the sex education climate at the time. Through brief description of these sources, it is clear that Dennett’s pamphlet and subsequent legal trial have yet to be thoroughly coupled with an analysis of the surrounding sex education climate, and this paper will accomplish that. Having a clear understanding of the Comstock Act as well as on the sex education materials that were being

¹¹ Constance Chen, *The Sex Side of Life: Mary Ware Dennett’s Pioneering Battle of Birth Control and Sex Education* (New York: New Press, 1996).

¹² Craig, “The Sex Side of Life.”

¹³ Dolores Flamiano, “‘The Sex Side of Life’ in the News: Mary Ware Dennett’s Obscenity Case, 1929-1930,” *Journalism History* 25, no. 2 (Summer 1999).

distributed through the government without legal repercussions while Comstockery was being brought to the courts is crucial to Dennett's case.¹⁴

¹⁴ Comstockery is defined as "strict censorship of materials considered obscene." See <https://www.merriam-webster.com/dictionary/Comstockery> for further definitions.

Sex Education in the Early 1900s

Research shows very little about sex education in the United States prior to the 1900s. Typically conversations about sex took place in the home. Even then, they were often minimal, vague, and rooted primarily in religious standards.¹⁵ However, one doctor wrote a book that foreshadowed the changing ideas about sex education that were to take place in full force after the turn of the century. In *Plain Talks on Avoided Subjects*, Dr. Henry N. Guernsey wrote:

For many years I have wished that some able pen would place before the community at large the knowledge contained in the following pages. Some of this information has appeared from time to time in [some] books ... which have been of immense service to the human race in preserving chastity and in reclaiming the unchaste. But all these are now inadequate to the growing demand for more light on these vital topics. It has been too much the custom for everyone, parents included, to shrink from instructing their own children, or those entrusted to their care, on these points; consequently, many young people solely from their ignorance, fall into the direst evils of a sexual nature and thereby much injured and sometimes wholly ruined for life's important duties.¹⁶

The title of Dr. Guernsey's book alone was very indicative of the pre-1900s ideas towards sex: it was typically avoided in the public eye. In an attempt to change this, Dr. Guernsey's book, written for both "the profession and the laity", details human development from infancy to adulthood, as well as the ways in which sexuality exists in all stages of life.¹⁷

After the turn of the century, the need for sex education became more mainstream as the progressive era and World War I changed the way that many Americans thought about sex,

¹⁵ Valerie J. Huber and Michael W. Firmin, "A History of Sex Education in the United States Since 1900," *International Journal of Educational Reform* 23, no. 1 (Winter 2014): 25.

¹⁶ Henry N. Guernsey, M.D., *Plain Talks on Avoided Subjects* (Philadelphia: F. A. Davis Company, 1905), accessed January 12, 2019, 10.

¹⁷ *Ibid.*, 10.

morality, and sex education.¹⁸ One aspect that changed was overall concern over the nation's moral decline, caused by "a general moral laxity", an increasing popularity and openness of prostitution, and an increase in venereal disease.¹⁹

At the front of the fight for reform was the social hygiene movement, led by the American Social Hygiene Association (ASHA).²⁰ In an article from their journal, *The Journal of Social Hygiene*, they define social hygiene as "the great general movement for the improvement of the conditions of life in all lines in which there is social ill health or need of social reform."²¹ ASHA was created at a 1913 conference in Buffalo, NY when several organizations dedicated to fighting prostitution and venereal disease joined forces. Key figures in this organization included John D. Rockefeller Jr., their main financial contributor; Charles Eliot, President of Harvard University; Dr. William Snow, Stanford University professor and Secretary of the California State Board of Health; and many other philanthropists and public employees. Ultimately, ASHA was established by high class individuals to stop the spread of venereal disease by educating the public about sexually transmitted infections and encouraging high moral standards.²²

In 1914, ASHA established a national headquarters in New York City as well as other offices in San Francisco and Chicago. From there, ASHA immediately went to work to fight

¹⁸ Huber, 26

¹⁹ Huber, 28

²⁰ Alexandra M. Lord, *Condom Nation: The U.S. Government's Sex Education Campaign from World War I to the Internet* (Baltimore: John Hopkins University Press, 2010), 18.

²¹ Maurice E. Bigelow, "The Educational Attack on the Problems of Social Hygiene," *Journal of Social Hygiene* 2, no. 2 (April 1916): , accessed January 12, 2019, 165.

²² "American Social Health Association," Social Welfare History Project, March 05, 2018, accessed February 09, 2019.

venereal disease. Working closely with the US War Department, ASHA worked on an aggressive anti-venereal disease campaign that was made up of two strategies: educating young men and eliminating prostitution, which was believed to be the main vehicle for the spread of the disease. ASHA served as a “central coordinator for local and regional committees, doctors, public health offices, and social welfare agencies” that were combatting sexually transmitted infections and immoral behavior and objects. To aid in this, ASHA published the *Journal of Social Hygiene* and the *Social Hygiene Bulletin*. Using these journals and local outreach vehicles, ASHA argued that problems relating to sex, sexuality, and sexually transmitted diseases arose primarily from ignorance, bad character, and a lack of education.²³ To accomplish their goals, ASHA launched an extensive campaign via pamphlets and journal articles that was complimented by the work of the federal government.

By the late 1910s, the federal government “aggressively took up ASHA’s call” to stop the spread of venereal diseases and mainstream sex education, specifically for adolescents.²⁴ This began primarily in 1918 with the end of World War I. That year, the United States Public Health Service (USPHS) partnered with the Indiana State Board of Health to declare “No Armistice with Venereal Diseases.” That is, the war was not over until venereal disease was successfully combatted. This war called for a multi-faceted approach. New laws were to be passed that would eradicate prostitution and other forms of “illicit sexual behavior”; red light districts were to be shut down; and a comprehensive educational program was to be implemented. This program

²³ *Ibid.*

²⁴ Lord, 19.

called attention to these laws and the ways in which local support could be gathered for them, and it was a success. State and local officials across the country enacted laws to control prostitution and other forbidden sexual behaviors.²⁵

The federal government's call for a nationwide educational program to help fight the spread of venereal disease highlighted a point raised by the ASHA: Americans needed sex education for their adolescents. As mentioned before, sex education was typically done in the home, but at this point, parents acknowledged that the occasion never arose for them to educate their children.²⁶ Therefore, children were discovering the ins and outs of sex through what the United States Public Health Service called "a vast underground operation" that included unreliable gossip, illegitimate doctors, and explicit movies that would reach children around age nine, permanently and negatively affecting their knowledge on sex and sexuality.²⁷

This deeply concerned parents as well as public health officials, and they were all eager to limit the influence of this "operation." To do this, the government felt that they needed to counter this misinformation with something more wholesome and chaste. However, with only seven hundred officers, USPHS could not manage a nationwide public health campaign that battled venereal disease and sexual ignorance and misinformation on its own. Rather, this campaign required "energetic and intelligent community action" to succeed to its fullest.²⁸

²⁵ *Ibid.*, 30.

²⁶ *Ibid.*, 31.

²⁷ United States Public Health Service, *The Problem of Sex Education in Schools* (Washington D.C.: United States Public Health Service, 1919), accessed March 6, 2019.

²⁸ Lord, 32.

A strong example of this “community action” took in the passing of the 1918 Chamberlain-Kahn Act. In response to an outcry from community members such as doctors, teachers, religious leaders, and parents, Congress passed the Act, which allotted money to USPHS to use education to attempt to fight venereal disease.²⁹ Using these funds, the USPHS collaborated with the YMCA and ASHA to tackle the issues that they saw as priority. First, the silence of venereal disease needed to be broken. That is, everyone knew it was happening, but no one wanted to talk about it. Second, sex education needed to be made available in schools in a way that would reach a broad audience in order to bring about social and sexual reform. They also believed that research into the causes of sexually transmitted diseases needed to be prioritized while the costs of this research needed to be kept at a minimum in order to have money remaining for sex education. Lastly, ASHA believed that the nation’s social, political, and religious leaders needed to become willing to speak openly about sex and venereal disease, and the impact that these things have on their people.³⁰

Accomplishing these priorities via journal articles and pamphlets, these works of these organizations portrayed sex and sex education in a way that would appeal to the conservative masses. To do this, their works carried similar themes throughout: they focused primarily on the health and reproductive aspects of sex rather than on the emotional and physical pleasures; they also emphasized slowing the spread of venereal disease in a way that prioritized the health of the soldiers while simultaneously blaming women for the disease. Together, these themes are

²⁹ Huber, 30.

³⁰ Lord, 18.

exemplary of their portrayal of gender and sexuality in their publications: the works of these organizations show a distinctly different vision of sexuality for adolescent boys and girls.

In their 1915 article, “Sex Instruction in a High School,” the ASHA talks about how in high schools, sex education is typically an elective course, separate for boys and girls with a teacher of the respective same gender.³¹ The course for males devotes a lot of time to studying social diseases to show their results, and also to serve as a warning to the boys in the course to behave themselves for their own sake and the sake of others. The female course however is described in much less detail. All that the article says about this class for girls is that it includes two points: it highlights their lack of instruction at home and focuses on how women should be “clean [and] wholesome” and avoid intimate affection.³² The clear gender bias in this article from the *Journal of Social Hygiene* shows the ways in which sex education was extremely different for adolescent boys and girls in a formal school setting.

Similarly, their article from October 1917 echoed these gender-driven ideas. “To All the Women and Girls” talks about how the “most important thing [women] can do is to help the men to be good soldiers.”³³ It then continues to talk about how the priorities of women should be to not be a distraction to soldiers, and how any woman who is sexually active with a soldier, thus

³¹ Grace F. Ellis and T. Dinsmore Upton, “Sex Instruction in a High School: Central High School, Grand Rapids, Michigan,” *Journal of Social Hygiene* 1, no. 2 (March 1915), accessed January 12, 2019.

³² *Ibid.*

³³ Edith Livingston Smith, “To All the Women and Girls,” *Journal of Social Hygiene* 3, no. 4 (October 1917), accessed January 13, 2019.

distracting them and putting them at risk for contracting venereal disease, is “a traitor to her country.”³⁴

In the July 1918 edition of the *Journal of Social Hygiene*, the ASHA published an article titled “Sex in Life: For Boys and Girls from Twelve to Sixteen Years.” This article discusses puberty and the changes it brings in the male and female body. It then goes on to list the different things that girls and boys need to focus on in regard to changes that adolescence brings in their lives. Boys need to shield themselves from promiscuous women and avoid “sex lies” at all costs, as the consequences of these things can lead to unhealthy masturbation habits, involving themselves with prostitutes, and contracting venereal disease. Girls, however, did not need to focus on sex education but rather needed to avoid intimate affection as a whole and keep “purity in thought, will, and act.”³⁵ This article shows not only the organization’s focus on the physical aspects of sex, but also shows how sex and sex education was depicted much differently for boys and girls.

These themes of gender bias and a lack of education about sex in a solely-reproductive way collide in *Keeping Fit*, the USPHS’s campaign on health, sex, and sexually transmitted diseases created in collaboration with the YMCA and ASHA. Aimed at adolescent males, *Keeping Fit* was displayed in city halls, churches, workplaces, and community centers. Because of this widespread display, the campaign reached several million working boys within its first few years. However, the goal of reaching schools and normalizing sex education in schools was

³⁴ *Ibid.*

³⁵ Donald B. Armstrong, M.D. and Eunice B. Armstrong, A.M., *Sex in Life: For Boys and Girls from Twelve to Sixteen Years* (New York: The American Social Hygiene Association, 1916).

not as easy as simply creating and distributing public campaigns. To accomplish this goal, the USPHS offered financial incentive as well as the campaign materials to schools who were interested in promoting it. This method proved to be fairly successful, with thousands of districts agreeing to promote *Keeping Fit*.³⁶

The *Keeping Fit* campaign was distributed as lantern slides, posters, and individual illustrated pamphlets and included fifty slides or posters, each of which included an image and some text.³⁷ Approximately 20% of the campaign was dedicated to the importance of physical activity, proper bathing, and healthy eating. The rest of the campaign focused on male sexuality and sexually transmitted diseases.³⁸

The latter portion of the campaign begins with a section titled “Venereal Diseases.” This section begins by talking about how “of all the diseases that [have handicapped] men in the Army ... the venereal diseases [caused] the greatest loss of all time, money, efficiency, besides untold misery. It also blames the spread of these diseases on women: “Practically all prostitutes, and girls and women who may not be professional prostitutes but who permit men to have sexual relations with them, have one or more of these venereal diseases. Many such women are feeble-minded. They are to be pitied and avoided.”³⁹ It then goes on to detail different types of sexually transmitted diseases, how these diseases are spread, and how they can be treated.

³⁶ Lord, 42.

³⁷ *Ibid.*

³⁸ Rupert Blue, *Keeping Fit* (Washington D.C.: United States Public Health Service, 1919), accessed February 4, 2018.

³⁹ Blue, 7.

The pamphlet then goes on to discuss masturbation, or “self-abuse,” and how it “does not make a man insane, but it is so weakening to both the body and the will power that many boys and men worry themselves sick over the habit.” After this, the pamphlet goes into its final section: relationships with girls. This section is best depicted by its boating analogy:

In an accident at sea, when everyone is anxious to reach the lifeboats, the rule for all men is, ‘women and children first.’ If a man rushes in ahead of them, he is ... a coward. It is even important for men to protect girls and women from other dangers, especially from those dangers which threaten to ruin their lives. We fought to preserve our homes from autocracy and rapine. Let us see to it that they are protected also from internal enemies of disease and disgrace. If we were ready to die to protect our homes, we should surely live in such a way as to safeguard them.⁴⁰

With their Keeping Fit campaign, the USPHS may have had good intentions, but their method of sex education via the campaign as well as their choice of content were collectively biased. As stated in my argument, *Keeping Fit* only acknowledges the anatomical and health aspects of sex and sexuality. That is, when talking about sex, it only talks about the purpose and some functions of male reproductive organs. It also uses shame, scare-tactics and lies to push its message, such as when talking about “self-abuse”; the loss of “manhood” when a man catches a venereal disease or “[abuses] ... sex organs”; and how “famous boxers and wrestlers, explorers, and athletes who want their bodies in perfect condition for a great struggle, keep away from women as part of their training.”⁴¹ *Keeping Fit* also, as shown in the section about women, has an underlying sexist tone - one which does not acknowledge women as equally sexual beings to

⁴⁰ Blue, 16.

⁴¹ Blue, 7-14.

men but rather acknowledges them purely as things that can spread life-threatening disease and as something to protect yourself against in order to avoid disease and preserve life and “manhood.”

This information and these tactics, rather than educating readers, instilled fear in them and provided them with inaccurate information. While being worried about adolescent boys getting their information about sex and sexuality from unreliable sources, the USPHS, ASHA, and YMCA put incorrect information into their federally-funded pamphlet that was distributed across the country in order to push their morally and sexually-strict agenda, specifically in regard to their distinctly different take on strict sexual morality for boys and girls.

The Sex Side of Life

As aforementioned, Dennett's pamphlet, *The Sex Side of Life (SSOL)*, was written in 1915 as an essay for two sons as an attempt to explain sex and sexuality for them in a way that would leave them with no questions. Aside from her sons' curiosities, she also wrote the pamphlet due to the inadequacies she found within the government's sex education. Dennett began *SSOL* by addressing these shortcomings in terms of her own work:

It is far more specific than most sex information written for young people ... I have tried to explain frankly the points about which there is greatest inquiry. These points are *not* frankly or clearly explained in most sex literature. They are avoided, partly from embarrassment, but more, apparently, because those who have undertaken to instruct the children are not really clear in their own minds as to the proper status of the sex relation.⁴²

She then continues to describe different points of view and how they were handled in existing literature: from a physiological point of view, she found that sex was handled with reservations; from a natural science point of view, human sexual reproduction was often compared to the reproduction of plants and animals, which is wildly inaccurate; morally, children were given jumbled ideas that instilled fear, like fear of venereal disease and preserving the sanctity of marriage; emotionally, nothing was addressed at all.⁴³ Dennett aimed to describe and connect these four points in a way that served as a distinct departure from what already existed.

Physiologically, Dennett included the proper terminology and diagrams explaining the sex organs and their functions. Assuming that the children did not know about the act of sexual intercourse, she explained that in full: how men's semen contained the "male part of the germ of

⁴² Dennett, *The Sex Side of Life*, 2.

⁴³ *Ibid.*, 3.

life” and the ovum contained the female part, and how these two things needed to combine via intercourse to create a child.⁴⁴ In terms of natural science, she “emphasized our unlikeness to the plants and animals rather than our likeness.” Morally, Dennett strove to eliminate the fear of venereal disease that was being instilled in the youth as a means to limit sex relations, and she “[invited] the inference that marriage is ‘sacred’ by virtue of its being a reflection of human ideality rather than because it is a legalized institution.”⁴⁵ Lastly, emotionally, Dennett emphasized that young people need to have an understanding of where sex emotion fits into love and life. She wrote:

There has been all too evident an interference that sex emotion is a thing to be ashamed of ... In not a single one of all the books for young people that I have thus far read has there been the frank, unashamed declaration that the climax of sex emotion is an unsurpassed joy, something which rightly belongs to every normal human being, a joy to be proudly and serenely experienced.⁴⁶

As previously mentioned, the sex education literature produced by groups like the ASHA and USPHS conveyed their beliefs of strict sexual morality. They focused on sex in a purely reproductive light, used fear of venereal disease as a way to instill these strict morals, and painted a distinctly different picture of their beliefs for boys and girls. By writing in a much more progressive way about sex and sex relations, Dennett succeeded in *SSOL* to sharply contrast the sex education materials that she found inadequate for her children.

⁴⁴ *Ibid.*, 9.

⁴⁵ *Ibid.*, 3.

⁴⁶ *Ibid.*, 8.

Dennett talked about sex as much more than an act of reproduction. While she did explain the anatomical aspects of sex and the biological ways in which sex leads to reproduction and is necessary for reproduction to occur, she expands sex into a much more important aspect of life. “The sex impulse among finely developed people is far more the result of their feeling of love for each other than mere animal instinct alone ... Unlike the animals, it is far more than a mere sensation of the body. It takes in emotions and the mind and the soul, and that is why so much of our happiness is dependent on it ... [Sex] is the very greatest physical pleasure to be had in all human experience, and it helps very much to increase all other kinds of pleasure also.”⁴⁷ That is, intercourse among animals is solely for reproductive purposes, while emotions and love play a large part in human intercourse, which provides sex with a much larger purpose than reproduction alone.

Like the government in their sex education materials, Dennett also addressed venereal disease:

Venereal disease *is* becoming curable ... These diseases are usually acquired by sex contact with a diseased person, but they can also be gotten by using public drinking cups, towels, water-closets, or in any way by which an infected moist article can come in contact with one's skin ... But the doctors are making progress in their study of these diseases, and they are finding out how to control and cure them, just as they have in the case of tuberculosis.⁴⁸

Dennett also explained the ways in which venereal disease can be harmful to families. That is, the effects of venereal disease go beyond its initial contraction and symptoms: men with the

⁴⁷ *Ibid.*, 9.

⁴⁸ *Ibid.*, 15.

disease can give it to their wives, which at times ruins their sex organs making it impossible to become mothers, and unborn children can be infected by the disease, which can lead to lasting illnesses and deformities.⁴⁹ Her main goal in addressing venereal disease in this way was to explain it in a way that educated adolescents and simultaneously eliminated the aggressive and irrational fears that the government's materials implied and instilled in young minds.

Lastly, Dennett contrasted the ideas of gender that were conveyed in existing sex education literature. She explicitly detailed "the whole sex machinery" of both men and women via written explanation and accompanying diagrams.⁵⁰ She also addressed the ways in which sex can be different for men and women, with a woman's first sexual encounter typically being painful, as well as how "seminal emission" and menstruation are uncomfortable aspects of the sex organs for boys and girls, respectively.⁵¹ These details set her apart significantly from what existed. The literature produced by ASHA talked about women as an object to blame for the spread of venereal disease, and as needing to keep "purity in thought, will, and act," stating that they should avoid intimate relations as a whole.⁵² Dennett differed immensely from these ideas, detailing the emotional aspect of sex relations and emphasizing that sex and love are feelings that should be enjoyed by all, not just by men. Through these ideas, Dennett also emphasized the need for sex education for both genders and not just for boys as highlighted in the ASHA articles and the creation of *Keeping Fit*.

⁴⁹ *Ibid.*, 16.

⁵⁰ *Ibid.*, 10.

⁵¹ *Ibid.*, 14.

⁵² Livingston Smith, "To All the Women and Girls," 528.

Ultimately, in *SSOL*, Dennett's goal was to change the strict and inaccurate ideas about sexual relations that were instilled in adolescents by the popular sex education. Dennett strove to provide her children with "self-control that is born of knowledge, not fear," and that she did: the way in which she broke the boundaries and changed the typical conversation surrounding sex became clear and definitive when legal troubles arose over her pamphlet.⁵³

⁵³ Dennett, *The Sex Side of Life*, 5.

The Trial

On January 2, 1929, Dennett received a letter in the mail that stood out among her many New Year's greetings. The return address was the Office of the United States Attorney for the Eastern District of New York, Post Office Building, Brooklyn, NY, and *United States vs. Mary Ware Dennett* was stamped on the front of the envelope. Inside was a letter stating that she must appear in court to "plead to an indictment heretofore filed, for an alleged violation of the United States Criminal Code," and if she failed to attend, a warrant would be issued for her arrest. However, the notice was vague: no official complaints or charges were listed.⁵⁴

Dennett, a fifty-six-year-old grandmother, was shocked, and she set out to find the reason for her indictment. She called her friend Morris Ernst, a young attorney who was general counsel and a board member of the newly-formed American Civil Liberties Union. Ernst requested a copy of the indictment from the US District Attorney's office for a copy of the indictment but was unsuccessful because the information was too spotty. However, he found out the name of the prosecutor, Assistant District Attorney James E. Wilkinson.⁵⁵

After speaking with Wilkinson, Ernst discovered that the case had been filed on behalf of a woman from Virginia, and the charge was "mailing and delivery [of] certain non-mailable matter: ... a pamphlet, booklet, and certain printed matter enclosed in an envelope which ... were obscene, lewd, lascivious, filthy, vile and indecent." Wilkinson revealed that the pamphlet that caused this indictment was *The Sex Side of Life*. Despite Dennett's success from this

⁵⁴ Mary Ware Dennett, *Who's Obscene* (New York: Vanguard, 1930), 44.

⁵⁵ Chen, 269.

pamphlet – she became a published author in medical journals and sold upwards of thirty thousand copies of this pamphlet to private citizens, schools, organizations, churches, and more – the problem lied within subject matter. Someone had complained about the pamphlet.⁵⁶

Dennett’s actual trial was pushed farther and farther back: first it was delayed eight days, then a week, and then a month. All in all, for four months, Dennett took a total of thirteen trips to and from the courthouse waiting for her case to go to trial. In the meantime, Ernst went to work. On January 21, he and Wilkinson appeared before a judge to make preliminary arguments about whether or not his request would be granted to have the indictment dropped. Ernst presented statements of support for the pamphlet, talked about the history of the pamphlet: how it had been written for her sons and then published in *The Medical Review of Reviews*, which in itself should prove her pure intentions.⁵⁷

Ernst then argued for sex education, stating that the government issued their own pamphlets that urged sex education as the solution to solving the problem of sexually transmitted disease. He stated that, however:

The pictures of the human body in schools ... [have] the genital organs removed ... We are past the period in our education of a natural silence and a taboo on the subject of sex. This pamphlet lifts the veil and does not rend it ... To condemn the pamphlet is to condemn the YMCA, churches ... [the government], and other institutions of that type throughout the country, which have been the distributors and proponents of the pamphlet.⁵⁸

⁵⁶ *Ibid.*, 270.

⁵⁷ *Ibid.*, 273.

⁵⁸ Dennett, *Who's Obscene?*, 56.

From there, he compared *The Sex Side of Life* to other indictments in legal history, demonstrating that there was one great precedent to dismiss the case. The question of the definition of obscenity was typically found through the 1868 Hicklin test. This formula stated that something's obscenity depended on "whether or not the publication would have the tendency to deprave or corrupt those whose minds are open to such immoral things ... and into whose hands the publication might fall." Ernst argued that there was nothing about the pamphlet that warranted it being called "lecherous or impure", and that the Hicklin test should not imply that all sex-related literature be banned "just because some filthy-minded person comes to the conclusion that he procures an impure stimulation from the material."⁵⁹

He finished his argument by stating that this pamphlet should also not be banned based on its intended age group: "It is preferable to have [children] get the material in an intelligent, clean way than to pick it up from somebody whispering a dirty, four-letter Anglo-Saxon word, and then have the child snoop around to a dictionary and find out what it means."⁶⁰ To drive home the point that sex education was a necessity, Ernst closed with, "If this pamphlet is obscene then life itself is obscene," showing that Dennett's pamphlet simply served to explain a basic human function.⁶¹

However, Wilkinson did not agree, but unlike Ernst, his argument was not based on the debate surrounding sex education and the definition of obscenity. Rather, Wilkinson brought up his issues with the pamphlet. He said *The Sex Side of Life* advocated an anti-marriage view

⁵⁹ *Ibid.*, 57.

⁶⁰ *Ibid.*, 55.

⁶¹ *Ibid.*, 60.

because of her use of premarital sex and masturbation to show that the sex and sexuality was pleasurable. He also argued that the pamphlet did not advocate for “self-control.” He asked, “What is the idea, except to show that sex is something to be indulged in whenever you feel like it?”⁶²

The judge found himself unable to decide whether or not the pamphlet was obscene and rather proposed an open hearing, where he decided to allow each side to produce twelve statements from witnesses of their choosing and submit them to the court. Dennett and Ernst struggled to narrow down these letters but ended up submitting thirteen letters from “leaders in practically every field of social contact in the community” – doctors, theology teachers, a Rabbi, educators, and more – to show that the pamphlet was acceptable to mainstream America.⁶³ On the other hand, Wilkinson had difficulties with the task. He managed to scrape together eleven letters, some of which admitted that their only familiarity with the pamphlet was from Wilkinson asking them to read it. After reading the letters, the judge decided to postpone his decision yet again. Finally, when he could no longer put off his decision, he notified the press that he was withdrawing himself from the case.⁶⁴

Because of its publicity and controversy, it took months to find another judge to preside over Dennett’s case. Finally, on April 23, 1929, Federal Judge Warren Burrows served as the judge for Dennett’s long-awaited trial. Opening the trial, Wilkinson stated that the government’s case was simple: Dennett’s mailing of the pamphlet was enough to prosecute her for violating

⁶² *Ibid.*, 66.

⁶³ *Ibid.*, 70.

⁶⁴ *Ibid.*, 130.

the Comstock Act. He presented the envelope from Dennett addressed to Mrs. Carl A. Miles from Grottoes, Virginia which included the pamphlet. He then read parts of pamphlet aloud to the jury monotonously, only raising his voice when he reached parts that he considered obscene. Then, his case was over. He called no witnesses and made no other case, trusting that the pamphlet itself would be enough to prove its obscenity.⁶⁵

Ernst promptly countered Wilkinson's argument. While Dennett clearly mailed the pamphlet, this distribution was not enough to warrant her arrest, because the pamphlet was not obscene. If it was indeed obscene, he stated, the YMCAs, churches, and other organizations that purchased the pamphlet were using these "corrupting elements" in their curriculum.⁶⁶ Wilkinson argued, however, that obscenity was only for the twelve-member, all-male jury to decide.⁶⁷

Ernst attempted to bring approved witnesses to the stand, such as Abel Gregg of the National Council of the YMCA, to attest to the pamphlet's lack of obscene content. However, Wilkinson objected the presence of such witnesses because "[the case] is only a question of whether or not the defendant mailed this pamphlet; and it is for the jury to pass upon the construction of this language."⁶⁸ After deliberation, Judge Burrows sided with Wilkinson, and Wilkinson had "successfully gagged all witnesses for the defense."⁶⁹

⁶⁵ Chen, 282.

⁶⁶ Dennett, *Who's Obscene?*, 160.

⁶⁷ Women were not allowed to serve in a jury at this time.

⁶⁸ Typescript of *US v. Mary W. Dennett*, Transcript of Record, 20-22, 1930, Box 28, Folder 491v, Papers of Mary Ware Dennett, 1874-1948, , Radcliffe Institute for Advanced Study, Schlesinger Library, Harvard University, Cambridge, Massachusetts.

⁶⁹ Chen, 286.

At this point, Dennett was brought to the stand. She was not allowed to talk about the motives behind her writing, as they were considered immaterial.⁷⁰ To put Dennett and the pamphlet in a favorable light, Ernst asked if she remembered to whom she distributed the pamphlet, and if these recipients included those from charitable and educational organizations. Wilkinson objected, again stating that “the only question is did she mail this specific pamphlet and is it obscene.”⁷¹

From there, Wilkinson began his cross-examination, asking about Dennett’s intended age group and asking for her specific definition of “adolescents,” which she avoided by answering, “[The] dictionary definition.”⁷² He painted Dennett as a corrupter of young minds: “No tone word about chastity ... [or] self-control ... Why, there’s nothing a boy could see, on reading this book, except a darkened room and a woman! ... Where does he institution of honor and family come off if we let a gospel like that go out to the world?”⁷³ He also attacked her views on birth control: “Where will our soldiers come from in our time of need? God help America if we haven’t [enough] men to defend her in that hour!”⁷⁴ Ernst tried to join the questioning but appeared powerless. Wilkinson would promptly object his attempts with Judge Burrow’s approval.

After what seemed like endless back-and-forth bantering, Ernst and Wilkinson had the chance to sum up their arguments. Ernst calmly emphasized the association between sex

⁷⁰ *US v. Mary W. Dennett*, 28-30.

⁷¹ Dennett, *Who’s Obscene?*, 172.

⁷² *US v. Mary W. Dennett*, 38.

⁷³ Chen, 287.

⁷⁴ *Ibid.*, 287.

education and science and said that the Comstock Act was antiquated. Wilkinson, however, performed emotionally. He waved the pamphlet in the faces of the jury and declared that it was “pure and simple smut,” and said that no one should allow a teenage boy and girl alone at night with this book. He finished with his closing remarks: “If I can stand between the children of this country and this woman who is trying to lead them not only into the gutter, but below the gutter into the sewer, I feel I have accomplished something!”⁷⁵

The trial concluded with Judge Burrows reminding the jury that the law was made to protect the average person and asking them to consider the pamphlet’s effect on the “decency, purity, and chastity ... [on] the family which is the common nursery of mankind.”⁷⁶ After only forty-two minutes of deliberation, the jury returned to the courtroom with a guilty verdict. Ernst moved to have the verdict set aside and requested a retrial on the basis of the charge violating Dennett’s First Amendment rights, but his attempt failed. The court then adjourned until April 29, when Dennett’s sentence would be imposed.⁷⁷

From there, the outcry began, and the lies were unfolded. Investigative reporters began to question why “Mrs. Carl A. Miles” never showed up in court – because she was not real. “Mrs. Miles is a fictitious character. I ordered one of the pamphlets from Mrs. Dennett, using that name, and when it reached Grottoes, it was forwarded to me here.”⁷⁸ This was a result of a

⁷⁵ *US v. Mary W. Dennett*.

⁷⁶ *US v. Mary W. Dennett*, 54-55.

⁷⁷ Chen, 292.

⁷⁸ Typescript of “US Used False Name to Trap Mrs. Dennett,” 26 May 1929, Box 28, Folder 491v, Papers of Mary Ware Dennett, 1874-1948, , Radcliffe Institute for Advanced Study, Schlesinger Library, Harvard University, Cambridge, Massachusetts.

woman finding the pamphlet in her daughter's possession and meeting with the post office inspector to complain. Wilkinson later admitted to this, as well: "Had Mrs. Dennett taken the stand and denied mailing the pamphlet, ... I would have told the story, but she admitted mailing it and such action was not necessary."⁷⁹

News of Wilkinson's hoax fueled public outrage in support of Dennett and her pamphlet, and Dennett declared that she would continue to fight the injustice that she faced, and on March 3, 1930, she would be successful.⁸⁰ After three months of deliberation, Dennett's guilty verdict would be overturned. The statement read, "We hold that an accurate exposition of the relevant facts of the sex side of life in decent language and in manifesting serious and disinterested spirit cannot ordinarily be regarded as obscene ... The judgement must therefore be reversed."⁸¹

⁷⁹ *Ibid.*

⁸⁰ Chen, 296.

⁸¹ *Ibid.*, 301.

Epilogue

After her guilty verdict was overturned, Dennett and the public alike rejoiced over her legal and social victory. One editorial wrote, “A year ago Mrs. Dennett’s work was not widely known. Today its title and content are known to newspaper readers throughout the nation.”

Another suggested that *SSOL* “has been more widely distributed than ever ... into the hands of parents, and hence to their children.” Echoed by the public and the press, Dennett’s battle against “government-sponsored repression” demonstrated how they damaged their own cause by antagonizing the public about censorship and obscenity.⁸²

From that point on, Dennett turned to the birth control movement, lobbying in favor of an “open,” or “clean,” as she put it, birth control bill. She also devoted attention to the American peace movement, becoming the chair of the World Federalists in 1941 and committing the rest of her life to peace work until her death in 1947.⁸³

The little attention that she has been afforded in academia does not negate her impact, and in fact, the reach of her case goes far beyond a legal victory and the distribution of *SSOL*. Her victory was the first step in redefining obscenity from its past definition. She was cited in the obscenity cases of *Married Love*, a book written by British birth control advocate Marie Stopes about the keys to a happy marriage (including sex), and James Joyce’s work of fiction *Ulysses* that includes a section involving sex between characters; both of these works were found to not be obscene, and the case of Dennett and *SSOL* served as a baseline for these decisions. From that

⁸² Craig, 158.

⁸³ *Ibid.*

point on, courts no longer singled out written excerpts as something that could negatively impact susceptible persons. Rather, they considered “whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest.”⁸⁴

Together, the research done in this paper has found that much of the government-sponsored education literature was skewed in its content. While organizations like the American Social Hygiene Association and the United States Public Health Service advocated for sex education to be mainstreamed, the information that they put out to carry out this goal was inaccurate due to their biases. Their narrow focus on sex solely as an act of procreation failed to educate on aspects of sexuality like the emotional and psychological aspects of sex, self-exploration and masturbation, and sexual freedom and equal responsibility for both genders. Likewise, their use of fear tactics to limit sexual relations in adolescents proved to be insufficient as Dennett mainstreamed more progressive ideas about sex and sex education. Although *SSOL* was condemned by the federal government in *United States v. Dennett*, Dennett’s efforts proved to be victorious with the overturn of her guilty verdict and social victory that changed the way sex was talked about in education, the media, and in society as a whole.

The findings shown in this paper, as well as the conclusion that they come to, are unique to the conversation about Dennett, as well as the overarching conversation of sex education in the early 1900s. While scholars have written about Dennett, her life, and her work, they have yet

⁸⁴ Quoted from Justice William Brennan discussing the *Dennett* and *Ulysses* decisions, in *Roth v. United States*, 354 U.S. 476 (1957). See de Grazia, *Censorship Landmarks*, 290-300; Bosmajian, *Obscenity and Freedom of Expression*, Craig.

to put her into context with the general climate of sex education at the time. More specifically, her work has yet to be compared to that of the government, who scrutinized her for her work due to the way it threatened their conservative and strict ideas of sexual morality.

Dennett's battle for sex education and equal access parallels issues that are faced today. A recent study done by graduate students at Harvard University shows that sex education in schools is still far too similar when compared to the resources that Dennett found inadequate. This study shows that half of American students do not have access to proper sex education, if any at all.⁸⁵

In 2010, the Obama administration launched the Teen Pregnancy Prevention Program that outlined a universal and comprehensive plan for appropriate sex education in schools. However, this focus has since shifted. Under the Trump administration, money will no longer be spent to fund this program, as their beliefs align with the proven-to-be-unsuccessful abstinence-only approach.⁸⁶

Sex education is still often taught in schools as abstinence-only despite research proving that this approach is ineffective. Abstinence-only approaches to sex education lead to misinformation and a lack of understanding of what is correct and appropriate in sexual relationships. This approach has also been linked to higher rates of teens having potentially-unsafe sex, higher STD rates, and an increase in teen pregnancy rates.⁸⁷

⁸⁵ Jill Anderson, "The State of Sex Education in America," Harvard EdCast (audio blog), November 8, 2018, accessed November 8, 2018.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

Together, the results of this study, in coalition with Dennett's story and her goals, show that equal access in regard to reproductive knowledge and sex education for the youth has been and still continues to be an extremely controversial and contested issue that shows no signs of slowing down.

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