

XIII

HUNGER STRIKE

OUT of that spectacular raid, which resulted in an avalanche of nation wide publicity in the daily press, four separate and distinct cases resulted

Mrs Ethel Byrne, my sister, was charged with violating Section 1142 of the Penal Code, designed to prevent dissemination of birth control information

Miss Fania Mindell was charged with having sold an allegedly indecent book entitled *What Every Girl Should Know* written by Margaret Sanger

I was charged with having conducted a clinic at 46 Amboy Street, Brooklyn, in violation of the same section of the Penal Code

Having re-opened the clinic, I was arrested on a charge of maintaining a public nuisance, in violation of Section 1530 of the Penal Code

The three of us were held for trial in the Court of Special Sessions, with bail fixed at \$500 each. This meant that our cases would be decided by three judges appointed by the Mayor

and not by a jury. When the cases were set for trial on November 27 through our counsel, Jonah J. Goldstein, I objected, because Judge McInerney, presiding during November, had expressed opinions which were prejudiced against contraception. This objection was overruled. Application for a trial by jury was denied by Judge Kelby. An appeal from this decision was immediately taken to the Appellate Division. Truly, I was being swiftly educated in the technicalities of criminal law, and the red tape which tangles them up.

This appeal was dismissed. Then a writ of habeas corpus, returnable before Judge Aspinall of the Supreme Court, was sued on the ground that Section 1142 was unconstitutional and that we were being unlawfully detained. Preceding this, we were surrendered. The writ of habeas corpus was dismissed.

These appeals and parryings carried our cases through to January 8, 1917. My sister's case was the first to be tried. It was brought to a close on the afternoon of January 8. Counsel for the defense was allowed only fifteen minutes to present his argument on the unconstitutionality of Section 1142. The presiding justice replied that, in view of the attitude assumed in the past by the Court of Special Sessions in convicting defendants for violation of this section, the court was bound to hold the section constitutional regardless of argument.

My sister was found guilty, and on January 22 she was sentenced to thirty days in the Workhouse. A writ of habeas corpus as a means of suspending sentence during appeal was refused by Supreme Court Justice Callahan. She spent the night in jail.

Ethel Byrne promptly declared a hunger strike. I knew that she would not flinch. Quiet, taciturn, with a will of steel hidden by a diffident air, schooled by her long training as a professional nurse, she announced briefly that she would neither eat, drink, nor work until her release. Commissioner of Correction Burdette G. Lewis promptly announced that she would be permitted to see no one but her attorney.

While the newspapers were reporting—always on the front

page—the condition of the hunger striker, plans were hastened for a monster mass meeting of protest, to be held in Carnegie Hall. Helen Todd acted as chairman, and Dr. Mary Halton was an additional speaker. The hall was crowded by a huge audience of all classes. The women patients of the Brownsville clinic were given places of honor on the platform. The salvos of applause which greeted me showed that intelligent opinion was strongly behind us, and did much to give me the courage to fight with renewed strength for the immediate release of Ethel Byrne.

This meeting was acclaimed by the press as a triumph of women, for women, by women. The meeting was said to have struck the right note—that of being instructive and persuasive, instead of agitational.

In the meantime, Ethel Byrne's refusal to eat and drink was crowding all other news off the front pages of the New York papers. Her defiance was sharpening the issue between self-respecting citizens and the existing law, which was denounced on every street corner as hypocritical. In the subway crowds, on street-corners, everywhere people gathered, the case was discussed. They are imprisoning a woman for teaching physiological facts! I heard one man exclaim:

It will be hard to make the youth of 1967 believe that in 1917 a woman was imprisoned for doing what Mrs. Byrne did, exclaimed F. P. Adams in his column in the *New York Tribune*.

Meanwhile, the hunger and thirst strike was becoming more and more dangerous. Knowing her as I did, I realized that my sister would never give in.

Burdette G. Lewis, a man inclined to scoff at the idea of birth control anyhow, was then Commissioner of Correction in charge of Blackwell's Island—that isolated prison in the East River where prisoners can wail and scream, if they choose, beyond the hearing of sensitive citizens. Lewis refused to take Mrs. Byrne's declaration seriously.

Others have threatened hunger strikes. It means nothing to us, he said with a shrug of his shoulders.

Mrs Byrne later recounted the story of her torturing ordeal

The warden's wife came to pick from the new offenders a couple of girls to wait on table and act as chambermaids in her quarters. A fair, motherly woman of good nature with a heavy Irish brogue, she looked them over, about twenty all told, and picked out Mrs Byrne

Come on you, it's an easy job I am getting for the likes of ye!

Thanks, said Mrs Byrne. I don't want your job

What's that you say? Don't want to work, hey? Well, that's all right—then you won't want to eat either, I suppose?

No, I don't! replied the hunger striker, and she kept her word. The old woman had her hands full, and she told me later that she did everything in her power to tempt the prisoner to eat. She pleaded, coaxed, tempted, prayed, all to no avail. She was terrified that Ethel Byrne might die in the Workhouse

Come on, nobody'll know you've taken a bite

I'd know! retorted my sister

As news came through from private sources, we who were associated with her in the movement began to worry. After all, Mrs Byrne was the mother of two children who were then in Corning, New York. I hesitated therefore to encourage her plan

But her stamina was remarkable. On January 24 she had spent the night in the Tombs. Although warned that she would likely be fed by force if she continued her fast, she replied that as a trained nurse she knew that they could not use forcible feeding successfully against her opposition. The next morning, while she was waiting in an anteroom for the prison van to take her back to Blackwell's Island, her application for release having been denied, the odor of eggs and crisp bacon drifted to her cell. We were told that this was by deliberate design on the part of prison officials to tempt her to eat.

Mrs Byrne did not flinch. She was made of stuff that knows how to fight for principles. She returned to prison quietly insisting that the hunger strike would continue.

Mr Lewis refused me permission to see my sister, and he

barred all reporters, after allowing them one interview with her attorney

I have no patience with Mrs Byrne's effort to get advertising for her cause, and I won't encourage such a campaign by issuing bulletins on the progress of her hunger strike, he said stubbornly

Nevertheless the news of what was taking place drifted out to me, chiefly through an old friend who was close to the higher ups We became more and more alarmed by the news brought us Mrs Amos Pinchot, chairman of a Committee of One Hundred organized for the defense, sent a telegram to Mrs Byrne advising her to cease her efforts lest she starve to death This was disturbing and confusing to the prisoner, thinking I wanted her to break her fast

It makes little difference whether I starve or not, she replied, through her attorney, so long as this outrageous arrest calls attention to the archaic laws which would prevent our telling the truth about the facts of life With eight thousand deaths a year in New York State from illegal operations on women, one more death won't make much difference

All this served to convince the now panic stricken Mr Lewis that Mrs Byrne was different, after all, from the alcoholics and drug addicts who had given him his previous experience, and with whom he had gallantly compared her When she had gone 103 hours without food, he established a precedent in American prison annals He ordered her forcibly fed She was the first woman so treated in this country

It was cruel, of course, but Commissioner Lewis issued optimistic reports of how simply forcible feeding is done, how little the prisoner resisted, how healthy she continued to be, and how foolish the whole thing appeared to him anyhow

The truth was that Mrs Byrne was in a critical condition after being rolled in a blanket and having milk, eggs and a stimulant forced into her stomach through a rubber tube I realized this as soon as I heard that she was passive under the feeding Nothing but loss of strength could have lessened the power of her resistance to such authority Nothing but

brutality could have reduced her fiery spirit to acquiescence I was desperate, torn between admiration for what she was doing and misery over what I feared might be the result

On January 31st, a committee headed by Mrs Amos Pinchot, Jessie Ashley and myself went to Albany for the purpose of asking Governor Whitman to appoint a commission to investigate birth control and make a report to the state legislature Governor Whitman, a wise, fair, intelligent executive and statesman, received us, and listened to our exposition of the economic and moral necessity for birth control, the medical theory behind its justification He promised to consider appointing the commission During the interview Miss Jessie Ashley introduced the subject of Mrs Byrne's treatment on Blackwell's Island and the anxiety we felt about her condition We tried to make him see the outrage committed by the state in making anyone suffer for so just a cause The Governor offered Mrs Byrne a pardon on condition that she would not continue to disseminate birth control information This I was not ready to accept without consulting her, and my visit to her was denied by Commissioner Lewis

Just how much an investigation by such a commission as we asked the Governor to appoint would mean we could not tell The attitude of some members of the legislature was made clear that very day by Assemblyman Clarence F Walsh of Albany, who complained about the presence of birth control lobbyists in this fashion I protest against the presence and activity of a representative of such an immoral, indecent, disgusting, and disrespectable sect The subject is not only contrary to a fundamental law of this state, but to the commonly accepted standards of society He was a Roman Catholic

When we left Albany that day, I had the promise of a provisional pardon for Mrs Byrne, but best of all I had in my purse a letter from the Governor to the authorities at Blackwell's Island authorizing me to see her I was shocked and horrified when, in the late afternoon of February 1st, I saw my sister She was lying semi-conscious on a cot in a dark corner of the prison cell

She could not see me, her sight was dimmed. She recognized my voice and asked me to come closer. There was a rash on her face, and when she tried to speak her voice was muffled, a mere whisper. Her mind was already confused.

I want to go away, she kept repeating. I must go away.

I realized that the look of death was creeping into her glazed eyes. It was useless for me to discuss the question of pardon with a dying woman, I had to make up my mind and assume responsibility for her conduct in the future. There was no time to hesitate. I hurried back to New York and telegraphed to Governor Whitman that Mrs. Byrne was too ill to accept the conditions of the pardon but that I would promise in her behalf that she would not continue her activities in the birth control clinic.

The Governor, I found, was on his way to New York at the very time my telegram was sent, and I, together with members of our committee, visited him at his hotel early in the evening, where he wrote and signed the pardon. Mr. and Mrs. Amos Pinchot and I left for the Workhouse on Blackwell's Island. The trip on the ferry boat seemed endless, but finally we arrived, and after waiting about a half hour we were told that Mrs. Byrne was coming down.

Along the corridor she came, held on both sides by two burly attendants, the matron following with her wraps. The martyr's head was falling from side to side, and I could see from the pallor of her face, especially her nose and mouth, that she had already fainted.

I called out to the matron that she was too ill to walk. But orders had been given and were being obeyed.

I called Mrs. Pinchot's attention to my sister's condition.

Without hesitation, Mrs. Pinchot imperiously clapped her hands, and in a voice of command insisted that they lay her down on the floor and bring a stretcher. The result was like magic. The word of command from this quarter was not to be ignored.

A stretcher was brought, Mrs. Pinchot took her own warm fur coat and wrapped it around Mrs. Byrne, and she was carried

from the prison to the ferry boat from which an ambulance, previously engaged, carried her to my own apartment

For two weeks a nurse was in constant attendance, and slowly, after a year's convalescence, she regained her health

The day following her release Commissioner Lewis issued a statement to the press in which he declared that Mrs. Byrne had walked to the boat from the Workhouse. He had previously stated that he was to charge her for the expense that she had caused the institution in necessitating the calling in of an expert to feed her by force

To bring a patient to a period of convalescence after an ordinary illness is an easy task compared with bringing to recovery a person who has undergone an eleven days' thirst as well as hunger strike. It seems to me that going without food was not so much the cause of her weakness as that she had not touched a drop of water or liquid of any kind for eleven and a half days

There was not time to inform her of the conditions of her pardon, and moreover she was too ill to face the question. I still believe that I was right in accepting the conditions which the Governor imposed. There was no other course. I saw that she was dangerously ill, that nothing further was to be gained by her keeping on, and that her death would have been a terrible calamity. Her life was what mattered to me, regardless of her future activities. I deeply resented the casual attitude of the commissioner in charge of the case, and there were thousands of persons throughout the country who sent telegrams and letters expressing their resentment at her cruel treatment

At any rate, by the time she was released the subject was a burning issue. Newspapers which previously had ignored the case, had to mention a matter important enough to bring the Governor of the State from Albany to New York. I approached my own trial wondering what the outcome was to be. Should I too go on a hunger strike? If a long sentence was imposed on me, I knew I should. I also knew I would stick it out to the end, no matter what that was to be

The war was still on. America was about to enter her forces on the side of the Allies