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The Progress of Eugenic Sterilization

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MORE than 150,000,000 people are now living under laws providing for eugenic sterilization in selected cases. The operations used for sterilizing patients, without unsexing them, are of relatively recent origin. It is true that as long ago as 1823, Dr. James Blundell read a paper before the Medico-Chirurgical Society of London in which he suggested that the fallopian tubes, which conduct the egg cell from the ovary to the uterus, might be cut at the time of a Cæsarean operation, thus preventing future pregnancy. But so far as is known, Dr. Blundell never performed such an operation, but merely offered it as a possibility.

In 1881 Dr. S. S. Lungren of Toledo, Ohio, tied the tubes of a patient with silk at the time of a Cæsarean section in order to prevent future pregnancy. Such a ligature is still used sometimes, but since about one case in five ends in failure, it cannot be regarded as good surgical practice.

In 1891 Dr. A. Crimail, a French surgeon, not only tied the tubes of one of his patients, but also cut them, thereby introducing the modern practice of salpingectomy. With many minor variations of technique, this is the standard operation for the sterilization of the female up to the present day.

Dr. Crimail's patient was sterilized during a Cæsarean section in order to prevent the risk of further child-birth. The first recorded sterilization operation for eugenic reasons was that performed in 1897 by Dr. F. A. Kehrer, a German surgeon, who urged the use of this operation not merely to prevent future Cæsarean sections, but to prevent future child-birth when such a child-birth would be undesirable. He published the details of an operation he had performed on a woman who had given birth to seven children, some of whom were feeble-minded, others abnormal in other ways. This report, with its definite championship of eugenic sterilization, attracted widespread attention. Surgically the modern sterilization of the female, for eugenic reasons, may be said to date from the year 1897.

The sterilization of the male dates from the same year. Experiments in tying off the vas are reported as early as 1785, but the first operation of vasectomy is credited to Dr. H. G. Lennander of Upsala, Sweden, who in 1897 published a discussion of vasectomy and described his use of it in dealing with enlargement of the prostate gland.

Apparently it was not until two years later that the operation was first used for eugenical purposes. This was due to Dr. Harry Sharp of the Indiana State Reformatory at Jeffersonville. Since Dr. Sharp began to operate on men who had been legally committed to the institution, the year 1899 is universally accepted as the beginning of official eugenic sterilization and Dr. Sharp is unquestionably entitled to credit as the father of this procedure.

At that time, Indiana had no law to deal with such operations and Dr. Sharp proceeded merely by getting the consent of the inmates. He performed several hundred operations within a few years and the reports on these began to give a substantial basis for legislation. The legislature of Pennsylvania was the first one to pass a

sterilization law in 1905, but this was vetoed by the Governor, leaving to Indiana the distinction of being the first state to put a sterilization law on its statute books, in 1907.

In the next legislative year, that of 1909, Washington and California both followed this example by the adoption of sterilization laws only a few weeks apart. The Washington law has remained virtually unused ever since.

The California law was introduced on February 8, 1909, as a bill by Senator W. F. Price, of Santa Rosa, Calif. It passed the Senate on March 16 with 21 ayes and 1 no, and passed the House on March 22 with 41 ayes and not a single vote recorded against it. It was approved on April 26 by Gov. James N. Gillett and became a law on June 25, 1909.

The drafting and adoption of this bill, virtually without opposition, form a permanent monument to Dr. F. W. Hatch who was Secretary of the State Lunacy Commission and later given the title of General Superintendent of State Hospitals. For nearly a quarter of a century Dr. Hatch was virtually in charge of the state's measures and machinery for dealing with the insane and feeble-minded. The adoption of sterilization as a state policy was one of his greatest interests and he followed the administration of this law with the closest attention until his death on February 24, 1924, at the age of 74.

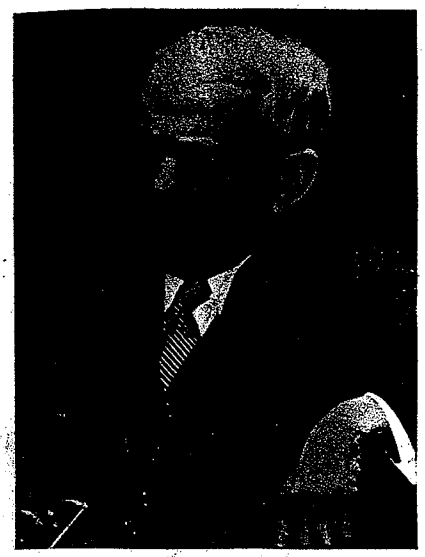
The conservative, sympathetic, and intelligent administration of the California law which was carried out by Dr. Hatch and the various medical superintendents of the state hospitals and institutions, gave the application of sterilization in this state a long lead, so that even up to the present California has performed more sterilizations than all the other states combined. Other states have continued to fall in line with these precedents, the 27 states that now have eugenic sterilization on their statute books being as follows with the year in which the first law was adopted in each case:

STERILIZATION PIONEER

Figure 4

Dr. F. W. Hatch is credited with drafting the California sterilization statute; and after its almost unanimous adoption by the legislature he had charge of its enforcement during the early years. Largely on account of the Hatch's administration of the law during its experimental stages, more sterilizations have been performed in California than in all the other states combined.

Alabama	1919
Arizona	1929
California	1909
Connecticut	1909
Delaware	1923
Idaho	1925
Indiana	1907
Iowa	1911
Kansas	1913
Maine	1925
Michigan	1913
Minnesota	1925
Mississippi	1928
Montana	1923
Nebraska	1915
New Hampshire	1917
North Carolina	1919
North Dakota	1913
Oklahoma	1931
Oregon	1917
South Dakota	1917
Utah	1925
Vermont	1931
Virginia	1924
Washington	1909
West Virginia	1929
Wisconsin	1913



STUDENT OF STERILIZATION

Figure 5

Long interested in philanthropy, and in race-improvement, Mr. E. S. Gosney initiated in 1925 a study of the actual effects of the California law during the fifteen years it had been in operation. This study has continued since that time, and has made available more facts about the effects of such a law than are elsewhere to be found. To provide for the continuance of this work Mr. Gosney has incorporated and endowed the Human Betterment Foundation.

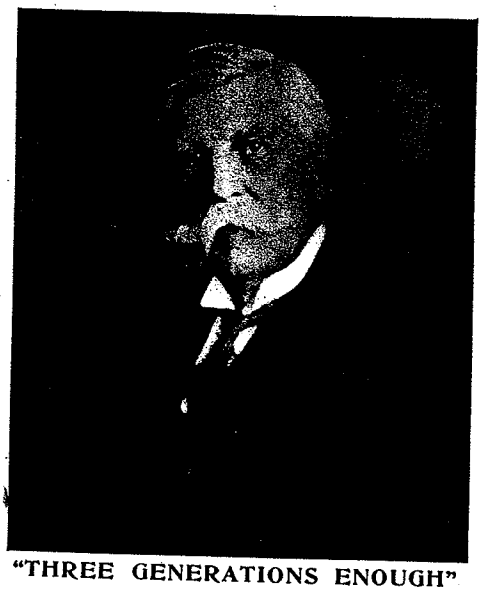
The province of Alberta, Canada, adopted a sterilization law early in 1928 and British Columbia took a similar step in 1933. Denmark has had a sterilization law since June, 1929, the Canton of Vaud in Switzerland since January 1, 1929 and the state of Vera Cruz in Mexico since December 1, 1932. Finally the adoption by the German government on July 26, 1933 of a comprehensive sterilization law, taking effect on January 1, 1934, brought under this measure the largest number of persons who had ever been included in the scope of such legislation at any one time.

From the very beginning, the progress of eugenic sterilization has been attentively followed by competent students. Since the founding of the Eugenics Record Office in 1910 its Superintendent, Dr. Harry H. Laughlin, has devoted particular attention to this subject and his many publications have presented a record of the progress of legislation and litigation, together with a wealth of detail on other aspects of the problem.

With the widespread discussion given to sterilization, however, there was still a lack of adequate information as to the actual effects of the operation and the circumstances surrounding the enforcement of a sterilization law. The only large and satisfactory body of evidence was that which was being steadily increased by the institutions of California, and the study of such a large body of material was an undertaking far beyond the reach of any ordinary individual or institution.

Meanwhile, E. S. Gosney of Pasadena who, during a long career as lawyer, banker, live stock breeder, educator, and philanthropist, had given particular thought to the application of eugenic principles in society, began a search for some definite project of eugenic value to which he could devote some of his time, energy, and accumulated wealth. After years of consideration of various possibilities, he decided nothing would be more worth while than a thorough-going and impartial study of the workings of California's eugenic sterilization law. If the abundant data available in the state institutions were collected, tabulated, analyzed by the most refined statistical methods and made public, he believed that the whole question would be put on a different plane. Discussion of sterilization would then no longer have to be based, as previously, on what people hoped it might do, or feared it might do, but could be based on the actual results in one state of thousands of cases extending over a score of years.

Mr. Gosney therefore organized the study of the California results in 1925, with the aid of a group of consultants representing various specialties, and the



"THREE GENERATIONS ENOUGH"
Figure 6

Mr. Justice Oliver Wendell Holmes of the U. S. Supreme Court wrote in 1927, the opinion of that Court upholding the constitutionality of a properly safeguarded sterilization law as a social measure. Its fair-minded balancing of the somewhat conflicting claims of the individual and of society render this decision an important document in the literature of eugenics. For the text of the opinion see page 25.

actual investigation was begun on March 1, 1926, with the hearty cooperation of all the state authorities. This has continued up to the present time and will, no doubt, be carried on for some years to come. A complete survey of the first 6,000 cases was published in a score of technical papers in various scientific journals, and then embodied in a more popular book by E. S. Gosney and Paul Popenoe entitled, "Sterilization for Human Betterment,"* of which translations have been issued in Berlin, Tokyo, and Paris. Meanwhile, in order to provide for the continuance of this study, Mr. Gosney had created the Human Betterment Foundaiton and endowed it liberally. The date of incorporation was February 2, 1929.

Some of the American laws were hastily drawn without adequate knowledge of what was needed, and in several cases were so defective or unreasonable that they were held unconstitutional by the state courts.

Test of the Virginia Law

In 1924 Virginia adopted a sterilization measure and on September 10th of that year Dr. A. S. Priddy filed a petition with his Board of Directors, in accordance with the law, for the sterilization of one Carrie Buck, an inmate of the State Colony for Epileptics and Feeble-minded of which he was Superintendent.

Carrie Buck was then 18 years old with a mental age of 9. Her mother, then 52 years old with a mental age of 7 years 11 months, had a long record of immorality, prostitution, and dependency. She had three children, as to the paternal parentage of all of whom there was considerable doubt. One of these, Carrie Buck, had been adopted by a family in Charlottesville. She attended school five years and attained the sixth grade, helped with the domestic work of the household, but proved to be incorrigible and finally gave birth to an illegitimate child. The family felt it could no longer manage her, and had her committed to the State Colony as feeble-minded. The commencement of proceedings to sterilize her initiated the most important case in the history of eugenic sterilization.

While this litigation was in process Dr. Priddy died and his successor, Dr. James H. Bell, was substituted in the case. It was desirable to have the Virginia law passed on by the courts before it was put into effect and the litigation in which Carrie Buck was the plaintiff, and which is now historical under the title of *Buck vs. Bell,* was arranged as a test case by the officials of the State Colony. The Board of Directors having issued an order for the sterilization of Carrie Buck, her guardian appealed the case to the Circuit Court of Amherst County, which

*Macmillan, New York, 1929.

BUCK VS. BELL

Figure 7

Carrie Buck was committed to the Virginia State Colony for feebleminded, near Lynchburg. As a test case to determine the constitutionality of the law, she was selected for sterilization and an action brought in her name against the superintendent of the colony, to prevent the operation. This case, carried to the Supreme Court of the United States under the title of *Buck vs. Bell* led to the decision written by Justice Oliver Wendell Holmes, fully upholding the constitutionality of eugenic sterilization. At the left, above, Dr. J. H. Bell, superintendent of the state Colony; at right, Carrie Buck.

sustained the decision of the Board. It was then carried to the Supreme Court of Appeals of Virgina, which sustained the law as a valid enactment under the state and federal constitutions. It was then carried up to the Supreme Court of the United States, which on May 2, 1927, handed down the decision written by Justice Oliver Wendell Holmes upholding the constitutionality of the statute. In the course of this decision Justice Holmes recorded the memorable opinion that "Three generations of imbeciles are enough." (See page 25.)

Carrie Buck's sterilization was thereupon carried out and she was later paroled from the Colony. Her illegitimate child, which had been previously placed out for adoption, later died.

The decision in *Buck vs. Bell* settled for all time the constitutionality of eugenic sterilization in the United States. Together with the evidence published by the Human Betterment Foundation, it tended to encourage sterilization in

FIRST EUGENIC STERILIZER
Figure 8

Dr. Harry Sharp, of the Indiana State Reformatory, performed the first eugenic sterilizations in 1899. At that time no law existed authorizing such procedure, and Dr. Sharp performed several hundred operations by merely getting the consent of the inmates. His experience formed the basis for the first state sterilization law, passed by Pennsylvania in 1905.

HISTORIAN OF STERILIZATION
Figure 9

Dr. Joseph Mayer has recently reviewed in detail the history of the sterilization movement. His tentative conclusion that selective sterilization was in accord with the traditions of the Catholic Church was published before the Papal encyclical of December 31, 1930. This document placed that Church officially on record as being opposed to such operations.

many states which had theretofore been waiting for further guidance. The latest complete tabulation of official sterilizations in the United States is that published by the Human Betterment Foundation as of January 1, 1933, as follows:

State	Male	Female	Total
Alabama	73	58	131
Arizona	10	10	20
California	4,423	4,081	8,504
Connecticut	18	320	338
Delaware	181	115	296
Idaho	4	9	13
Indiana	159	58	217
Iowa	56	38	94
Kansas	588	388	976
Maine	5	36	41
Michigan	264	819	1,083
Minnesota	72	621	693
Mississippi	1	11	12
Montana	33	48	81
Nebraska	94	135	229
New Hampshire	23	142	165
New York	1	41	42
North Carolina	10	36	46
North Dakota	56	37	93
Oklahoma	0	0	0
Oregon	296	586	882
South Dakota	55	84	139
Utah	44	41	85
Vermont	8	22	30
Virginia	479	854	1,333
Washington	6	24	30
West Virginia	0	1	1
Wisconsin	40	452	492
Total	6,999	9,067	16,066

Sterilization in Germany

The progress of sterilization abroad had been largely in the field of discussion until the action of Germany brought a large territory under the scope of such a measure. In no coun-

tries has the discussion of sterilization been so active as in Germany and Great Britain, and the literature on the subject, in the first named country in particular, is now voluminous.

The history of the whole movement has been reviewed in detail by Dr. Joseph Mayer, a Roman Catholic theologian and social worker whose bibliography alone (confined almost wholly to works in the German language appearing prior to 1927) covers 31 pages. Dr. Mayer also went fully into the ethical and theological aspects of the question, which at that time had never been the subject of any authoritative pronouncement by the Roman Catholic Church. His tentative conclusion was that selective sterilization for eugenic purposes, properly administered, was entirely in accord with the traditions and principles of the Roman Catholic religion. This conclusion was superseded by the Papal encyclical, *Casti connubii,* of December 31, 1930 which held sterilization for any except therapeutic reasons, not permissible for Roman Catholics.

Sterilization is only one of many important measures for dealing with the problems of mental deficiency and mental diseases. But as a practical preventive measure, it seems likely to take a place in the humanitarian program of every civilized country in the near future. Some careful observers believe that the Soviet Union and Japan are likely to make wider use of it than other countries because of their individual problems.

Meanwhile, the use of sterilization in private surgical practice is spreading widely, steadily, and rapidly. Naturally there are no means of getting information about the exact extent of this private practice, but all indications are that it is much larger than is generally supposed.

Supreme Court's Opinion in Buck Case

The decision of the U. S. Supreme Court in the case of Buck vs. Bell *is perhaps the most important legal document in the history of sterilization. It is therefore being reprinted in full.*—EDITOR.

Mr. Justice Holmes delivered the opinion of the Court:

This is a writ of error to review a judgment of the Circuit Court of Amherst County, by which the defendant in error, the superintendent of the State Colony for Epileptics and Feeble Minded, was ordered to perform the operation of salpingectomy upon Carrie Buck, the plaintiff in error, for the purpose of making her sterile. *134 Va. 310.* The case comes here upon the contention that the statute authorizing the judgment is void under the Fourteenth Amendment as denying to the plaintiff in error due process of law and the equal protection of the laws.

Carrie Buck is a feeble minded white woman who was committed to the State Colony above mentioned in due form. She is the daughter of a feeble minded mother in the same institution, and the mother of an illegitimate feeble minded child. She was eighteen years old at the time of the trial of her case in the Circuit Court, in the latter part of 1924. An Act of Virginia, approved March 20, 1924, recites that the health of the patient and the welfare of society may be promoted in certain cases by sterilization of mental defectives, under careful safeguard, &c.; that the sterilization may be effected in males by vasectomy and in females by salpingectomy, without serious pain or substantial danger to life; that the Commonwealth is supporting in various institutions many defective persons who if now discharged would become a menace but if incapable of procreating might be discharged with safety and become self-supporting with benefit to themselves and to society; and that experience has shown that heredity plays an important part in the transmission of insanity, inbecility, &c. The statute then enacts that whenever the superintendent of certain institutions including the above named State colony shall be of opinion that it is for the best interests of the patients and of society that an inmate under his care should be sexually sterilized, he may have the operation performed upon any patient afflicted with hereditary

forms of insanity, imbecility, &c., on complying with the very careful provisions by which the act protects the patients from possible abuse.

The superintendent first presents a petition to the special board of directors of his hospital or colony stating the facts and the grounds for his opinion, verified by affidavit. Notice of the petition and of the time and place of the hearing in the institution is to be served upon the inmate, and also upon his guardian, and if there is no guardian the superintendent is to apply to the Circuit Court of the County to appoint one. If the inmate is a minor, notice also is to be given to his parents if any with a copy of the petition. The board is to see to it that the inmate may attend the hearings if desired by him or his guardian. The evidence is all to be reduced to writing, and after the board has made its order for or against the operation, the superintendent, or the inmate, or his guardian, may appeal to the Circuit Court of the County. The Circuit Court may consider the record of the board and the evidence before it and such other admissible evidence as may be offered, and may affirm, revise, or reverse the order of the board and enter such order as it deems just. Finally any party may apply to the Supreme Court of Appeals, which, if it grants the appeal, is to hear the case upon the record of the trial in the Circuit Court and may enter such order as it thinks the Circuit Court should have entered. There can be no doubt that so far as procedure is concerned the rights of the patient are most carefully considered, and as every step in this case was taken in scrupulous compliance with the statute and after months of observation, there is no doubt that in that respect the plaintiff in error has had due process of law.

The attack is not upon the procedure but upon the substantive law. It seems to be contended that in no circumstances could such an order be justified upon the existing grounds. The judgment finds the facts that have been recited that Carrie Buck "is the probable potential parent of socially inadequate offspring, likewise afflicted, that she may be sexually sterilized without detriment to her general health and that her welfare and that of society will be promoted by her sterilization," and thereupon makes the order. In view of the general declaration of the legislature and the specific findings of the Court obviously we cannot say as a matter of law that the grounds do not exist, and if they exist they justify the result. We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if we could not call upon those who already sap the strength of the state for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence. It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. *Jacobson v. Massachusetts,* 197 U. S. 11. Three generations of imbeciles are enough.

Syllabus

But it is said, however, it might be if this reasoning were applied generally, it fails when confined to the small number who are in the institutions named and is not applied to the multitudes who are outside. It is the usual last resort of constitutional arguments to point out shortcomings of this sort. But the answer is that the law does all that is needed when it does all that it can, indicates a policy, applies it to all within the lines, and seeks to bring within the lines all similarly situated so far and so fast as its means allow. Of course so far as the operations enable those who otherwise must be kept confined to be returned to the world, and thus open the asylum to others, the equality aimed at will be more nearly reached.

Judgment affirmed.

Mr. Justice Butler dissents.

The Inheritance of Tuberculosis

ZWILLINGSTUBERKULOSE, *by* KARL DIEHL and O. F. v. VERSCHUER. VIII + 500 pp., 100 figs., 50 tables. Jena, Verlag von Gustav Fischer. 1933.

NO method of research in human heredity has been more productive of interesting results than the study of twins. This volume, the joint product of a physician and a geneticist, records the application of the method to the problem of the inheritance of tuberculosis. The authors believe that tuberculosis can not be genetically analyzed with sufficient clarity by the family history method, because of its dependence on the coincidence of man