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Involuntary Sterilization in Virginia: From Buck v. Bell to Poe v. Lynchburg

by Paul A. Lombardo, Ph.D.*

The arrival of 1984 will mark the sixtieth anniversary of the passage of Virginia's pioneer statute authorizing involuntary sexual sterilization.¹ Although ten years have passed since the last vestiges of the 1924 law were deleted from the Virginia Code, its impact on the lives of the state's citizenry continues to be felt. During the fifty years that it remained in force, the Virginia Statute for Eugenical Sterilization gave a legal imprimatur to over 8,300 operations. When the first and most notorious of those sterilizations was approved by the United States Supreme Court in the case of *Buck v. Bell*², the stage was set for the passage of similar legislation in twenty-five other states. It has been estimated that more than sixty thousand people were sterilized in America under the authority of such laws.

The Virginia law also had an international impact. Certainly the most dramatic example can be found in Adolph Hitler's "Law for the Prevention of Offspring with Hereditary Diseases." That 1933 German decree contained language that echoed phrases in the Virginia statute. In only ten years, some two million Europeans underwent

forced sterilization as part of the Nazi program.³

The irony of the transatlantic sterilization connection was underlined in the screenplay of *Judgment at Nuremberg*, which portrays Wilhelm Frick, the Nazi legal administrator, citing the precedent of *Buck v. Bell* in his own defense during the war crimes trial. The dramatic representation was not without historical foundation. In 1936 Henry Laughlin had received an honorary medical degree from the Nazi controlled University of Heidelberg for his contributions to the "science of race cleansing." Laughlin was the author of the model law after which both the Virginia and German sterilization laws were fashioned,⁴ and he supplied important testimony in favor of sterilization at the trial of Carrie Buck.

While its links to the Holocaust provide us with one reason to review the history of Virginia's now defunct sterilization law, it is also appropriate because litigation stemming from the sterilization era continues in the 1980 case of *Poe v. Lynchburg Training School and Hospital*.⁵ That case has revived allegations of abuses endured by Virginians in state facilities who were "treated" under the provisions of the sterilization law. Some of the more noteworthy revelations surfacing during the *Poe* suit have focused upon the archaic language that had survived in Virginia law and, as late as the 1970s, was used as the basis to describe

mentally disabled patients and to mark them for sterilization.

The language highlighted in *Poe* has been traced to the original 1924 sterilization law, which provided for sterilization of all residents of state facilities for the mentally ill or mentally retarded who were afflicted with inherited "defects." Specifically covered were patients with "hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-mindedness or epilepsy ... and by the laws of heredity ... the probable potential parents of socially inadequate offspring likewise afflicted ..."⁶

Such were the explicit pronouncements of Virginia law on the uses of sterilization to combat inherited defect. The *Poe* case has renewed the challenge to the practice of involuntary

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sterilization and has questioned again the "scientific" assumptions upon which Virginia law had been based.

Although the language quoted above offends contemporary sensitivities, historical research suggests that it was the order of the day during the era when Virginia's sterilization act was passed. Those who argued for sterilization as an early brand of genetic engineering stood in the vanguard of social reform, convinced of the progressive values embodied in their reproductive politics. A review of the public positions of a few of the earliest champions of sterilization in Virginia can help us understand the social and political values that were reflected in the sterilization law.

Among the earliest and most vocal supporters of legislation was Joseph DeJarnette, a prominent crusader for the sterilization cause for more than fifty years. DeJarnette played an essential role in the campaign for Virginia's law and in the outcome of *Buck v. Bell*. He also left a clear record of his support for the progress of the sterilization movement overseas. The attitudes of DeJarnette and others like him provide a strong counterpoint to recent critics of sterilization who are represented in the *Poe* suit.

DeJarnette's efforts were preceded by the work of Charles Carrington, a physician who performed Virginia's first documented sterilization, not in a facility for the mentally impaired, but in a prison. At least some of DeJarnette's later success can be credited to Carrington's bringing sterilization into public light.

An Early Attempt at Legislation — 1910

Although Charles Carrington received little of the notoriety of the nationally prominent advocates of sterilization, he was among the first to perform the procedure on an institutionalized population. While surgeon to the Virginia Penitentiary in Richmond, Carrington wrote a series of papers reporting the positive effects of the operation. At the 1908 meeting of the National Prison Association, Carrington proudly revealed that he had steril-

ized two inmates, the first in 1902. His paper argued that "if sterilization were properly enforced with habitual criminals we would have fewer habitual criminals."⁷ Carrington gave a second paper at the meeting of the Virginia Medical Society in 1909. That presentation announced his intention to lobby at the next session of the legislature for a law that would "require the sterilization of certain classes of our criminals."⁸

Within a few months, Carrington's bill "to prevent procreation by confirmed criminals, idiots, imbeciles, and rapists" had been to committees in the Senate and the House of Delegates of the Virginia General Assembly. Only two days before the Senate committee approved the bill, Carrington gave another paper entitled "Hereditary Criminals—The One Sure Cure."⁹ In it

the care of criminals, idiots and imbeciles"¹³ to have the mental condition of inmates examined. If the institutional examining committee concluded that

*... procreation by any of said inmates is inadvisable by reason of said inmate being a confirmed criminal, a rapist, an idiot or imbecile, and that there is no probability of improvement of the mental and physical condition of said inmate, it shall be lawful ... to perform such operation for the prevention of procreation by said inmate as shall be decided safest and most effective.*¹⁴

Carrington's bill was endorsed by the Virginia Medical Society, favorably reported by the House Committee on Prisons and Asylums, and passed the

Specifically covered by the sterilization law were patients with "idiocy, imbecility, feeble-mindedness, or epilepsy ... the probable potential parents of socially inadequate offspring..."

he linked insanity, crime, and general degeneracy as inherited defects. Pointing out the increase in the prison population, he disparaged the value of education in fighting crime. Repeating a popular non sequitur, Carrington simultaneously traced criminality to inherited mental defect and noted that "... very many of our criminals are splendidly educated."¹⁰ With the Biblical warning that "the sins of the fathers shall be visited upon the children," he concluded that "heredity is the greatest causal factor in crime."¹¹

Carrington urged the support of his bill as a means to combat the curse of hereditary defect. He admitted that it was modeled on the 1907 Indiana law under sanction of which Dr. H. C. Sharp had performed more than five hundred operations. In Carrington's opinion, Sharp's accomplishment placed him among the "leading criminologists and humanitarians of the century."¹²

Carrington's bill made it compulsory not only for prisons but for "every institution in the State, entrusted with

Senate by a vote of 20-8.¹⁵ It was later rejected by the House of Delegates. The *Virginia Medical Semi-Monthly* attributed the House of Delegates' negative vote on the bill to "much blind sentiment" that was part of the debate. According to the medical journal, the legislation had to await "a better understanding of its true object" and "the abatement of strong prejudice."¹⁶

Though 1910 was not to be the year for a sterilization law in Virginia, the campaign for sterilization continued. The belief that the "feeble-minded" were a source of social problems led Dr. L. S. Foster, superintendent of Eastern State Hospital, to call for sterilization of that group. At the 1912 meeting of the Virginia Medical Society, Foster reported a series of case studies from Virginia's mental hospitals in an attempt to show a trail of hereditary "diseases" including alcoholism, syphilis, feeble-mindedness, and immorality. Foster pointed to these diseases as a major cause of increasing social welfare costs. He also linked

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