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## Strode Virginia Supreme Court Brief - Part II

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terests of the patient than was the New Jersey act that a decision upon that act rendered in apparent revulsion against its whole purpose as an innovation without merit and lacking sound humanitarian foundations, should not serve to block the path of progress in the light of scientific advance toward a better day both for the afflicted and for society whose wards they are.

THE POLICY AND EXPEDIENCY OF THE ACT IS FOR LEGISLATIVE DETERMINATION.

With the policy, expediency and wisdom of the act the courts have nothing to do. Those considerations are for determination exclusively by the Legislature. Such questions as whether it is better that feeble-minded women be kept in custodial care of institutions or after sterilization be given such freedom as may then be best for them and for society are legislative and not judicial questions.

The question before the Court is one of power only. If it be found that the Legislature has the power to do what it has here done without running counter to clear constitutional prohibitions, the Court may only so declare and there the function of the Court ends.

We are not permitted to approach a legislative enactment with an adverse mind as to its constitutionality.

The mere enactment of a law is a legislative declaration of the necessary constitutional power, which is entitled to great respect from a coördinate department of the government; every act is presumed to be constitutional until the contrary is made plainly to appear, and all doubts on the subject are to be solved in favor of its validity. Judicial opinions of expediency cannot be substituted for the will of the legislature when constitutionally expressed. *Pine v. Commonwealth*, 121 Va. 812.

A large discretion is vested in the legislature to determine what the interests of the public require and also as to what is

necessary for the protection of such interests, and every possible presumption is to be indulged in favor of the validity of a statute. *Bowman v. Va. Etate Entomologist*, 128 Va. 351.

### CONCLUSION.

Upon the whole case it is submitted that the Virginia Sterilization Act is not obnoxious to the constitutional objections urged against it and that it affords due process of law, does not impose a cruel and unusual punishment and does not deny to plaintiff in error the equal protection of the laws, and that therefore the judgment appealed from should be here affirmed.

Respectfully,

AUBREY E. STRODE,

*Attorney for the Defendant in Error.*

STRODE AND EDMUNDS,

Of Counsel.

Lynchburg, Virginia,

March 15, 1927.