THE OKLAHOMA STERILIZATION LAW AND ITS APPLICATION

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The last legislature established Oklahoma as the twenty-seventh state to have legislation providing for the sterilization of certain dysgenic wards of the state.

The first law of this kind to be passed in the United States was adopted in Indiana in 1907. Three states, California, Connecticut, and Washington quickly followed the example of Indiana by passing laws in 1909. Although many states have made little use of their laws, California has demonstrated that it is both practical and desirable to put them into operation. In California about seven thousand cases have been operated. At present the number of cases operated equals about 20 per cent of the number of cases admitted to asylums.

The Oklahoma law is designated as House Bill No. 64, Chapter 26, Article 3, Acts of the Thirteenth Legislature, entitled, *An Act Providing for the Sexual Sterilization of Certain Patients in State Institutions for the Insane.* It was introduced by Dr. J. T. Gray, a physician of Stillwater, and Representatives Fraley, Rickerd, and Taylor. It is interesting to note that a similar bill was introduced in the previous legislature, but was killed in the committee of the house in which it originated.

The scope of the law and the method of its operation may best be described by quoting Section 1 and the first paragraph of Section 2, which are as follows:

"Section 1. That whenever the Superintendent of the Hospital for the Insane at Norman, Oklahoma, or of the Hospital at Supply, Oklahoma, or of the Hospital for the Insane at Vinita, Oklahoma, or the Institute for Feeble Minded at Enid, Oklahoma, or of any other such institution supported in whole or in part from public funds shall be of the opinion that it is for the best interests of the patients hereinafter mentioned, and of society, that any male patient under the age of 65 years, or any female patient under the age of 47 years, and which patients are about to be discharged from said institution, should be sexually sterilized, such superintendent is hereby authorized to perform or cause to be performed by

some capable physician or surgeon the operation of sterilization on any such patient confined in such institution afflicted with hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-mindedness, or epilipsy; provided that such superintendent shall have first complied with the requirements of this act.

"Section 2. Such superintendent shall first present to the Board of Affairs of this state a petition stating the facts of the case and the grounds of his opinion, verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by said board requiring him to perform, or have performed by some competent physician to be designated by him in his said petition or by said board in its order, upon the inmate of his institution named in such petition, the operation of vasectomy if upon a male, and of salpingectomy if upon a female."

The second paragraph of Section 2 is very ambiguous, in fact so much so that it may jeopardize the law, but it seems to provide that the patient must be notified of the petition and of the time and place of the meeting of the Board of Affairs to consider it.

The bill further provides that the patient, his parents, other relatives, next best friend, or guardian may appeal to the Board to protect the rights and interests of the patient. Provision is also made for an appeal from the decision of the Board of Affairs to the District Court either by the patient or by the hospital superintendent and from the District Court to the Supreme Court of the state.

This law is in keeping with the best laws of other states, and if applied, it will probably be adequate. Its greatest weakness seems to be that it places the real responsibility in the hands of the Board of Affairs, which is presumably composed of men of business training and interests rather than of men with scientific and medical qualifications. It is being recommended for states with similar provisions that a change be made so that this responsibility will be placed with a Eugenic Board made up of men better prepared for the problem in hand, and containing a psychiatrist, a eugenist, and a qualified sociologist. However, Dr. D. W. Griffin, superintendent of the asylum at Norman, finds no fault with the present provision because he expects the Board of Affairs to accept the recommendations of the various superintendents as to desirable cases for operation and he is glad to have the responsibility placed in the board that directs the affairs of the hospital.

It will be noticed that this law pertains only to inmates of institutions for the insane and feeble-minded and not to those of penitentiaries and reform schools as some of the more aggressive eugenists might desire. This limitation seems to be best for two reasons: First it is very desirable to make a conservative start in eugenic legislation—there will be less objection on the part of the eugenically unenlightened public to the sterilization of the insane than there would be if that of the criminal were included. A second reason is that the most dysgenic criminal class, *i. e.*, the criminally insane, should be found in the asylum rather than in the penitentiary and can be handled there to better advantage. I do not wish to deny the eugenic desirability of sterilizing the feeble-minded criminals that are found in our penitentiaries, but I believe that it was wise to limit the application of Oklahoma's first eugenic law.

Having examined the law, we are interested next in its application. To date no patients have been sterilized. Inquiry at the office of the State Board of Affairs revealed that no petitions have been presented by hospital superintendents. Carrying the investigation a step further, it was found that Dr. Griffin of the Norman Hospital had asked Attorney

General King for a decision on tthe constitutionality of the bill; this was for his own protection in case the bill should later be found to be unconstitutional. Mr. King has not returned his decision and so the application of the law is temporarily halted.