Chapter 4

THERAPEUTIC STERILIZATION

THERAPEUTIC STERILIZATION may be defined as an operation intended to benefit the health of the subject, whereas the purpose of eugenic sterilization is to prevent the transmission of disease and defects to future generations. In everyday practice, outside of gross mental conditions or some imperative physical indication, we find that the two categories are not sharply contrasted but tend to shade into each other at different points on a scale; and this overlapping is especially noticeable in cases from those lower-income groups which come within the purview of state agencies.

We may cite for example the multipara of borderline mentality, who is as likely to require relief from further pregnancies on good physical grounds of exhaustion, cardiovascular symptoms or pelvic damage as she is on grounds of her undesirable genetic potentialities. Or the mother of neuropathic stock whose physical condition may be normal, but who is so harassed by economic misfortune and her own fertility that an additional pregnancy may precipitate mental breakdown. North Carolina eugenic sterilization law, confined as it is to three limited classes of persons, cannot be interpreted to cover cases of this nature, nor can it be employed to secure the sterilization of those who are afflicted with hereditary physical defect such as blindness.

It therefore happens that social agencies in their desire to lessen some of the many problems presented by continued fertility, ill-health, and poverty, have recourse to the assistance of sympathetic surgeons who will interpret "therapeutic" in the broadest mean-

ing of the word. Not only is sterilization extensively carried out on this social level, but it is sought after by women of upper-income groups as a convenient contraceptive measure irrespective of strict physical indications.

EXTENT OF PRACTICE IN NORTH CAROLINA

In the nature of things, exact figures are difficult to obtain. It appears that some sterilizations are not primarily recorded as such, or the operation is incidental to an obstetric procedure or major gynaecological repair. The head of the obstetric department in one teaching hospital estimated that more than 200 women had had a bilateral tubal ligation performed on his service alone; another semi-private hospital (in a town of 64,000 population) furnished a list of 58 sterilizations on white women which had been done during the previous two years. The questionnaire circulated to county welfare departments contained an item relating to participation in therapeutic sterilization (See question 3.), and the reported number of such cases over a 5-year period was 546. The total of eugenic sterilizations in the departments during a 19-year period was 688. In one rural North Carolina county where an intensive study of mental cases was carried out during 1946, 59 sterilized women were located of whom only 36 had gone through the Eugenics Board.[63, 64]

This situation, whereby a large proportion of sterilizations are unofficially arranged on mixed physical and socio-economic grounds, is being paralleled in other parts of the State. It appears to have developed as the result of three factors: existing but limited sterilization law; public awareness of the possibility; and improved techniques of operation. In regard to this last, we have to consider not only the increasing safety of female sterilization which has been derived from accumulated experience (some hospitals in the United States have performed long series of tubal ligations—800 in one center alone*—with practically no fatalities), but the social convenience of post-partum operation when

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the patient is sterilized a few days or even a few hours after her delivery.[48, 68, 70, 125]

Sterilization as Part of People's Thinking

In countries such as England where sterilization is without legal recognition, its use as a practical social measure would rarely come to mind or even be envisaged as attainable possibility. In North Carolina, however, where for almost twenty years the law has provided for limitation of the reproductive activity of certain classes of persons, a large proportion of health and social workers look on sterilization as one of the measures they can recommend in suitable cases. It is easy to see how its application to the mentally handicapped would gradually be carried over in people's thinking to other and related situations, where the advantage of the measure would be obvious from every social and economic point of view, and might even be requested by the individuals themselves.

It is a fact of considerable sociological importance that women of all classes in the community are aware that sterilization is available. They know it assures them of permanent protection free from the drawbacks and uncertainties of birth control (which tends in any case to be inconsistently practiced among groups who need it most), and they have before them the example of those already operated on who are enthusiastic in their praises. Revolutionary though it may seem in contrast with the folkways and beliefs of a religiously-minded culture, it is fast becoming an accepted pattern of the contemporary social scheme.

Evidence to this effect was obtained during the course of interviews with married women who had been sterilized, where it was usual to find that the individual knew of others in the same position or that she herself had asked for the operation to be performed. One such woman, a college graduate, induced two of her sterilized friends to volunteer for interview and mentioned others with whom she was less well acquainted. She knew of women who had "shopped around" for a doctor who would sterilize them. The wife of a mechanic said that her husband's mother and sister had both been sterilized and that her own sister, who had had

three children in four years, was most anxious to be done. A Negro woman said that since she had had the operation, several people had asked her about it and that her sister-in-law "wants to take one" as she had had six children very quickly. Two women in poor circumstances spoke of sterilized neighbors, and one even accompanied the interviewer to provide a personal introduction.

There is no doubt as to the popularity of the operation. "I'm proud of mine" was common vernacular approval. "People envy me," said a butcher's wife. "It's really something to be able to plan and know where you are." Many wished they could have been sterilized years sooner, and one woman with a record of 12 pregnancies summed up her view in the spontaneous remark: "I think it's a great thing for poor folks to have." Relief from worry and anxiety was everywhere expressed, not only among the poor but among those better-off women who had obtained what are known to the medical profession as sterilizations of convenience. A full account of these psychological attitudes and other findings of the follow-up study appears in Chapter 7.

Practice in Different Agencies

Welfare Departments

As with eugenic sterilizations, the practice varies from one county to another. Some reported no participation, others a single case; two had undertaken therapeutic sterilizations only, one county reported 60 such cases in the preceding five years. What happens depends to some extent on the interest of the superintendent but even more so on the attitude taken by local doctors and the hospital facilities which are available in the district. "The doctors are sympathetic and do very constructive work," commented one superintendent, adding that he had to fall back on their co-operation in urgent cases which did not meet the requirements of the Eugenics Board. Another complained "We need to get doctors more interested in working along with us." In the questionnaire returns several counties stressed the benefit which therapeutic sterilization provided for clients with large families and low incomes; others suggested amendment of the law to cover

those borderline cases where social grounds for operation were strongly in evidence.

Illustrating this point, one superintendent described a therapeutic sterilization then pending in his department, where the woman had had three husbands, various children, and no income other than an Aid to Dependent Children grant, but was not recognizably defective or psychotic. She had consented to the operation but: "we couldn't get her presented to the Board as a mental case." Another department furnished particulars of a therapeutic sterilization arranged for a 30-year old white woman, blind from birth, who was married to a partially-sighted man and had two children in four years, one of them known to have defective sight. (This woman was among the 48 interviewed in the follow-up study.) Two of her sisters were also blind and both were married, with a child born to one of them before she too was sterilized. In another case record from the same department, we see a different type of situation:

> George B., aged 30, unemployed mill worker, and his wife of 29, have four children aged 10, 3, 2 and a baby of a few months. Mrs. B. reached the tenth grade in school and is of good intelligence. She came to the welfare department and asked urgently for sterilization to be arranged, stating that "they didn't know what they were going to do with no money coming in and so many children to feed." Her husband had signed consent for the operation.
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> She was told that the department would try to arrange a sterilization as soon as possible.

The question of cost again enters in, more so since payment is not mandatory in the departments as it is for cases of eugenic sterilization. In counties where fees and hospital charges were high, the attitude of local County Commissioners towards expenditure for this purpose would be a determining factor.

Health Departments

Here, as might be expected, the emphasis in therapeutic sterilization is concerned with physical indications. Common among the clients are exhausted mothers who have had multiple pregnancies, many of them in need of repair operations; women with neglected heart and kidney conditions; diabetics; the syphilitic and tubercular. Although contraceptive services are available, it is often impossible to guarantee protection to the mother of many children even if she could be relied upon to practice the method consistently, and similar considerations apply where an additional pregnancy would mean serious danger to life. Since the women attending the health departments are drawn almost entirely from the lowest-income groups, and more of them Negro than white, it is customary to find that the home circumstances are very poor and that good social grounds for sterilization could be shown in most cases as well as the strictly clinical.

> Mrs. Hester G., a white woman, was sterilized at 39 for a combination of general poor health, "nerves," eye trouble, an infected leg, and prolonged vomiting during pregnancies. She had seven living children, one dead, and a miscarriage. Her husband, a cotton mill operative, earned low wages and the family lived in three rooms in a dilapidated slum home.

> Mrs. Mattie P., age 43, Negro, is pregnant for the fourteenth time and the health department hopes to arrange for sterilization at confinement. She has had several miscarriages and two sets of twins. One child is dead, one has a heart condition, others have gonorrhea. Mrs. P. has been treated for syphilis. She is mentally normal. Birth control instruction was attempted twice, but unsuccessfully. Her husband, a carpenter, refused to be sterilized himself, and is very unsatisfactory over money, never allowing her enough to manage on.

No figures are available for the number of referrals made by health departments, and too few were visited to draw conclusions about general policy, which in any case would vary according to the interest of the staff and—as always—the co-operation of outside surgeons. One health officer of a large city department criticized local doctors as being too conservative in their view of physical indications; in another county department it was reported that the doctor who operated used his own discretion, taking social and economic factors into account. A Negro obstetrician in charge of colored maternity clinics in the city department just mentioned

was greatly in favor of sterilization, and kept a supply of consent forms on hand for the patient and later her husband to sign.

One county department in a rural area had concentrated on securing sterilization for the husbands of their patients and were successful with some 30 cases during the past five years, an unusual achievement considered due to careful "ground work" and explanation by doctor and nurse, and to advertisement given the operation by one or two satisfied men. Patients who came to the doctor's office on a Friday afternoon to have the operation performed returned to work with no ill-effects on the following Monday. Of the female sterilizations in the same department, approximately half were Eugenics Board, half urgent physical grounds, and some, it was said, "because they just plain ask for it" (usually women with many children and economic difficulties).

General Hospitals

Only a sampling of these could be made which covered visits to three teaching hospitals, two private hospitals and three Negro hospitals. Supplementary information was obtained from the questionnaire returns and interviews with social workers. Though no general survey is possible, it is clear that the hospitals differ widely in their acceptance of the type of socio-therapeutic sterilization in which we are interested. Catholic-controlled hospitals will take no part in any sterilizations, eugenic or therapeutic. Negro hospitals appear to regard the operation with favor, and such sterilizations as are performed (capacity is severely limited in all these Negro institutions) are almost entirely for reasons connected with excessive multiparity. Ten, 12, and more pregnancies are fairly common among women of lower-income Negro groups. There is little or no sterilization of younger women with few children and in better circumstances as is found among the patients from white hospitals, a racial contrast which may be attributed to the inadequacy of medical care available for Negroes,[19, 73, 74] and their small middle and upper-class representation. "Few Negro women could afford to pay for an elective operation," one Negro gynaecologist explained, adding that the better-off Negro classes made successful use of birth control.

It seems that therapeutic sterilizations have been more freely performed in the past and that in recent years a general "tightening up" has taken place. This restriction is common knowledge among social workers and was confirmed by the heads of the gynaecological department in two teaching hospitals, both of whom stated that their former liberal policy had led to sterilization being "abused" and carried out on inadequate indications. One of these hospitals has now made sterilization a consultation procedure, in which several opinions are sought; the other will perform no operations whatever except on clearcut mental or physical grounds. In a third teaching hospital where a good many sterilizations are done, the doctors refer doubtful, i.e., non-imperative cases to the social service department for investigation and make their decision on the basis of the social and psychological situation revealed. A copy of the medical social worker's report on one such case will be found in Appendix D.

Non-teaching hospitals would seem to be more liberal, depending on the attitude of individual members of the staff. In one North Carolina town the social workers know that it is generally possible to arrange therapeutic sterilizations for their clients at the non-teaching hospital, when the teaching hospital will not consider them. Patients have been discharged unsterilized after confinement from the latter institution, despite recommendation on good physical and social grounds; and later admitted to the other hospital where the operation has been performed. The welfare superintendent in another town said that the non-teaching hospital there would handle some cases, but did not like to do too many. "They fuss because it makes their records look bad."

The number of sterilizations performed is apparently a matter of some concern to the executive of professional bodies such as the American College of Surgeons. One gynaecologist stated that pressure was being brought by this authority to stop "sterilizations of convenience" in hospitals accredited to the College, and that admonitory letters would be written if too many operations of this type appeared in the records. Two other gynaecologists also mentioned a veto from the College and a third referred to "restrictions" on sterilization, saying that word had gone forth un-

officially from the American Medical Association warning doctors "not to be too free with tubal ligations." It was not possible to obtain concrete evidence about this alleged attitude of the professional authorities, since no doctor produced any written statements and a letter of inquiry to the College of Surgeons was not acknowledged. Nevertheless, it seems improbable that spontaneous mention of restrictions would be made by doctors in different areas without some factual foundation.

Gynaecologists and Sterilization

In the last analysis, the fate of each individual woman rests in the hands of the gynaecologist. Should her circumstances in his opinion not warrant sterilization, neither appeals to his humanity nor even official authorization from the Eugenics Board can make him perform the operation. It is therefore of considerable interest to discover what criteria are employed and whether attitudes are class-conditioned. During the course of the study, 16 gynaecologists in four North Carolina towns were interviewed, two of them women and three of them Negroes. Eight were in private practice only, six were associated with teaching hospitals, and two with health departments.

Among this sample, criteria for non-imperative therapeutic sterilizations ran all the way from two children and certain social or psychological factors to a requirement of six or seven, and included a refusal to operate on any but husbands of the women concerned. One doctor will sterilize if the woman is over 30 years of age with four children; if under 30, with five or six; another will sterilize after three children and preferably after four, plus physical indications and economic factors; a third requires five children and age over 30. (The foregoing refer generally to post-partum operations.) One Negro gynaecologist believed in "the prophylactic rather than the therapeutic approach" and tried to sterilize before the woman's health was completely broken down with excessive childbearing. A white gynaecologist said he was accustomed to offer sterilization to any patient after a second cesarean section. What constitutes sufficient "physical indication" varies according to individual outlook and degree of social-mindedness.

The position in regard to private practice was summed up by one informant as follows. He said that in the last few years women almost automatically asked for sterilization after three children, and since doctors want to oblige their patients, they will perform the operation if some physical grounds can be found. The profession in X—(that particular town) favor sterilization, but he did not think that money-making was the reason for their enthusiasm since in 75 percent of the cases the patients bring up the subject themselves. This view was confirmed by another gynaecologist who said "we're plagued all the time by women who are having their second or third child and want you to sterilize them." These physicians implied that such women won't bother with birth control, even those who are intelligent and could protect themselves if they wanted.

Fees for the operation, if an isolated procedure, range from $75 to $100, and in technical difficulty it ranks—according to one surgeon—"somewhere between a D. and C.* and an appendectomy." We may note that among the 48 women interviewed, those who were sterilized earliest in their reproductive career—except where necessitated by some pathological condition—were also those in better social and economic circumstances.

Where hospital patients are concerned, the uncertain state of the law appears to be a restraining factor in some instances. Before undertaking a therapeutic sterilization, it is customary to obtain the written consent of the patient and her husband, and one hospital has a printed form for this purpose which reads as follows:

> I (wife), being of sound mind, do hereby give my consent and authorize the Medical Staff of the X Hospital to have a sterilization operation performed on me, realizing that as a result of this procedure further pregnancies will not occur.
>
> (signature) Husband
> (") Wife
>
> Date.

In one of the Negro hospitals it is a routine to try and get permission from all husbands before their wives' confinement, so that sterilization can be performed without delay if it is considered

*Dilation and curettage.

advisable. Such consents, however, are not felt by all surgeons to guarantee sufficient protection in the event of suit being brought; and some even distrust a Eugenics Board authorization despite the clear exemption from liability which is given in Section 16 of the law.

It is true that no Court statement has ever been made as to the legality of sterilizations of consent, and the position can only be guessed at by analogy with the crime of mayhem or maiming, a survival in the statutes from medieval times.[33] While it is improbable that this reasoning could today be held applicable to a surgical operation which does not involve castration and which is performed on a mentally competent person at his own request, many surgeons and lawyers would be glad to see a test case brought which would clarify the situation. The likelihood of prosecution may be slight and present caution excessive, but it is understandable that no doctor wishes to incur the risk of a vexatious and costly suit.

In practice, the vagueness of the law means that there is considerable social injustice between one class of women and another. A contraceptive sterilization can usually be obtained by the better-off patient, if she searches diligently enough among the gynaecologists of her acquaintance; whereas the patient who is unable to pay and who comes from a different social class than the doctor has much less chance of assistance, although on every ground her need is likely to be greater. The position in respect to terminations of pregnancy is somewhat similar. To state this as a fact is in no way to impugn professional integrity: it is rather the reflection of a social and economic system to which the doctor inextricably belongs. One gynaecologist who expressed himself strongly about this inequity and who was sympathetic towards the tired-out mother from low-income groups said however that the responsibility for action should not be placed on doctors since this was asking them to step outside their field. If the community felt, as he did, that contraceptive sterilization should be made available for women of normal intelligence in certain circumstances, they should endeavor to have the law so amended that the doctor's position would no longer be in doubt.

To sum up, it is apparent that in North Carolina voluntary sterilization is being extended to borderline groups outside the existing law, although in an uneven manner and without official recognition. A broadening of the statute to include mentally normal persons, far from being a revolutionary innovation, would have some basis in current practice. We discuss this further in Chapter 6.