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**Veto Message: Governor Fletcher  
1913 (S.79)**

**An act to authorize and provide for the sterilization of imbeciles, feeble-minded, and insane persons, rapists, confirmed criminals and other defectives.**

STATE OF VERMONT  
Executive Department.  
Montpelier, Vt., January 31, 1913

*To the Honorable Senate:*

I have the honor to herewith return without my approval, Senate bill No. 79, entitled "An act to authorize and provide for the sterilization of imbeciles, feeble-minded, and insane persons, rapists, confirmed criminals and other defectives", for the reasons set up in an opinion of the Attorney General which is hereto attached, January 31, 1913.

ALLEN M. FLETCHER,  
Governor.

Re Senate Bill 79.

*To His Excellency, the Governor:*

In response to your request I report as follows regarding the measure.

Referring to section 2 of this act, you will notice that the act applies only to those of the unfortunate class named, who are unfortunate enough to be actually confined "In the hospitals for the insane, State Prison, reformatories and charitable and penal institutions in the State". Those equally unfortunate except in the matter of actual confinement including criminals whose sentences have been completed, and all having greater opportunity to perpetuate the evil which this bill seeks to guard against, are immunes from the operation of this act.

In my judgment this is an unfair, unjust, unwarranted and inexcusable discrimination which ought not to *be*, and cannot be tolerated under the supreme law, the Constitution of this State.

If there be anything of merit in the claims made by the advocates of this measure, and I do not attempt to say there is not, just why the feeble-minded or imbecile wife of a kind hearted and tolerant husband should be permitted to give birth to offspring, is quite beyond my comprehension, and yet instances of this kind are within the knowledge of almost every person of mature years. Instances of this kind are not confined to cases of the imbecile wife, but the suggestion applies equally to cases of the degenerate and imbecile husband of the kind hearted and tolerant wife who has sufficient means and sufficient pride to in a measure conceal the actual condition of her husband.

In short, the idea meant to be conveyed is this, that this section contains such an unreasonable discrimination and classification as renders the act void under the Constitution of this State.

Again referring to section 9 of the act, it is here provided that the act shall not apply to women of 'forty-five years of age or over' as a general rule do not conceive and give birth to children, it is an undisputed fact well known, not only to the medical profession, but in common experience that women of that age do conceive and give birth to children. Here again is an unwarranted and inexcusable discrimination and classification which renders the act in my judgment void under our Constitution.

In this connection permit me to say, that this discrimination would seem most unnecessary and unwarranted because if it be true as the act assumes that the conception in women of forty-five years or over is impossible, the execution of this law would not deprive the individual of a God given power or function.

Again calling your attention to the provisions in section 2, which perhaps I may be permitted to call the "machinery" for carrying the provisions of this act into effect, it seems apparent to me these provisions are wholly inadequate, unjust and insufficient. In

this connection it ought to be sufficient to call attention to the fact that this act applies to the insane and feeble minded confined in hospitals for insane and charitable institutions of this State and that the provisions for final hearing provides only for notice in writing delivered to such insane or feeble minded persons "Which shall plainly state, time, place and purpose thereof," and in case the person is a minor or under guardianship, a copy of such notice shall be mailed to such parent or guardian as the case may be, addressed to his last known residence at least six days before said hearing. There is also the further provision that the board provided for "Shall hear such person in his defense, if he appears and requests such hearing. And at such hearing such person shall have a right to introduce witnesses and proofs and be represented by counsel. Said board shall give such person a fair and impartial trial." Absolutely no provision is made to enable such insane person or persons confined in a charitable institution to appear before said board and secure such impartial trial, and the fact that such person is absolutely incapable of making a request or of performing any legal act, is utterly ignored. It is also provided that upon such proof as may be adduced said board may decide the question involved. From their decision no appeal of any kind is provided for. There is absolutely no provision regarding the quality of the evidence which said board may receive. In other words, under the provisions of this act, the decision of the board is absolute and final. In this respect an act of this kind is unheard of and unwarranted. Under such a provision, land could not be taken for a public highway, as has been repeatedly held by the Supreme Court of this State, it is not due process of law. Much less ought it to be enacted that individuals may be deprived of God given powers, functions and rights in such manner.

Perhaps I ought to also call your attention to section 6, of this act. It is in this section provided that "Persons who shall come within the provisions of this law as criminals and not otherwise, shall be those who have been convicted of the crime of rape or of such succession of offences against the criminal law as in the opinion of said board shall be deemed to be sufficient evidence of confirmed criminal tendency." Under this section and the other provisions of this act, it is in effect provided that this board may inflict an additional penalty for a crime long before committed and the legal

penalty as the presumes until further offence is committed. It seems hardly necessary to suggest that such a provision contravenes the Constitution.

But the climax of absurdity and inconsistency seems to have been reached in section 7 of this measure. Under the provisions of this section both lunatic and imbecile are permitted to do that which has never been permitted in any court of justice in this land, viz.: by agreement imposed upon themselves such penalty as under this act may be imposed upon criminals after full hearing and the introduction of evidence. To say that such a provision is unwarranted and absurd is putting it mildly.

Respectfully submitted,  
R. E. BROWN,  
Attorney General.

**Governor's Veto Sustained**  
**S.79, 1913**

The Governor's veto was overridden in the Senate:  
**Yeas 13 Nays 10**

The Governor's veto was sustained in the House:  
**Yeas 31 Nays 149**

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Sources: : *Journal of the Senate*, January 31, 1913 (pages 618-621)