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EUGENIC STERILIZATION IN 20TH CENTURY GEORGIA:
FROM PROGRESSIVE UTILITARIANISM TO INDIVIDUAL RIGHTS

by

STEPHEN MICHAEL SMITH

(Under the direction of Johnathan O'Neill)

ABSTRACT

The science of human breeding, known as eugenics, flourished in America in the first half of the 20th century. The movement's chief proponents included wealthy philanthropists, politicians, doctors, and young middle-class reformers. Sterilization for the purposes of removing defective genes from society was a critical part of the eugenics movement. Progressive reformers used eugenic doctrines combined with utilitarian political philosophy to divest individuals of the natural right to procreation. Involuntary sterilization legislation spread throughout the United States after the 1927 *Buck v. Bell* Supreme Court decision that gave judicial approval to involuntary sterilization, regardless of due process and equal protection arguments to the contrary. It was in this legal environment that Georgia adopted sterilization legislation as a cost-saving measure. When progressive politicians assumed control of the governorship and legislature in 1937 sterilization legislation passed with little meaningful objection. Over 3,000 involuntary sterilizations were performed in Georgia. Newly revealed documents from the Georgia Department of Archives and History show that social deference to scientific expertise, bolstered by legal coercion, poverty, or lack of education, was a major reason for the eugenics movement in Georgia. Dr. Thomas G. Peacock, in his dual role as head of the State Board of Eugenics and the superintendent of the asylum in Milledgeville, oversaw the majority of sterilizations in Georgia. He was undeterred by the revelation of Nazi eugenic practices after World War II. Sterilizations in Georgia went into decline once a new superintendent was appointed at Milledgeville who did not explicitly endorse eugenic theory. Since 1970 sterilization law in Georgia has been narrowed in scope to insure due process and equal protection for any mental incompetent who might be sterilized under the provisions of the law. This development shows that sterilization law in Georgia is now in accord with the jurisprudence of the rights revolution of the 1960s and 1970s.

Key Words: Eugenics, Georgia, Sterilization, Thomas Peacock, *Buck v. Bell*, Milledgeville, Gracewood, Eugene Talmadge, Eurith Rivers, V.V. Anderson, National Committee for Mental Hygiene, Feeble-minded, Progressivism

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TABLE OF CONTENTS

	PAGE
INTRODUCTION.....	6
CHAPTER 1: THE HISTORIOGRAPHY OF THE EUGENICS MOVEMENT.....	11
<i>Early Eugenic Historiography (1960s)</i>	12
<i>Eugenic Historiography and the “Rights Revolution”</i>	16
<i>Eugenic Historiography in the 1980s—1990s</i>	18
<i>Eugenic Historiography in the 2000s</i>	22
<i>Conclusion</i>	25
CHAPTER 2: EARLY EUGENIC STERILIZATION AND PROGRESSIVISM IN THE UNITED STATES.....	27
<i>The Heritability of Deviance: A Problem “Discovered”</i>	28
<i>The Failure of Segregation and the Discovery of “The Surgical Solution”</i>	31
<i>Charles Davenport, Henry Goddard, and the Creation of the State of Fear</i>	34
<i>The Progressives Perceive the Problem and Embrace the Surgical Solution</i>	38
<i>Buck v. Bell</i>	46
<i>Conclusion</i>	48
CHAPTER 3: EUGENIC PHILOSOPHY TAKES ROOT IN GEORGIA.....	50
Part I: The Birth of Eugenics in Georgia.....	50
Part II: The Passage of Sterilization Legislation in Georgia.....	63
CHAPTER 4: STERILIZATION IN GEORGIA, 1937-2010.....	77
Part I: Eugenic Sterilization in Practice, 1937-1963.....	77
<i>Dr. T.G. Peacock’s Sterilization Logic</i>	79
<i>A Sampling of the Sterilization Correspondence</i>	80
<i>1959: The Milledgeville Exposé and the End of Dr. Peacock’s Tenure</i>	87
Part II: The Statutory Revision and Death of Eugenics in Georgia.....	90
<i>Repeal of the 1937 Law</i>	90
<i>1983: The Georgia Supreme Court Aligns with the New Jurisprudence</i>	92
<i>The State of Georgia Apologizes for Eugenic Sterilization</i>	95
CONCLUSION.....	97
BIBLIOGRAPHY.....	101

Introduction

This thesis complements the previous work of Edward Larson by providing a deeper look into the history of eugenics in Georgia with new source material, including the newly released Sterilization Files from the Georgia Department of Archives and History. It argues that sterilization legislation passed in Georgia based on a utilitarian disregard for individual rights to due process and equal protection under the law. Proponents of compulsory sterilization legislation argued that sterilization was a medical procedure, not a punishment, designed to protect the state from the overwhelming cost burden posed by eugenically defective individuals. Scientific expertise provided the authority for eugenic sterilization. By the 1970s, developments in the legal realm held that an individual right to reproductive privacy effectively ended eugenic sterilization in the United States and Georgia as well.

In Georgia, the story of eugenic sterilization presents the same theme that defined the national eugenics movement: societal deference to scientific expertise, because of legal coercion, poverty, or lack of education, allowed for sterilizations to occur with little meaningful opposition. In the midst of the Great Depression, the citizens of Georgia were eager to embrace cost-saving measures such as sterilization of the mentally handicapped to reduce the relief roles. Progressive politicians pushed sterilization in Georgia just as the idea of eugenics declined in popularity. Georgians implemented sterilization ruthlessly, undaunted by their knowledge of the evils associated with the Nazi sterilization program. Eventually Georgia's sterilization program came to an end because of changes in the leadership of the Milledgeville hospital and the advent of privacy jurisprudence in the 1960s and 1970s.

Eugenics was a trans-Atlantic movement whose strongest American proponents disseminated their knowledge in public forums and in college lecture halls. In 1875 Richard Dugdale published *The Jukes*, the first eugenic “family study.” With questionable methodology and research as his support, Dugdale asserted criminality and feeble-mindedness (a loose description applied to people for types of mental retardation and learning disabilities) were hereditary traits passed down from generation to generation. The cost burden that these degenerates posed to the state was enormous according to Dugdale’s research. Several other family studies followed as young professionals sought to carve out a niche for themselves in the early 20th century. Charles Davenport and Henry Goddard were two of these professionals. Together they collaborated to create a state of fear based on dubious assertions about the heritability of deviant traits. Their early 20th century family studies, *The Hill Folk* and *The Kallikaks*, posited that large numbers of high-functioning, but feeble-minded individuals moved amongst the general population virtually undetected, spreading their defective genes and weakening the American genetic stock. Progressives such as Davenport and Goddard supported the scientific manipulation of the gene pool. The eugenic family studies and their cost burden arguments acted as a catalyst for the passage of eugenic legislation all over the United States.

Progressive reformers willfully embraced the state of fear that the young eugenicists created. They considered eugenics to be a benevolent form of social control that strengthened the state. They sought to arrest the process of natural selection and replace it with a much less brutal process—artificial selection. Faced with the problems of poverty that rapid urbanization wrought in the early 20th century, the reformers decided that saving the weak through charity was unacceptable. Instead, these people should be controlled and isolated so that they could not breed more inferior genetic stock. Individual rights were of no concern to the reformers. The

Constitution stood in the way of the progress of the modern industrial state. In their view, personal liberties were to be subordinated to utilitarian philosophy. The state, like society, had to evolve in order to survive. Eugenics was integral to the aims of the progressives. When eugenic segregation by institutionalization proved to be too costly to maintain, the progressives turned to sterilization, a newly invented medical procedure.

In the early 20th century several state level court decisions struck down sterilization laws as unconstitutional on due process and equal protection grounds, but reformers continued their advocacy undaunted. In *Eugenical Sterilization in the United States* (1922), Harry Hamilton Laughlin crafted a model sterilization statute that accounted for earlier constitutional challenges. The state of Virginia adopted this model legislation, and a friendly suit in which Laughlin gave testimony provided the test case for the constitutionality of sterilization statutes in the United States. Progressive jurist Oliver Wendell Holmes, in his *Buck v. Bell* (1927) opinion, overruled any precedent that might have stood in the way of coerced sterilization. Laughlin's approved model statute then became the standard for eugenic legislation. States began to sterilize unencumbered by constitutional limits.

Georgia lagged in the eugenics movement because of a paucity of influential progressive reformers. Conservative Democrats ruled in Georgia until the late 1930s when progressive politicians came to power. Professors and politicians did not provide the push for sterilization legislation in Georgia as they had in the North and West. Instead, doctors affiliated with the Medical Association of Georgia introduced the idea of sterilization long before budgetary concerns made eugenic segregation unattractive. They were united with other eugenicists in their belief that sterilization was a medical procedure, not a punishment, performed for the protection of the state. Here the arguments for both segregation and sterilization existed side by side.

Efforts by Dr. V.V. Anderson of the National Committee for Mental Hygiene brought the national eugenics movement to the public in Georgia. He engaged women's clubs and civic organizations with the shocking cost/benefit methodology of the eugenic family studies. His recommendation of eugenic segregation was supposed to be a cost saving measure. Politicians in Georgia embraced Anderson's recommendations, and in 1919 they made appropriations to construct the Georgia Training School for Mental Defectives at Gracewood, near Augusta. Here the national pattern held true. The extreme costs of running Gracewood and the gigantic 12,000 patient Milledgeville State Hospital proved to be too much for the state in the midst of the Great Depression. All the while, the Medical Association of Georgia was there with a cheaper solution to the problem of the feebleminded menace—sterilization. In 1935, Ellis Arnall, a member of the Georgia House, introduced sterilization as an attention-grabbing progressive bill to boost his popularity. Although it was widely supported, populist governor Eugene Talmadge rejected the bill and every other progressive measure that was introduced at the 1935 legislative session. Two years later, with progressive Eurith D. Rivers as governor, the sterilization bill passed under his "Little New Deal." Georgia was one of the final states in the Union to accept progressivism and it was the last state in the Union to adopt a sterilization bill. All the while, Georgians were fully informed of the Nazi abuses of sterilization in Germany. Some even looked to Germany as an example of what an efficacious sterilization program should resemble.

Once sterilization legislation was in place, knowledge of Nazi eugenic horrors did nothing to limit sterilizations in Georgia. The rate of sterilization increased after World War II under the leadership of Dr. Thomas Peacock. His sterilization crusade was an effective war against the weak and the helpless, as demonstrated by the fact that the majority of the people he sterilized provided little meaningful objection. Only when he was replaced did the sterilizations

decline. From 1970 to 2010 the Georgia sterilization law was narrowed to fall in line with the jurisprudence of the rights revolution. At this point only a parent or guardian can request involuntary sterilization. The utilitarian philosophy that once supported involuntary sterilizations is nowhere to be found in current law.

Chapter one, “The Historiography of the Eugenics Movement,” provides a summary of the key historical works that support this thesis. Chapter two, “Early Eugenics, Sterilization, and Progressivism in the United States,” describes the national trends that eventually brought eugenics. The goal of this chapter two is to provide a baseline description of the national eugenics movement to show that, in fact, Georgia’s adoption of eugenic legislation was unique. Chapter three, “Eugenic Philosophy Takes Root in Georgia,” shows how the ideas of eugenic segregation, brought to Georgia by national reformers, and eugenic sterilization, an idea pushed by local doctors, coexisted in Georgia. Chapter four, “Sterilization in Georgia,” describes how coercion and illiteracy supported the sterilization program, as few people provided any meaningful objection to the procedure. The final pages of the chapter show that Georgia’s current involuntary sterilization law is sufficiently crafted to protect the rights of mentally disabled individuals. In the realm of involuntary sterilization, Georgia has finally moved from progressive utilitarianism to an emphasis on the rights of the individual.

Chapter 1: The Historiography of the Eugenics Movement

Introduction

The subject of eugenics is well described by many authors in historical works written since the 1960s. The authors examined in this overview are relevant to the argument of this thesis because they each engage different parts of my central argument. Sterilization was perhaps the most efficacious facet of the eugenics movement. Although the official number of coerced sterilizations in the United States is around 63,000, current authors agree that the number is actually much higher. Over the span of the historiography of eugenics, authors have disagreed over what really caused the end of the eugenics movement. Most have come to a consensus that the erosion of the scientific foundations of eugenics, coupled with the advent of rights jurisprudence during the 1960s and 1970s, eventually killed the movement. But what role did the horrors of eugenics in Nazi Germany play in the demise of eugenics? Were the American people so repulsed at the thought of artificially selecting those deemed unfit for reproduction, and the killing of them, that we discontinued eugenic practice? Early authors assert that, yes, Americans ended forced sterilizations after the liberation of the Nazi concentration camps in 1945. But later authors use numerical data, as will I, to disprove this idea and show that several states, including Georgia, sterilized at a much *higher* rate once they could free their public resources from the distraction of the war.

Many of these authors will be examined because of their interpretation of the role of Progressives in the eugenics movement. Most authors agree that the key proponents of sterilization were progressive politicians and young professionals who sought to establish the field of eugenics as a viable profession. Progressive politicians, especially in Georgia, were

crucial to the passage of sterilization statutes. A myriad of justifications for eugenics existed amongst the progressives because they were not a monolithic movement. Yet the results of their efforts, despite their differing political faiths, were catastrophic to people who had no way to legally defend themselves against the power of the eugenicists.

Because the sterilization laws resulting from the eugenics movement were not truly quieted until the mid-20th century, critical analysis of the movement did not occur until the 1960s. The overall analysis of the eugenics movement eventually gave way to microhistorical works that concerned individual regions, court cases, and the media. Later chapters of this work will follow that trend by describing one state and the national influences that pressured politicians to enact eugenic legislation there. The following works provide the foundation for my main arguments.

Early Eugenic Historiography (1960s)

In 1963, the same year that the State of Georgia performed its last forced sterilization, historian Mark H. Haller published the first history of the American eugenics movement. *Eugenics: Hereditarian Attitudes in American Thought* examined the efficacy of eugenic ideas in religion, politics, sociology, and biology. Most states stopped sterilizing individuals long before 1963, so it could be said that Haller's work examined eugenics at the nadir of the movement when eugenics had lost almost all credibility with the scientific community. The main proponents of the idea were long dead, and the institutions that they had founded and staffed with their intellectual progeny took careful steps to obscure their eugenic foundations. By 1963 most scientists recognized eugenics as a discredited pseudoscience. Yet the eugenics movement had shaped public policy and law in the early 20th century. Progressive politicians and jurists, such as Oliver Wendell Holmes and Theodore Roosevelt, had embraced eugenics as a sure way

to improve the American gene pool and obviate the specters of feeble-mindedness and abject poverty. Holmes' opinion in *Buck v. Bell* (1927) opened the legal floodgates for eugenic legislation. In 1963, several American states, including Georgia, still had forced sterilization laws on their books. Eugenics at that time was more than a legal relic, and it could still be legally applied by the state. Haller's goal, given these historical developments, was to "understand why substantial numbers of experts in academic institutions and policy institutions became convinced that hereditary characteristics...underlay peoples' failures in life."¹

Haller's work established the main debates in the historiography of eugenics. Many of his claims remain undisputed. The assertion that Francis Galton, a 19th century British naturalist, was the progenitor of transatlantic eugenic thought is obvious given the weight of historical evidence. The natural progression of state laws from eugenic marriage laws to eugenic segregation, predicated on the cost burden of the feeble-minded to the state, is also obvious. One of Haller's central arguments, that the eugenics movement was not in fact very concerned with the idea of sexual sterilization, was vehemently disputed by later authors. Haller asserted that the majority of American eugenicists were concerned with declining birthrates among the most successful Americans. They interpreted the declining birthrates as race suicide based on the idea that the fall of civilizations could be linked to the prevalence of bad genes in any given society.² This concern with the breeding of the fittest families is referred to as "positive" eugenics. "Negative eugenics," or sexual sterilization for the purpose of preventing the passage of defective genes to the next generation, was accepted by leading eugenicists "half grudgingly, half willingly," according to Haller.³ Key eugenicists thought that sterilization laws were futile

¹ Mark H. Haller, *Eugenics: Hereditarian Attitudes in American Thought* (New Brunswick, N.J.: Rutgers University Press, 1963), IX.

² Haller, *Eugenics*, 78-80.

³ *Ibid.*, 130.

because they were “rarely followed by vigorous enforcement.”⁴ Empirical evidence to support these claims suggested that neither the Committee for the Provision of the Feeble-minded nor the National Committee for Mental Hygiene supported sterilization.

Donald K. Pickens disputed Haller’s claim in his work *Eugenics and the Progressives* (1968). Pickens was primarily concerned with how naturalist philosophy in American political thought accounted for eugenic thought. He understood that progressivism was not a monolithic movement. People of all political faiths drank at the spring of eugenic thought. Conservatives wanted a viable defense of the race, and liberals wanted to decrease public expenditures on the biologically inadequate.⁵ Both sides were united in that they supported the scientific manipulation of the gene pool with the intention of supporting a utilitarian conception of public policy. Pickens thought that, given the importance of sterilization in state law, it could not be ignored as a key part of the eugenics movement.

Not all eugenicists were enthusiastic about sterilization, but in popular thought and in the philosophy of the various state laws, sterilization was a prerequisite to race betterment. [...] The state laws witness this situation. Progressivism, as shaped by theorists and politicians, assumed and indeed stressed naturalistic values for American reforms.⁶

Coerced sterilization was perhaps the most visible manifestation of the eugenics movement. And, as Pickens claimed, eugenicists understood that American civil liberties were rooted in natural rights. They rejected their American inheritance of political and economic individualism in favor of utilitarian conceptions of the public good that allowed for individual rights to be subordinated to public needs. In this case, eugenicists thought the public good demanded that individuals be sterilized in order to prevent the spread of defective genes and cost burden to the state, irrespective of any conception of rights.

⁴ Ibid.

⁵ Donald K. Pickens, *Eugenics and the Progressives* (Nashville, Tenn.: Vanderbilt University Press, 1968), 143.

⁶ Ibid., 101.

Despite their differences, Haller and Pickens both agreed on the several factors leading to the demise of the American eugenics movement. First, they agreed that the Great Depression made the eugenics movement look like a projection of class bias. It is important to note the stock market crash and the subsequent depression were the result of the financial missteps of America's wealthy—supposedly the best and brightest of society.⁷ The Great Depression also sapped funding for eugenics programs.⁸ Both authors agreed that broad financial issues killed the movement.

Haller and Pickens also agreed that the horrors of eugenic ideas taken to the extreme in Nazi Germany killed the American desire for eugenic programs.⁹ Internationally, the Nazi creed of Aryan purity and the German obsession with health, fitness, and human breeding, coupled with the murder of 6,000,000 Jews in the Holocaust, gave the world a practical example of what could happen when eugenic creeds were taken too far. This is perhaps the most controversial of the arguments made in the early historiography. Later authors easily disprove this claim with statistics. In certain states, including Georgia, the number of eugenically justified sterilizations increased in the wake of World War II. Evidence reveals that some eugenicists even made the argument that the Nazis set an excellent example of what an efficient eugenics program could do for the state.

These two works, *Eugenics: Hereditarian Attitudes in American Thought* and *Eugenics and the Progressives* form the basis for later historical scholarship. Yet Haller and other historians disagreed vehemently with Pickens' review of the progressive role in the eugenics movement. Haller chose not to attack *Eugenics and the Progressives* on intellectual grounds. Instead, he chose to comment on the work's structure. "A major weakness of the book is in its

⁷ See Haller, 180, and Pickens, 206.

⁸ See Pickens, 206, and Haller, 180.

⁹ See Pickens, 202, and Haller, 180.

style and organization. The sentences are awkwardly worded, and the sentences and paragraphs often follow each other without obvious connection or logical relationship,” Haller wrote.¹⁰

Other reviewers resorted to insults. “Although the author must take responsibility for this book, the fact that it grew out of a dissertation at one university and was issued by the press of another reflects upon the reputation of both institutions,” remarked J.C. Burnham.¹¹ One cannot help but think that there may have been profound political differences between these historians and that the negative reviews may have been politically motivated, as Pickens’ work portrayed progressives in a negative light. Later historians, such as Phillip Reilly and Edward Larson, use Pickens’ work as one of the pillars of their scholarship, thus lending to Pickens’ credibility as a historian.

Eugenic Historiography and the “Rights Revolution”

In 1973, just three years after the State of Georgia repealed its 1937 law and replaced it with a statute that respected individual rights, Jonas Robitscher compiled and edited a collection of papers from a meeting on eugenic sterilization that occurred in Lancaster, Pennsylvania, in 1971. Several scholars met that year with the purpose of making a book that could be used as a guide to sterilization statutes and policy for state legislatures who chose to reform laws concerning reproductive rights. Their collective work was called *Eugenic Sterilization*.¹² One of the most significant contributions that Robitscher made to eugenic historiography was his compilation of state eugenics statutes, sterilization data, and relevant case law. Several other authors, including Phillip Reilly and Edward Larson, have used these facts and figures in their own work. The fundamental tension between the scholars featured in *Eugenic Sterilization*

¹⁰ Mark H. Haller, “Review of *Eugenics and the Progressives*,” *American Anthropologist* 71 (Oct. 1969): 993.

¹¹ J.C. Burnham, “Review of *Eugenics and the Progressives*,” *The Journal of American History* 56 (Sept. 1969): 409.

¹² Jonas Robitscher, ed., *Eugenic Sterilization* (Springfield, Ill., Charles C. Thomas, 1973).

concerned whether or not legally retarded persons could make fit parents, a concern outside of the eugenics historiography. Yet the most important aspect of the work is the deliberation on the constitutionality of eugenics statutes in light of the new privacy jurisprudence of the late 1960s and early 1970s.

The 1970s saw a shift in the discussion from eugenics as a defense of racial purity to eugenics as a punitive measure against welfare moms with illegitimate children. Julius Paul attacked these measures with the same arguments that had legally stopped eugenics in the 1960s. Coerced sterilization for compensation, or for welfare benefits, was a violation of equal protection and a threat to the rule of law.¹³ “These abortive attempts to return to punitive sterilization as a kind of collateral attack on illegitimacy, public welfare, and...[the] underprivileged classes of American society, are clothed in a new jargon (*population explosion, ecology, environmental health*).”¹⁴ He saw these attempts at the reclamation of eugenic ideas as a return to the economic, racial, and moral arguments of eugenicists in the early 20th century. “Sixty-five years of state eugenic sterilization experience in America should have taught us a few lessons. But history never really teaches men if they are still enslaved by the mythology of their predecessors,” he argued.¹⁵

Another contributor to *Eugenic Sterilization*, Donald Giannella, acknowledged the new privacy jurisprudence with his claim that eugenic sterilization laws violated the Equal Protection Clause because they singled out one class of persons—those who were institutionalized—over those who were noninstitutionalized. Precedents such as *Skinner v. Oklahoma*, which outlawed a punitive sterilization statute in Oklahoma because it punished only violent crimes, and *Gideon v. Wainwright*, which guaranteed a right to legal representation in most cases, were seen as an

¹³ Julius Paul, “State Eugenic Sterilization History: A Brief Overview” in *ibid.*, 27.

¹⁴ *Ibid.*, 34.

¹⁵ *Ibid.*, 35.

affirmation of the Due Process Clause that could apply to sterilization statutes.¹⁶ Gianella wrote that constitutional landmarks such as *Griswold v. Connecticut* and *Roe v. Wade* asserted that the interests of the individual with regard to reproductive matters were paramount to the interests of the society which sought to regulate the individual's behavior.¹⁷ This logic reversed the earlier utilitarian ideals that were embraced in the early 20th century. By the 1970s, the state of constitutional law disallowed eugenic sterilization programs from ever taking place. Later historians, such as Mark Largent, agreed with this argument. It is now the dominant theory concerning the demise of the eugenics movement.

Eugenic Historiography in the Late 1980s--1990s: Critical Analysis of the Eugenics Movement

In the mid-1980s the historiography of eugenics moved in much the same way that historiographies of other subjects do: from macrohistory to microhistory. In 1988, Nicole Hahn Rafter offered a critical analysis of early eugenic science with her work *White Trash: The Eugenic Family Studies*.¹⁸ Rafter argued that the family studies by Goddard, Dugdale, *et. al.*, were “the most influential product” of the eugenics movement.¹⁹ “While [the family studies] were clearly methodological disasters, it is less easy to fault them for distorting methods and conclusions with an overlay of ideology.”²⁰ It was her goal to explain the corollary between the science of eugenics and belief systems. In Rafter's view, it was odd of the Progressives, given their tendency to “romanticize rural values,” to make the dominant theme of the family studies

¹⁶ *Skinner v. Oklahoma, ex. rel. Williamson*, 316 U.S. 535 (1942), and *Gideon v. Wainwright*, 372 U.S. 335 (1963).

¹⁷ *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Roe v. Wade*, 410 U.S. 113 (1973). Also, Donald Gianella, “Eugenic Sterilization” in Jonas Robitscher, ed., *Eugenic Sterilization*.

¹⁸ Nicole Hahn Rafter, *White Trash: The Eugenic Family Studies, 1877-1919* (Boston, Mass.: Northwestern University Press, 1988).

¹⁹ *Ibid.*, 2.

²⁰ *Ibid.*, 4.

“the degeneracy of country life.”²¹ She posited that rural families were the subjects of the studies because they were much easier to genealogically investigate than families who had immigrated to the cities. Yet her analysis provided a much more avaricious explanation for Progressive interest in the rural poor.

The answer lies with the fact that these particular reformers were social control professionals for whom increasing eugenic control over the rural poor provided an opportunity to enhance their careers and professional status.²²

Eugenicists were interested in the status that professionalization of their work could bring them, as were people of many other occupations in the early 20th century. Eugenicists promulgated the family studies in order to extend their professional horizons under the aegis of scientific authority. “[The family studies] also validated that extension, giving it rationale, scientific authority, an aura of expertise and objectivity, the family tree technology, and that claim to community service...described as a hallmark of professionalization.”²³ In addition to her analysis of the methodologies of the family studies, Rafter contributed a sound theory to the historiography of eugenics. Her idea that greed and desire for status drove the early eugenics movement illuminates the motivations of the young professionals who wished to set aside individual rights while claiming only that it was necessary for the public good.

By the 1990s most eugenics statutes had been repealed and replaced with laws that protected the rights of individual citizens to sterilize themselves for birth control purposes. Phillip Reilly, a J.D. and M.D. who once directed the Shriver Center for the Mentally Retarded, wrote *The Surgical Solution: A History of Involuntary Sterilization in the United States* as a

²¹ Ibid., 7.

²² Ibid., 13.

²³ Ibid., 16.

guide to the history of the eugenics movement.²⁴ Reilly's work has been cited by almost every other author who has currently written on the subject for its excellent narrative history and summary of eugenic ideas.

Much of *The Surgical Solution* is devoted to the evolution of eugenics from marriage laws to eugenic segregation to eugenic sterilization. He holds that a multiplicity of professionals, including physicians, a handful of prominent scientists, non-scientific eugenicists, wealthy philanthropists, and Teddy Roosevelt came together to form the intellectual discourse that undergirded eugenic legislation. One of Reilly's core claims is that eugenics experienced resurgence immediately after World War I because of American isolationism. American distrusted the new immigrant classes and feared that their racial stock would be diluted by the new influx of immigrants.²⁵ These fears energized a renewed discussion of eugenics despite legal decisions that supported the due process and equal protection clauses in state constitutions as paramount over state sterilization statutes. Reilly argued that *Buck v. Bell* acted as a catalyst for renewed popularity of sterilization statutes; this argument is now universally accepted.

Reilly's claim that "revulsion over Germany's racist policies did little to curtail American [sterilization] programs before or after World War II" refutes the earlier eugenic historiography and the arguments made by Haller and Pickens. Indeed, Reilly uses manuscript evidence to argue, "American advocates pointed to Germany to illustrate how an enlightened sterilization program might quickly reach its goals."²⁶ Reilly ends his work with the uncontroversial claim that state sterilization statutes in the present day are concerned with voluntary sterilization, and thus that the locus of authority and choice had switched from the state to the individual.

²⁴ Phillip R. Reilly, *The Surgical Solution: A History of Involuntary Sterilization in the United States* (Baltimore, Maryland: Johns Hopkins University Press, 1991).

²⁵ *Ibid.*, 72.

²⁶ *Ibid.*, 95.

Historian Edward Larson was aided by Reilly's work in his monograph, *Sex, Race, and Science: Eugenics in the Deep South* (1995).²⁷ He argued that the Southern situation regarding eugenics was unique because Southern states adopted the legislation when support for it in the North and West was waning. Commitments to family and religion, as well as reluctance to accept an expanded, progressive role for the state hampered the efficacy of eugenic arguments in the South. Larson rooted these arguments in a thesis of Southern exceptionalism buttressed by the works of C. Vann Woodward, George Tindall, the Vanderbilt Agrarians, and Dewey Grantham. He argued that the South suffered from a paucity of higher education institutions. With few professors spreading the eugenic creed, the burden of passing legislation was borne by middle-class physicians.²⁸

One of Larson's key arguments involved the role of racism in the Southern eugenics movement. He asserted that proponents of sterilization in the South never publically advocated directing sterilization toward a particular race. Instead, advocates spoke of sterilizing both whites and blacks in order to prevent poverty and degeneracy.²⁹ They were "relatively liberal" on questions of race.³⁰ Georgia Governor Eugene Talmadge provides Larson's case in point. Talmadge was a self-proclaimed white supremacist, yet he rejected sterilization legislation. The legislation was not passed until 1937 when progressive politicians took control of the Georgia legislature and governorship. "Clearly, reactionary racism did not underlie the passage of Georgia's sterilization law," Larson concluded.³¹ Larson's overall argument was that the rise of

²⁷ Edward J. Larson, *Sex, Race, and Science: Eugenics in the Deep South* (Baltimore, Maryland: Johns Hopkins University Press, 1995).

²⁸ *Ibid.*, 42-54.

²⁹ *Ibid.*, 138.

³⁰ *Ibid.*

³¹ *Ibid.*

eugenic legislation in the South could be linked with the election of progressive politicians, an event that occurred much later in the South than elsewhere in the United States.

Larson agreed with Reilly's assertion that the horrors of the Nazi regime did not bring an end to eugenic practice. In fact, sterilizations in the South increased after World War II and reached their zenith in the mid-1950s. Eventually Southerners realized that the hereditarian notions that undergirded the eugenics movement were based in pseudo-scientific error. "Nurture had replaced nature as the accepted explanation for social problems," Larson asserted.³² By the 1970s, "any delay in the repeal process resulted more from public indifference and legislative inertia than from residual support."³³ At that point eugenics was an episode in American history that the public would easily forget.

Eugenic Historiography in the 2000s

Eugenic historiography in the 2000s has included both macrohistories and microhistories, from a broad view of the origins of the movement to a collection that highlighted the role of eugenic ideas in popular culture during the 1930s. All of these works have added to the rich historiography on eugenics.

Christina Cogdell and Susan Currell recently have edited a collection of articles about eugenic ideas in the 1930s and their influence on mass society, *Popular Eugenics* (2006).³⁴ The 1930s were a pivotal time in the eugenics movement because, as Edward Larson asserted, more legal sterilizations took place then than in any other decade.³⁵ The "reform eugenics" movement rose in the 1930s and argued that eugenics had very little to do with the control of hereditary

³² Ibid., 66.

³³ Ibid., 160.

³⁴ Susan Currell and Christina Cogdell, eds., *Popular Eugenics: National Efficiency and American Mass Culture in the 1930s* (Athens, Ohio: Ohio University Press, 2006).

³⁵ Ibid., 2.

defects. Instead, eugenicists in the 1930s focused on positive eugenics. “The formation of the New Deal, the interaction of the modern citizen with the modern state, and personal interpretations of eugenics thus underlay much of the shift in eugenic discourse at the time,” Cogdell and Currell argued.³⁶ Their main goal was to show how popular culture disseminated eugenic concepts even though the scientific community had abandoned them. As one author, Wendy Kline, argued, “Eugenic sterilization became the social security of American civilization: it guaranteed a healthy and stable future citizenry.”³⁷ Kline went on to argue that this fit well with New Deal social liberalism and its sacrifice of liberty for the sake of stability. This assessment ties the emerging role of the welfare state to an overall rise in eugenic fervor during the 1930s, despite the fact that the key proponents of the movement all died in the 1930s and the Great Depression sapped funding for eugenic institutions.

Mark A. Largent offered a slight reappraisal of the overall eugenics movement in his work *Breeding Contempt* (2008).³⁸ He attempted to broaden the focus of eugenic history beyond a few key reformers. According to Largent, Davenport and Laughlin “provided the scientific authority to support the prejudices that had motivated earlier advocates of the coerced sterilization of state wards.”³⁹ But why, then, had sterilizations occurred far past the deaths of Davenport and Laughlin? The answer lies in the fact that they did not work alone: their followers conducted sterilizations into the 1960s. Post-World War II sterilizations “[rode] a wave of enthusiasm for science and technology...benefiting from the goodwill most Americans felt toward the medical community as a result of wartime advances in research and public

³⁶ Ibid., 5.

³⁷ Wendy Kline, “A New Deal for the Child: Ann Cooper Hewitt and Sterilization in the 1930s,” in Susan Currell and Christina Cogdell, eds., *Popular Eugenics: National Efficiency and American Mass Culture in the 1930s* (Athens, Ohio: Ohio University Press, 2006).

³⁸ Mark A. Largent, *Breeding Contempt: The History of Coerced Sterilization in America* (Rutgers, N.J.: Rutgers University Press, 2008).

³⁹ Ibid., 2.

health.”⁴⁰ These ideas were not legally defeated until the rights movement of the 1960s and 1970s.⁴¹

One of Largent’s core claims is that we cannot truly know the number of people sterilized in state institutions. Largent assumes,

The widely quoted number of 63,000 is probably not even close to the actual number of coerced sterilizations because so many went unreported, occurred in states that had no legal oversight of coerced sterilization, or were wrongly reported as voluntary, when in fact the patient or inmate was coerced by prison authorities or health officials.⁴²

Largent’s evidence from state records supports this claim, as does evidence presented in this thesis. Most people who were sterilized were poor with no legal representation.

Also in 2008, historian and lawyer Paul A. Lombardo of Georgia State University provided insight into *Buck v. Bell*, the legal catalyst that precipitated high numbers of sterilizations in the 1930s. In *Three Generations, No Imbeciles* Lombardo exposed Carrie Buck’s sham trial both in the courts of the Commonwealth of Virginia and before the United States Supreme Court. The evidence at Buck’s trial was weak because Carrie’s lawyer, Irving Whitehead, had no intention of defending her from the sterilization order. The superintendent of the institution where Buck was housed, Albert Priddy, colluded with Whitehead to put a test case before the Supreme Court that would solidify the constitutionality of sterilization. According to Lombardo, “Buck was the victim of an elaborate campaign to win eugenic sterilization laws.”⁴³ He successfully demonstrated that Laughlin’s model sterilization law influenced Priddy’s efforts in Virginia. As a result, Virginia’s sterilization law closely followed Laughlin’s model. Laughlin even gave a deposition in Buck’s trial. National as well as local forces came together to insure

⁴⁰ Ibid., 8.

⁴¹ Ibid., 140.

⁴² Ibid., 8.

⁴³ Paul A. Lombardo, *Three Generations, No Imbeciles: Eugenics, the Supreme Court, and Buck v. Bell* (Baltimore, Maryland: The John’s Hopkins University Press, 2008), XI.

the efficacy of eugenic sterilization after 1927. The Progressives do not escape Lombardo's judgment.

Sterilization satisfied political yearnings during the progressive era because the eradication of moral defects appealed not only to those who embraced conventional religious standards but also to those for whom modern science had taken over the role of religion.⁴⁴

Laughlin's work is yet another exposé of the motivations of eugenicists and their tactics to pass suitable legislation for their cause. Lombardo's revelations are an appropriate counter to the *Buck* decision, which to this day has not been overruled.

Conclusion

Larson's work, *Sex, Race, and Science*, can be seen as the summation of the works of Haller, Pickens, Robitscher, and Reilly. Larson used nearly the same framework to present his history of the national eugenics movement, with one key exception taken from Pickens' work. Larson believes, as did Pickens, that sterilization was a key part of the eugenics movement. Like Reilly, Larson denies the assertion that American knowledge of Nazi brutality during World War II helped to bring an end to the eugenics movement. Robitscher's compilation contributes key facts and figures to the works of both Reilly and Larson. Larson's work is most critical to this thesis because he has provided the guidelines under which the eugenics cycle in Georgia will be analyzed. It is easy to see that eugenic scholarship during the 1990s involved the acceptance of eugenic sterilization as a progressive measure carried out with a utilitarian philosophical basis. This thesis will argue in the same vein, but on a microhistory level. It is also important to recognize that the eventual acceptance of the due process and equal protection arguments espoused in Robitscher's compilation shows that resistance to eugenic measures was not in vain. The development of privacy jurisprudence in the 1960s put the final nails in the coffin of the

⁴⁴ *Ibid.*, XIV.

eugenics movement. This work will qualify those arguments with the assertion that though the “rights revolution” did not necessarily kill the eugenics laws in Georgia, it did assure that even the alteration of Georgia law in 1970 would not pass judicial review by the Georgia Supreme Court. Whether the development of privacy jurisprudence is right or proper under the Constitution is not within the scope of this thesis, and the matter will not be debated here. A mere recognition of the historical development and its influence shall suffice.

The future of eugenic historiography lies in the discovery of historical evidence that reveals the voices of those citizens whose natural rights were violated under American sterilization statutes. Currently the core of the historiography is “top-down” history, despite the efforts of Cogdell, Currell, Larson, Lombardo, and countless others. Of course, this is an issue that has always been problematic in the study of history. We are oftentimes better able to present the side of the oppressor because it is he who leaves behind the most documentation of his crimes. Yet in the study of eugenics the tide is changing. Recently, archivists in Georgia have revealed documentation in the form of sterilization files for each of the over 4,000 sterilizations that were performed in that state. These documents support the contentions that several authors have made about coerced sterilization of illiterate citizens, and they are a key part of this thesis. These sterilized citizens and their families were blinded by scientific expertise and led down the path to the surgical solution. Here this thesis supports one of Mark Largent’s key arguments: that hardcore followers of eugenic science continued their coercive tactics far past the deaths of their main national proponents. With this new information, it can be said that the voices of those who were ultimately the victims of sterilization statutes in Georgia can now be heard. One can hope that the historiography will greatly benefit from this amazing discovery.

Chapter II: Early Eugenics, Sterilization, and Progressivism in the United States

“To prevent defective persons from reproducing equally defective offspring, is an act dictated by the clearest light of reason. Its carrying out is the most humane act of mankind. It would prevent the unmerited suffering of millions of persons, and, above all would, in the end, result in a steady increase in human welfare.”

~Adolf Hitler, *Mein Kampf*

The passage of eugenic sterilization in Georgia was unique because it occurred in 1937, when scientists had mostly eschewed eugenic theories because they were considered to be pseudoscience. Why then, did the Georgia Legislature opt to pass the legislation? The answer lies in an exploration of the intellectual influence and the intellectual inheritance of the eugenics movement, which was passed on to progressive reformers in the early 20th century. Georgia Governor Eugene Talmadge, an ardent populist, was in no way aligned with the progressive movement nationally or locally. He used his position to veto almost all of the progressive legislation that crossed his desk, including a sterilization bill in 1935. Eugenics legislation did come via Georgia’s “Little New Deal,” when progressive politician Eurith Rivers was elected as governor and the state legislature became overwhelmingly progressive. Georgia citizens had finally accepted the expanded service role of the government. To understand this development, and the relationship between eugenic sterilization and the progressives, it is necessary to explore the intellectual and social history of the broader eugenics movement and the reasons that progressive thinkers and politicians were attracted to eugenic ideas.

The American Eugenics movement grew from the fertile soil of British naturalist science during the late 19th century. Charles Darwin’s theory of the evolution of species through natural selection, first argued in *On the Origin of Species* in 1859, influenced his cousin Francis Galton

to develop a deep interest in human heredity. In *Hereditary Genius: An Inquiry into its Laws and Consequences* (1869), Galton argued that talent, ability, intelligence, and distinction ran in families and could be explicitly linked to the hereditary material passed through one's family line.¹ Influenced by Herbert Spencer, the famous sociological theorist who coined the phrase "survival of the fittest," Galton prepared his *English Men of Science: Their Nature and Nurture* (1874) using a questionnaire that covered topics such as family characteristics, education, religious beliefs, and temperament. He again found that an individual's talent was determined primarily by heredity.² Encouraged by his findings, Galton became increasingly convinced that humans could take advantage of natural selection and direct it toward the purpose of race betterment. He called this new science of selective human breeding "eugenics," from the Greek for "well born."³ By 1904 Galton defined eugenics as "the science that deals with all influences that improve the inborn qualities of a race; also with those that develop them to the utmost advantage."⁴ Galton thought that human knowledge could be combined with ongoing natural processes to better mankind. "Eugenics co-operate with the workings of nature by securing that humanity shall be represented by the fittest races. What nature does blindly, slowly, and ruthlessly, man may do providently, quickly, and kindly."⁵

The Heritability of Deviance: A Problem "Discovered"

Although Galton's work on human heredity rejected Jean Baptiste Lamarck's theory of the inheritance of acquired characteristics, it was Lamarck's theory that boosted eugenics to

¹ See Ruth C. Engs, *The Eugenics Movement: an Encyclopedia* (Westport, Conn.: Greenwood Press, 2005), 82.

² Phillip R. Reilly, *The Surgical Solution: A History of Involuntary Sterilization in the United States* (Baltimore, Maryland: Johns Hopkins University Press, 1991), 3.

³ Ibid.

⁴ Francis Galton, "Eugenics: Its Definition, Scope, and Aims," *The American Journal of Sociology*, Vol. 10:1 (July 1907): 1.

⁵ Ibid., 5.

fame.⁶ In 1809 Lamarck published the idea that characteristics acquired by an organism from its environment could be passed to descendants. Applied to humans, Lamarck's theory meant that characteristics such as alcoholism, athletic talent, musical ability, and feeble-mindedness could be learned by parents and then passed onto potential offspring.⁷ Galton rejected the theory of the inheritance of acquired characteristics and instead theorized that hereditary material was passed unaltered from generation to generation.⁸ Yet other scientists embraced Lamarck's ideas. Cesare Lombroso, an Italian who is considered to be the founder of the positivist school of criminology, embraced the Lamarckian notion of heredity and posited that criminals were "born," not "made."⁹ His work, *Criminal Man* (1876) argued that criminals presented with dangerous physiological and psychological abnormalities that were inherited from defective parents. *Criminal Man* became so popular as the basic treatise on criminal anthropology that it was reprinted in five separate editions.¹⁰ The combination of Lombroso's applied science and Galton's theories of eugenics resulted in the idea that undesirable genetic traits, such as criminality, could be bred out of the human population. Given the nature of Lombroso's work on "born" criminals, it seems one could easily link inherited criminality or feeble-mindedness with the cost of institutionalizing persons who presented those conditions. It should be noted that the specific influences of Galton and Lombroso on America are hard to trace. For example, Galton never visited the United States, and none of his books sold well in the United States or in England.¹¹ Lombroso's theories became "powerful forces in American criminology and medical

⁶ Engs, *The Eugenics Movement*, 82.

⁷ *Ibid.*, 140.

⁸ Engs, *The Eugenics Movement*, 82 and 140.

⁹ Cesare Lombroso, *Criminal Man*, ed. by Nicole Hahn Rafter and Mary Gibson (Durham, NC: Duke University Press, 2006), 1 and Reilly, *Surgical Solution*, 8.

¹⁰ *Ibid.*

¹¹ Reilly, *Surgical Solution*, 4.

thought in the 1890s,” but his specific works “reached a relatively small audience.”¹² Neither scholar’s work, standing alone, could have pushed America toward the forced sterilization movement. That honor belongs to a man who produced a synthesis of their work: an Englishman living in New York named Richard Dugdale.

Dugdale immigrated to New York City in 1851 at the age of 14, eventually becoming a stenographer and investor. In his early years he attended classes at Cooper Union College where he became interested in sociology and social welfare issues. Once he attained financial success he became involved with social welfare organizations in the New York City area.¹³ In 1874 he conducted an inspection of a jail in Ulster County, New York where he discovered that six of the prisoners incarcerated there were related. Dugdale considered the finding to be odd, and he began an inquiry into the lineage of the family. Through research into court records, among other sources, Dugdale managed to obtain records on 1,200 persons in the “Jukes” family, as he called them. His work was the first of a number of family and pedigree studies that attempted to determine if criminality, pauperism, and feeble-mindedness were hereditary traits.¹⁴

Dugdale published his findings in *The Jukes* (1875). He explicitly linked the causation of the “Jukes” criminality to both environment and heredity. “Capacity, physical and mental, is determined mainly by heredity,” Dugdale wrote, adding, “the tendency of heredity is to produce an environment which perpetuates that heredity.”¹⁵ Although Dugdale did not explicitly endorse Lamarckian notions of heredity, it is clear that he was essentially a Lamarckian because he believed that one’s environment could directly influence acquired traits.¹⁶ This was not a new

¹² Ibid., 8-9.

¹³ Engs, *The Eugenics Movement*, 47.

¹⁴ Ibid. and Reilly, *Surgical Solution*, 15.

¹⁵ Richard L. Dugdale, *The Jukes* (New York: AMS Press, 1875; repr., New York: G.P. Putnam’s Sons, 1885), 65. Citations are to the reprinted edition.

¹⁶ Engs, *The Eugenics Movement*, 47.

idea, however. What was shocking about *The Jukes* was the cost to the state that Dugdale attributed to the “Jukes” family and their degeneracy. Dugdale wrote:

Over a million and a quarter dollars of loss in 75 years, caused by a single family, 1,200 strong, without reckoning the cash paid for whiskey, or taking into account the entailment of pauperism and crime of the survivors in succeeding generations, and the incurable disease, idiocy, and insanity growing out of this debauchery, and reaching further than we can calculate. It is getting time for us to ask, do our courts, our laws, our alms-houses and our jails deal with the question presented?¹⁷

With self-assurance and a long list of dubious averages, Dugdale calculated the total cost of the “Jukes” family’s propensity for brothels, almshouses, and jails to the State of New York was \$1,308,000.¹⁸ *The Jukes* was the first study to state the cost of inherited degeneracy to the state, and its message was well received.¹⁹ It sparked a number of other studies, including *The Nams, the Hill Folk, the Pineys*.²⁰ All of these studies proposed the same ideas of hereditary degeneracy and cost burden to the state.

The Failure of Segregation and the Discovery of “The Surgical Solution”

Prior to the passage of involuntary sterilization statutes there were two methods that states employed to limit propagation by criminals and the feeble-minded. Both methods flourished prior to the mass adoption of sterilization laws. The first was eugenic segregation. As early as 1880 the Association of Medical Officers of American Institutions for Idiotic and Feeble-minded Persons, later the Association for Mental Deficiency (AMO), supported the idea of eugenic segregation.²¹ The initial idea considered by AMO and other associations was the addition of “custodial” wards, or permanent care wards, to schools for the feeble-minded in order

¹⁷ Ibid., 70.

¹⁸ Ibid., 68.

¹⁹ Reilly, *The Surgical Solution*, 15.

²⁰ Donald K. Pickens, *Eugenics and the Progressives* (Nashville, Tenn.: Vanderbilt University Press, 1968), 89.

²¹ Reilly, *The Surgical Solution*, 13.

to keep patients from breeding. But the expense was daunting, so there was a quasi-utopian movement to make the schools self-sufficient. “There was a friendly competition between [schools] as the superintendants bragged of dairy farms, vegetable gardens, shoe factories, and the like.”²² The second method employed by states to stop propagation was eugenic marriage laws. In 1895 Connecticut became the first state to prohibit the marriage by persons deemed defective. The law had provisions that disallowed the marriage of a feeble-minded woman under the age of 45. The law also affected unmarried persons. Any “pauper” who “carnally” knew any female under the age of forty-five was subject to a three-year prison term.²³ By 1913 the statutes had been enacted in twenty-four states, the District of Columbia, and Puerto Rico.²⁴ Marriage laws, although weakly enforced, provided a much cheaper solution to the eugenics problem than did segregation.

Problems abounded with both eugenic segregation and eugenic marriage restrictions. Segregation proved to be too expensive, and marriage restrictions did virtually nothing to stop the procreation of “defective” persons who decided to engage in premarital sex. In 1899, Dr. A.J. Ochsner provided a solution that was inexpensive, yet extremely effective—vasectomy. In his article “Surgical Treatment of Habitual Criminals,” Ochsner made the moral argument that any method employed to sterilize criminals “must not result in a deformity [or] endanger his life.”²⁵ Vasectomy was not castration, or the full removal of a man’s testicles. Rather, vasectomy severed the vas deferens in order to stop the flow of sperm and did not stop the production of testosterone, and thus it fit Dr. Ochsner’s criteria. Ochsner linked his rationale for the use of vasectomy explicitly to Lombroso’s theories of criminality. “It has been demonstrated

²² Ibid., 14.

²³ Reilly, *The Surgical Solution*, 26.

²⁴ Ibid.

²⁵ A.J. Ochsner, “Surgical Treatment of Habitual Criminals,” *Journal of the American Medical Association* (1899): 867.

without a doubt that a very large proportion of all criminals, degenerates and perverts have come from parents similarly afflicted. It has also been shown, especially by Lombroso, that there are certain inherited anatomic defects which characterize criminals, so that there are undoubtedly born criminals.”²⁶

Inspired by Ochsner’s work, Dr. Harry C. Sharp, a physician at the Indiana Reformatory, began, without any legal authority, to perform vasectomies on patients. He confessed to his actions in an article in the *New York Medical Journal* in 1902.²⁷ “After having personally severed the vasa deferentia in forty-two patients...I am prepared to speak most favorably of the operation.”²⁸ He reported that the operation had favorable effects on the physical constitution (something we now know to be untrue). Patients “improve mentally and physically...and the will becomes stronger,” Sharp reported.²⁹ Like Ochsner, Sharp subscribed to the theories of Lombroso, and he saw sterilization as a simple way to prevent propagation of the unfit. Sharp became a crusader against those deemed eugenically unfit. “This is the rational means of eradicating from our midst a most dangerous and hurtful class. Too much stress cannot be placed upon the present danger to the race,” he wrote.³⁰ In 1907 Sharp’s home state of Indiana passed a law authorizing the compulsory sterilization of any confirmed idiot, rapist, criminal, or imbecile housed in a state institution, due in part to Sharp’s lobbying efforts.³¹ In 1909 Connecticut followed suit with a sterilization law modeled after the Indiana law.³² That same year Sharp again had the opportunity to publish his work, but this time in the prestigious and

²⁶ Ibid.

²⁷ Harry C. Sharp, “The Severing of the Vasa Deferentia and Its Relation to the Neuropsychopathic Constitution,” *New York Medical Journal* 75 (1902): 411-414.

²⁸ Ibid., 413.

²⁹ Ibid.

³⁰ Ibid.

³¹ Reilly, *Surgical Solution*, 33.

³² Ibid.

widely read *Journal of the American Medical Association*.³³ In “Vasectomy as a Means of Preventing Procreation in Defectives,” Sharp argued “there is no disputing the fact that mental as well as physical defects are transmitted to the offspring.”³⁴ He again touted the superiority of vasectomy to all other eugenic measures:

There is no atrophy of the testicle, no cystic degeneration, no disturbed mental or nervous condition following, but, on the contrary, the patient becomes of a more sunny disposition, brighter of intellect, ceases excessive masturbation, and advises his fellows to submit to the operation for their own good. And this is the point in which this method of preventing procreation so infinitely superior to all others proposed—that it is endorsed by persons subjected to it.³⁵

One seriously doubts that patients endorsed the idea that their most private organs could be cut open to prevent procreation, but this was nonetheless Dr. Sharp’s position.

Charles Davenport, Henry Goddard, and the Creation of the State of Fear

Two ardent eugenicists, Charles B. Davenport and Henry H. Goddard, did more than anyone else to create the basis for the state of pseudoscientific fear that led to the national adoption for sterilization laws. Both men were famous. Davenport, with the assistance of steel magnate Andrew Carnegie, founded the Eugenics Record Office at Cold Spring Harbor in New York in 1910. Goddard brought the I.Q. test to the United States as a method of identifying the eugenically unfit. Both men promulgated widely read family studies that associated the feeble-minded with explosive population growth and massive cost burden to the commonweal. They differed, however, in their proposals to solve the problem of the unfit. Davenport explicitly advocated sterilization; Goddard was more cautious and optimistic, as he advocated eugenic segregation. Despite this difference, both men’s research led to sterilization laws.

³³ Harry C. Sharp, “Vasectomy as a Means of Preventing Procreation in Defectives,” *Journal of the American Medical Association* 23 (1909): 1897-1902.

³⁴ *Ibid.*, 1897.

³⁵ *Ibid.*, 1899.

At the Eugenics Record Office in New York Davenport assembled teams of field workers to search the files of prisons and hospitals to identify feeble-minded individuals for the purpose of pedigree studies. Over twenty years the Office assembled files on hundreds of thousands of persons.³⁶ The most famous pedigree study produced from this effort was *The Hill Folk: Report on a Rural Community of Hereditary Defectives* (1912).³⁷ With heavy financial support from John D. Rockefeller, the study traced 737 individuals of the same family and reported that “the Hill folk” showed a high propensity for alcoholism, illegitimate offspring, and serious criminal tendencies. Much like Richard Dugdale’s *The Jukes*, *The Hill Folk* argued that the family in question posed a massive welfare burden on the state. “During the past sixty years this community has, it is estimated, cost the state and the people over half a million dollars.”³⁸ The work also suggested that feeble-minded persons were highly fertile. Although Davenport did not explicitly endorse sterilization, he “hoped that a presentation of the facts [would] hasten the so much desired control by society of the reproduction of the grossly defective.”³⁹ One year later, Davenport, considered by many to be at the heart of the eugenics movement, did endorse sterilization. “Prevent those without sex-control or educability or resistance to serious disease from reproducing their kind. This may be done by segregation...[or] sterilization,” he wrote.⁴⁰

Henry Goddard used Davenport’s family and history pedigree methodology in conjunction with his own I.Q. test to write *The Kallikak Family: A Study in the Heredity of Feeble-Mindedness*.⁴¹ *The Kallikak Family* is arguably the most widely read eugenic study in

³⁶ Reilly, *Surgical Solution*, 19.

³⁷ Florence Danielson and Charles Davenport, *The Hill Folk: Report on a Rural Community of Hereditary Defectives* (Cold Spring Harbor, NY: The Eugenics Record Office, 1912).

³⁸ *Ibid.*, 34.

³⁹ *Ibid.*, Introduction (V).

⁴⁰ Charles Davenport, *State Laws Limiting Marriage Selection Examined in the Light of Eugenics* (Cold Spring Harbor, NY: The Eugenics Record Office, 1913), 36. See also, 39.

⁴¹ Henry Herbert Goddard, *The Kallikak Family: A Study in the Heredity of Feeble-mindedness* (New York: Macmillan, 1939). Reprint of the 1912 edition.

existence, so popular in fact that Macmillan publishers had to reprint the book six times. The study was special because Goddard was able to trace two branches of the same family. A man referred to in the study as “Martin Kallikak” was the progenitor of both branches. One branch was the progeny and descendants of Martin and a supposedly feebleminded girl, whom he did not marry. In this branch of the family there were 480 descendants, almost all found to be feebleminded. The other branch of the family was the progeny of Martin and a “Quakeress” he married. Most of the second branch was found to be “upstanding citizens and professionals.”⁴² Goddard used the Kallikaks as strong evidence for the heredity of feeblemindedness. “We find on the good side of the family prominent people in all walks of life and nearly all of the 496 descendants owners of land or proprietors.”⁴³ “On the bad side, we find paupers, criminals, and examples of all forms of social pest with which modern society is burdened,” he reasoned, because “feeble-mindedness is hereditary and transmitted as surely as any other characteristic.”⁴⁴

Goddard’s main focus in *The Kallikaks* was twenty-two year old “Deborah Kallikak,” a feebleminded girl who resided at the Training School for Backward and Feeble-minded Boys and Girls in New Jersey, where Goddard was director. Deborah was an attractive girl who had learned a variety of skills such as gardening and sewing. Goddard considered her to be “noisy,” “obstinate,” and “destructive.”⁴⁵ Children such as Deborah constituted a threat to society in Goddard’s eyes because they were high functioning, thus masking their feebleminded genes. He insisted that no amount of training or schooling could correct the problem of the feebleminded. “Rather good-looking, bright in appearance, with many attractive ways, the teacher clings to

⁴² Engs, *The Eugenics Movement*, 134.

⁴³ Goddard, *The Kallikak Family*, 116.

⁴⁴ *Ibid.*, 116-117.

⁴⁵ *Ibid.*, 2.

hope, indeed insists, that such a girl will come out alright. Our work with Deborah convinces us that such hopes are delusions.”⁴⁶

Goddard used Deborah’s example to create a state of fear predicated on the idea that large numbers of feebleminded individuals moved undetected amongst the general population, filling “our land with its overflowing measure of misery and crime” through immoral and thoughtless sexual acts.⁴⁷ Feeblemindedness was the root cause for all of society’s problems, and only careful testing methods such as Goddard’s IQ tests could detect the menace. According to Goddard:

A large proportion of those who are considered feeble-minded in this study are persons who would not be recognized as such by the untrained observer. They are not imbeciles or idiots who plainly show in their countenances the extent of their mental defect. [...] They are people who have won pity rather than the blame of their neighbors, but no one has seemed to suspect the real cause of their delinquencies, which careful psychological tests have now determined to be feeblemindedness.⁴⁸

Goddard’s use of language and air of scientific certainty in the heritability of deviance helped to create a legal environment, based on eugenic assertions, which allowed for the invasion of an individual’s right for the protection of society at large. Goddard’s work suggested that the feebleminded were the root of all society’s problems and that their continued procreation would result in “peopling the world with a race of defective degenerates.”⁴⁹ Goddard was so convinced of this assertion that he edited photographs of the Kallikak family in his original editions to give them a more depraved and menacing appearance. According to James Wallace, former director of Photographic Services at the Smithsonian Institution:

There can be no doubt that the photographs of the Kallikak family members have been retouched. [...] By contemporary standards this retouching is extremely

⁴⁶ Ibid., 12.

⁴⁷ Ibid., 92.

⁴⁸ Ibid., 104.

⁴⁹ Ibid., 103.

crude and obvious. [...] The harshness clearly gives the appearance of dark, staring features, sometimes evilness, and sometimes mental retardation. It would be difficult to understand why any of this retouching was done were it not to give the viewer a false impression of the characteristics of those depicted.⁵⁰

Goddard's altered photographs were only one part of his eugenic sermon, yet this action gives insight into the falsehoods and fearful assertions that undergirded the eugenics movement.

The Progressives Perceive the Problem and Embrace the Surgical Solution

Although "progressivism" and the "Progressive Movement" have no exact definition, the terms are generally used to refer to the reform movements of the early 20th century whose primary purpose was to respond to the vast social changes wrought by the Industrial Revolution. Progressivism was by no means a unified movement. Those reformers who wished to reform corrupt politics, combat crime, prohibit the sale and manufacture of alcohol, bust trusts and monopolies, and combat urban poverty all sat at the table of progressivism. The reformers were largely middle-class professionals, but there were some well-known names associated with the movement as well, such as Theodore Roosevelt, Woodrow Wilson, Herbert Croly, and Oliver Wendell Holmes. All progressives shared one common goal: they wished to use governmental power to bring about social changes through regulation.

In order to address the eugenics question, progressives attacked the Founders' ideas of limited government to argue that, like man himself, the state had to evolve in order to survive. This type of "social Darwinism" was not of the traditional Spenserian "survival of the fittest" type that is today used as a misnomer for conservative politicians. Rather, in the progressive conception of "social Darwinism," the government adapted to scientifically plan and regulate

⁵⁰ James H. Wallace, Jr., quoted in Stephen Jay Gould, *The Mismeasure of Man* (New York: W.W. Norton and Company, 1996), 201. The idea that Goddard purposively altered the photographs to make the Kallikak family appear more menacing has been the subject of some controversy, and is best explained in Martin A. Elks, "Visual Indictment: A Contextual Analysis of *The Kallikak Family* Photographs," *Mental Retardation* 43: 4 (August 2005): 268-280.

family life, based on a utilitarian conception of the common good.⁵¹ Progressive political theory rejected the Founders' rights-based theory of government because it concentrated its energies too much upon the individual citizen and thus limited the state sphere of action.⁵² They considered the American system of government to be too static and inadaptable to the conditions of the modern industrialized state. In other words, the Constitution stood in the way of the modern industrial state's progress. Woodrow Wilson argued for an adaptive and evolutionary view of the Constitution that moved beyond what he considered to be the outdated principals of the American founding. Wilson best expressed these views in his work *The New Freedom*. "Government is not a machine, but a living thing. It falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton."⁵³ Wilson posited that the government was ready to move beyond the limits of the antiquated Constitution. Checks on human nature and the aggrandizement of power were no longer necessary. "The separation of powers, Wilson explained, had come out of the founders' obsessive fear of majority tyranny, and thus the system was outdated for the present age, where the people were no longer a danger to themselves."⁵⁴ Yet with eugenics the "danger" Wilson discussed emanated not from the people, but from the politicians themselves.

Given the dominant early 20th century belief that criminality, pauperism, and feeble-mindedness were linked to genetics instead of environment, it is not difficult to see why progressive reformers would embrace eugenics as a way to root out those problems. Eugenics and sterilization could be seen as a benevolent form of social control related to the more coercive

⁵¹ See Robert C. Bannister, *Social Darwinism: Science and Myth in Anglo-American Social Thought* (Philadelphia, Penn.: Temple University Press, 1979), 4 and 166 for a more in depth look at the ambiguity associated with the term "social Darwinism."

⁵² See Ronald J. Pestritto and William J. Atto, eds., *American Progressivism: A Reader* (Lanham, Maryland: Lexington Books, 2008), 7.

⁵³ Woodrow Wilson, *The New Freedom: A Call for the Emancipation of the Generous Energies of a People* (New York: Doubleday, Page, and Co., 1918), 47.

⁵⁴ Pestritto, *American Progressivism*, 15.

aspects of progressivism.⁵⁵ Progressives often subscribed to naturalist philosophies: natural law administered through the state was an excellent way to root the biologically unfit from society.⁵⁶

Progressives were concerned that society was counteracting the laws of natural selection by saving the weak through medicine and charity. They sought to substitute artificial selection for natural selection through identification of defectives and then segregation or sterilization.⁵⁷

Charles Davenport affirmed these notions. “Science seeks to explain phenomena in terms of mechanism, and no other interpretation now brings entire satisfaction,” he argued. “If human behavior can be brought under a mechanical law instead of being conceived of as controlled by demons or by ‘free’ will...why should we regret it.”⁵⁸

Some progressive reformers were even willing to suggest executions as an enlightened solution to the eugenics question. Physician W. Duncan McKim, in his work *Heredity and Human Progress*, argued that the feeble-minded were an “infection” spread as a result of society’s toleration of the weak and vicious.⁵⁹ He suggested that the infection could be removed through the fatal use of carbonic gas.

The surest, the simplest, the kindest, and the most humane means for preventing reproduction among those whom we deem unworthy of this high privilege, is a gentle, painless death; and this should be administered not as a punishment, but as an expression of enlightened pity for the victims—too defective by nature to find true happiness in life—and as a duty toward the community and toward our own offspring.⁶⁰

It should be noted that McKim’s position was an extreme not embraced by most eugenicists. His position does, however, illustrate that these ideas existed in progressive discourse long before Nazi Germany embraced them in the 1930s.

⁵⁵ Pestritto, *American Progressivism*, 13.

⁵⁶ See Donald K. Pickens, *Eugenics and the Progressives* (Nashville, Tenn.: Vanderbilt University Press, 1968), 3.

⁵⁷ See John G. West, “Darwin’s Public Policy: Nineteenth Century Science and the Rise of the American Welfare State,” in John Marini and Ken Masugi, eds., *The Progressive Revolution in Politics and Political Science: Transforming the American Regime* (Lanham, MA: Rowman and Littlefield, 2005), 266.

⁵⁸ Charles Davenport, letter to the editor, *New York Times*, 8 July 1913, 6. Quoted in *Ibid.*, 268.

⁵⁹ W. Duncan McKim, *Heredity and Human Progress* (New York: G.P. Putnam’s Sons, 1900), 184.

⁶⁰ *Ibid.*, 188.

The State of Wisconsin and its middle-class reformers make for an interesting case study in how progressives embraced eugenic doctrines. According to historian Rudolph J. Vecoli, professor Russell Mason of Lawrence College in Appleton, Wisconsin espoused some of the first eugenic doctrines in that state in 1877.⁶¹ Mason argued that the State was to “erect an impassible barrier, so that no person, man or woman, who failed to present the requisite conditions of a sound mind in a sound body, free from all forms of congenital and organic disease...should become the head of a family of children.”⁶² Mason’s ideas failed to take root in Wisconsin until the financial crises of the 1890s brought up discussions within charitable societies about how to curb reproduction by the “defective classes.”⁶³ In 1895, under pressure from educators who felt that “hereditary imbecility was a major source of the deficient and delinquent classes,” Wisconsin opened a school for the feeble-minded at Chippewa Falls.⁶⁴ When the population of the school became to be too heavy of a burden for the state, reformers then turned to restrictive marriage laws. Wisconsin passed a law in 1907 that prohibited the marriage of epileptic, feeble-minded, and insane persons. These laws were difficult to enforce, so reformers then turned to the only sure way to prevent procreation by defective persons: sterilization.

The passage of the sterilization bill in Indiana in 1907 encouraged reformers in Wisconsin to establish their own sterilization program. Dr. Frank I. Drake was instrumental to this effort. He and similarly minded doctors added their professional authority to agitation for sterilization laws. Drake argued that sterilization was “the simplest, the most humane, and the most economic means of preventing the propagation of degeneracy.”⁶⁵ “The most progressive

⁶¹ Rudolph J. Vecoli, “Sterilization: A Progressive Measure,” *The Wisconsin Magazine of History* 43:3 (Spring, 1960): 190-202.

⁶² *Ibid.*, 191.

⁶³ *Ibid.*, 192.

⁶⁴ *Ibid.*, 193.

⁶⁵ *Ibid.*, 197.

men in and out of the profession” endorsed sterilization, Drake added.⁶⁶ Academics at the University of Wisconsin, including progressive professors E.A. Ross and J.L. Gillin, espoused a hereditary basis for criminality in their sociology classes. Professors in the zoology department made the same claims in their “Heredity and Eugenics” and their “Problems of Evolution” courses.⁶⁷ Encouraged by the opinions of these experts, legislators in Wisconsin narrowly passed a sterilization statute in 1913, becoming the 12th state to adopt such a measure. On July 30th of that year Francis E. McGovern, a member of the LaFollette progressive wing of the Wisconsin Republican Party, signed the bill into law.⁶⁸ According to Vecoli:

From this history of the eugenics movement in Wisconsin it is evident that sterilization was a progressive measure. It was taken up and agitated by reform groups and organizations; it was advocated by progressive leaders and publications; and it was enacted by a progressive legislature and administration.⁶⁹

The pattern that Wisconsin followed on its path to sterilization was the same as most other states who began to sterilize hereditary defectives.

Between 1907 and 1917 fifteen states adopted sterilization statutes. These figures seem to suggest that the statutes enjoyed broad support. Yet there were solid constitutional challenges to the statutes. Progressives often subscribed to a philosophy of utilitarianism—the idea that any law or regulation must provide the greatest good for the greatest number in society. Notice that pedigree studies and the passage of sterilization statutes often considered the cost burden that degeneracy (feeble-mindedness, etc.) posed to the commonweal. The idea was that the burden to the commonweal could be reduced through eugenic measures, even if those measures trampled upon individual rights. It is true that progressives had respect for individual rights, but that

⁶⁶ Ibid.

⁶⁷ Ibid., 199.

⁶⁸ Ibid., 201.

⁶⁹ Ibid.

respect was relative to public utility.⁷⁰ For example, Dr. Drake of Wisconsin denounced the “absurd fetish of personal liberty” because it sanctioned the propagation of the unfit.⁷¹

Those who opposed sterilization statutes had two constitutional clauses on which to rely in the early 20th century. The first, the Equal Protection Clause, was violated because sterilization statutes applied only to those incarcerated in mental institutions. The law did not affect noninstitutionalized persons in the same way. The second, the Due Process Clause, centered on the idea that these sterilizations were punishments conducted without jury trials. Constitutional challenges were brought under these auspices in six states (New Jersey, Iowa, Michigan, New York, and Oregon) in the years prior to 1921. Two cases, *Smith v. Board of Examiners* (New Jersey, 1913) and *Davis v. Berry* (Iowa, 1914), demonstrate the two ways that sterilization could be held to violate the Constitution.

Smith concerned the case of Alice Smith, a woman who was incarcerated at the New Jersey State Village for Epileptics. The New Jersey Board of Examiners of Feeble-minded found her to be epileptic and thus unfit to procreate under the sterilization bill Governor Woodrow Wilson signed into law in 1912.⁷² In the opinion the justices referred to her as “an unfortunate person, but not a criminal.”⁷³ They also noted that “for the last five years” Alice Smith had no attack of epilepsy and that the operation of salpingectomy was invasive and life threatening.⁷⁴ Their concern was that “if the enforced sterility of [epileptics were] a legitimate exercise of governmental power,” then “it would be difficult to assign a legal limit” to sterilization

⁷⁰ Pestritto, *American Progressivism*, 7.

⁷¹ Vecoli, *Sterilization*, 197.

⁷² *Alice Smith, Prosecutrix, v. Board of Examiners of Feeble-Minded (Including Idiots, Imbeciles, and Morons), Epileptics, Criminals, and Other Defectives*, 85 N.J.L. 46 (1913).

⁷³ *Ibid.*

⁷⁴ *Ibid.*

measures.⁷⁵ All physical and mental diseases might be encompassed under such measures.

Additionally, personal liberty was violated by such measures. In the words of the justices:

When we consider that such a statutory scheme necessarily involves a suppression of personal liberty, and a possible menace to the life of the individual who must submit to it [...], the palpable inhumanity and immorality of such a scheme forbids us to impute it to an enlightened legislature that evidently enacted the present statute for a worthy social end upon the merits of which our present decision upon strictly legal lines is in no sense to be regarded as a legal reflection.⁷⁶

They concluded that the sterilization statute denied Alice Smith her rights to equal protection under the United States Constitution.

Davis v. Berry involved the case of a man named Davis who was twice convicted of felonious acts in Iowa.⁷⁷ An Iowa law passed after Davis' first conviction held that any man convicted of two felonies was subject to involuntary sterilization by means of vasectomy.⁷⁸ Davis argued that the statute violated the Constitution because it denied his equal protection and due process rights. The vasectomy punishment was to be imposed without trial. In an opinion that centered not on Davis' rights, but on the idea that vasectomy was a cruel and unusual punishment that belonged to the "Dark Ages," Judge McPherson ruled that the statute was void because there was no actual trial with traditional cross-examination. He drew an extended comparison between vasectomy and castration. "While it is true that the effect upon the man would be different in several respects, [...] the fact remains that that the purpose and the same shame and humiliation and degradation and mental torture are the same."⁷⁹ McPherson, alongside two other judges, ruled that the statute was invalid and that vasectomy was not to be performed on Davis.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ *Davis v. Berry, et. al.*, 216 F. 413 (1914).

⁷⁸ 1913 Iowa Acts, 187.

⁷⁹ Ibid., 10.

Smith and *Davis* were but two cases in a long stream of rulings against eugenic sterilization. Between 1907 and 1921 six states, including Indiana, had their sterilization statutes declared unconstitutional. The other states with sterilization laws, with the exception of California, rarely used them.⁸⁰ The scientific community began to attack many eugenic principals as unsound or untrue.⁸¹ Yet at what would seem to be the twilight of eugenic sterilization, Harry Hamilton Laughlin, an associate of Charles Davenport and the assistant director of the Eugenics Record Office at Cold Spring Harbor, argued tirelessly for the continued implementation of eugenic sterilization. In his magnum opus, *Eugenical Sterilization in the United States* (1922), Laughlin outlined a model sterilization statute that overcame the due process and equal protection violations that rendered previous sterilization statutes unconstitutional.⁸²

Laughlin wrote his model sterilization statute so that it applied to the entire population, not just those individuals who were institutionalized or incarcerated, thus guaranteeing equal protection under the law. Laughlin eschewed the idea that his model statute would institutionalize and sterilize people who had actually committed no crime. “Objection is made that in ordering sterilization, action is based upon a proven future rather than upon the proven past,” Laughlin acknowledged. However,

The fact which inspires a state to order eugenical sterilization is the demonstrated proof that an individual is of such an undesirable make-up of hereditary traits that the propagation of his kind would, beyond peradventure, constitute a serious menace to the welfare of the state.⁸³

⁸⁰ Reilly, *Surgical Solution*, 49.

⁸¹ *Ibid.*, 55.

⁸² Harry Hamilton Laughlin, *Eugenical Sterilization in the United States* (Chicago: Psychopathic Laboratory of the Municipal Court, 1922).

⁸³ *Ibid.*, 438.

Laughlin's assertion followed the progressive idea that individual rights could be subordinated to public utility. Individuals were to be sterilized because they could *potentially* be a threat to society through propagation. Laughlin suggested a definitional trick to overcome the idea that sterilization might be cruel and unusual punishment.

A possible infringement of the provision against cruel and unusual punishment is made by eliminating the punitive element, and by applying eugenical sterilization to all hereditary degenerates [...] regardless of whether these individuals have violated the criminal law. [...] Because then, there being no punishment in eugenical sterilization, it cannot constitute cruel and unusual punishment.⁸⁴

Sterilization was considered to be a medical procedure, not a punishment, performed for the good of the individual and society. Laughlin also assured that his model statute provided the unfit with due process. The statute provided for the creation of an Office of the State Eugenicist who would conduct field and family pedigree studies and make arrests of those individuals deemed unfit for propagation. Once arrested, individuals deemed unfit were to be subjected to a jury trial, complete with an appeals process.⁸⁵ Laughlin's model was legally viable. It was adopted as the model sterilization bill for states by the American Bar Association, and several states incorporated language from the bill into their own statutes, including the Commonwealth of Virginia.⁸⁶

Buck v. Bell

In 1924, Dr. Albert S. Priddy, the superintendent of Virginia State Colony for Epileptics and the Feebleminded, petitioned the school's board of directors to sterilize Carrie Buck, an 18-year-old woman who was committed to the Colony after she gave birth to an illegitimate child. Priddy claimed that she had a mental age of nine. Her mother, committed to the institution after

⁸⁴ Ibid., 442.

⁸⁵ Ibid., 449.

⁸⁶ Reilly, *Surgical Solution*, 85.

a prostitution conviction, was claimed to have a mental age of seven. Priddy took this as evidence that Carrie Buck's feeble-mindedness was the result of genetic transmission. Pursuant to Virginia law, local lawyer Irving Whitehead was appointed to represent Carrie Buck in the sterilization litigation. State legislator Aubrey Strode represented the Commonwealth of Virginia. All of these men colluded with one another in an elaborate campaign to win a test case for sterilization laws and subvert Carrie Buck's civil rights.⁸⁷ They covered up the truth that Carrie Buck was actually raped by a relative of her adoptive parents and committed to the Colony in order to hide the family's shame. They went so far as to claim that Buck's infant daughter, Vivian, was "not quite normal" in an effort to support their hereditarian notions. Harry Laughlin provided expert testimony on the Colony's behalf in order to defend his model statute and assert that Buck family "revealed a heritage of feeble-mindedness conforming to Mendelian laws" in all three generations of the family.⁸⁸

Priddy died before his test case could reach the Supreme Court for oral arguments on April 22, 1927. *Buck v. Bell* thus bears the name of his replacement, Dr. James H. Bell. Oliver Wendell Holmes, a progressive jurist with eugenicist leanings known to history as "The Great Dissenter," delivered the judgment of the Court just ten days later. His short, four paragraph opinion condemned Buck to be sterilized and also legitimized eugenic sterilization as law in the United States. Appealing to utilitarian philosophy to justify sterilization, Justice Holmes wrote:

It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles are enough.⁸⁹

⁸⁷ Lombardo, *Three Generations*, XI, and William E. Leuchtenberg, *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt* (New York: Oxford University Press, 1996), 9.

⁸⁸ *Ibid.*, 10.

⁸⁹ *Buck v. Bell*, 274 U.S. 200, at 207.

Thus *Buck v. Bell* assumed its place in the Supreme Court hall of shame, alongside *Plessey*, *Koromatsu*, *Dred Scott*, and *The Civil Rights Cases*. Only one justice, Pierce Butler, a Catholic, offered a wordless dissent. History shows that, in fact, Carrie Buck was not feeble-minded at all, nor was her daughter Vivian. Before her premature death at the age of seven, Vivian made the honor roll at her school regardless of how she was described as an infant.⁹⁰ The erroneous *Buck* decision allowed for American states, including Georgia, to adopt statutes resembling Laughlin's model sterilization law without fear of judicial review. It also provided precedent for the sterilization of 400,000 people in Germany and an affirmative defense for Nazis accused of war crimes at the Nuremberg Trials.⁹¹ With the *Buck* decision as law, Americans would never be able to deny their heritage of eugenics.

Conclusion

A myriad of factors, as we have seen, led to the adoption of eugenic legislation in America. Family pedigree studies, such as Goddard's *The Kalikaks* and Davenport's *The Hill Folk*, linked hereditary degeneracy and poverty with an enormous cost burden to society. Although their evidence was contrived and their data was fallacious by our modern standards, these studies constituted the best genetic science of the time. Progressive reformers, responding to the false state of fear created by eugenicists, eagerly embraced the new science of eugenics as the best way to decrease poverty and degeneracy. When segregation and marriage laws failed, sterilization became the most cost effective answer to the eugenics question. The due process, equal protection, and cruel and unusual punishment implications of sterilization were of no

⁹⁰ Paul A. Lombardo, "Facing Carrie Buck," *Hastings Center Report* 33 (March-April, 2003): 14-17

⁹¹ Lombardo, *Three Generations*, 239. The *Buck* decision was republished in several German textbooks on eugenics. See also, David M. Pressel, "Nuremberg and Tuskegee: Lessons for Contemporary American Medicine," *Journal of the American Medical Association* 95 (December 2003): 1216-1225.

consequence to these reformers. Harry Laughlin dismissed these objections and instead crafted a model sterilization bill designed specifically to overcome concerns about the subversion of civil rights. Sterilization was not a punishment; rather, it was seen as a kind and provident medical procedure performed for the good of society, wholly within the government sphere of action. There was no further concern for individual rights as state after state passed eugenic sterilization laws in the wake of Oliver Wendell Holmes' decision in *Buck v. Bell*. Knowledge of Hitler's use of eugenic science as a predicate for the destruction of European Jews was ignored. With the legal status of sterilization secured, in the socioeconomic environment of the Great Depression, states began to sterilize unencumbered by constitutional limits.

Chapter 3: Eugenic Philosophy Takes Root in Georgia

Part I: The Birth of Eugenics in Georgia

... “Why should it not be our duty when they become a ward of the commonwealth to render them sterile so as to lessen the burdens of future generations in the care and expense of looking after these people”...

~Dr. W.L. Champion, Atlanta, 1913

The family studies of the early 20th century and the efforts of the National Committee for Mental Hygiene were very effective in their aim of convincing states to pass eugenics laws, Georgia included. In Georgia eugenic segregation and eugenic sterilization arguments existed side by side. Some reformers, such as women’s groups and civic organizations, argued for segregation and training of the feeble-minded as a function of Christian charity. Still others argued that the education of the feeble-minded would save the state money by keeping them out of prison and almshouses. Yet the eugenics movement in Georgia was undergirded by something far less charitable. The reformers’ primary aim was the protection of society from people who supposedly were responsible for the majority of vagrancy, imbecility, prostitution, and crime. The education of feeble-minded children in public schools was retarding the education of normal children, the reformers argued. All the while, the Medical Association of Georgia (MAG) argued for a cheaper solution to the menace of the feeble-minded. The problems that Georgia experienced with the costs of eugenic segregation eventually led to the advocacy and adoption of sterilization legislation by progressive politicians and civic groups in the 1930s.

As early as 1907, medical professionals in Georgia wanted to separate the feeble-minded from the insane. Reverend Howard Crumley, superintendent of the Decatur Orphanage, argued that “industrial training” in self-supporting colonies for the feeble-minded could help to make

them productive members of society. Dr. T.O. Powell, the superintendent at Milledgeville at the time, also supported separate institutions because the feeble-minded were considered to be trainable and thus different from those with mental illnesses.¹ “The lives of these unfortunates can be made so much happier by amusements suited to their mental level,” Crumley wrote.² Writers at the *Atlanta Constitution* agreed. “It is the duty of the people of Georgia, through their legislature, to unlock the brains and free the souls of this pathetic portion of our population.”³ Yet hereditarian notions and fears of mental retardation betrayed these charitable sentiments. The argument for separate training schools for the feeble-minded emphasized eugenic segregation for the good of the state. “What is worse, if allowed to live from under restraint, [the feeble-minded] are apt to reproduce offspring more hopelessly degenerate, more heavily a burden on the state, than the parent stock,” the *Constitution* editorialized.⁴ The main idea behind eugenic segregation was the protection of the state from mentally degenerate people who were at the time thought to be prolific breeders.

Arguments for eugenic segregation came to Georgia at a time when the sanitarium at Milledgeville represented an enormous part, nearly \$500,000, of the total state budget. In 1909 Governor Michael Hoke Smith appointed a commission to investigate conditions at Milledgeville. The commission’s findings painted a horrifying picture. Patients were reportedly teased, abused, and given inadequate food.⁵ It was reported that the attendants had killed several patients. They also found that the patients who previously contracted tuberculosis were housed with healthy patients. This was considered to be a grave threat to public health. “This institution needs a modern, progressive, scientific executive head, with the ability to take the initiative and

¹ “Dr. Crumley Appeals for Georgia’s Feeble-minded,” *The Atlanta Constitution*, 10 March 1907, B2.

² *Ibid.*

³ “Georgia’s Duty to Her Feeble-minded,” *The Atlanta Constitution*, 10 March 1907, B4.

⁴ *Ibid.*

⁵ “Conditions at Sanitarium as Reported by Commission,” *The Atlanta Constitution*, 22 August 1909, C2.

who fears not to do so,” the commission recommended while admonishing Dr. T.O. Powell.⁶ Along with these revelations, the commission asked for a training school for the feebleminded. “A training school for the feeble-minded, outside of giving the poor waifs a chance, and its justice to them, would be a paying investment, and could not occasionally turn out a good, capable, well-trained citizen,” they asserted.⁷ The commission thought that training the feebleminded would be a much better investment for the state than housing them for the rest of their lives.

Richard Dugdale’s cost burden arguments in *The Jukes* were beneficial to those seeking eugenic segregation in the form of a training school.⁸ Segregation in self-sufficient institutions would provide supervision and curb reproduction of the unfit, or so the basic argument went. According to the editors of the *Atlanta Constitution*,

An institution where they could be given the proper care and attention would serve not only to bring out the best there is in them, but would provide a powerful factor in suppressing the unfortunate and undesired increase in their race.⁹

These institutions represented a utopian ideal where the feebleminded would somehow support themselves through farm labor and the manufacture of small goods. Yet the Georgia experience with this style of training school proved to be very costly and, at the beginning, nearly unsustainable. The national pattern of moving from eugenic segregation to eugenic sterilization because of cost burdens held true in Georgia. While the progressive *Atlanta Constitution* editors argued for segregation on moral and social grounds, the Medical Association of Georgia took the next step and argued for sterilization.

⁶ Ibid.

⁷ Ibid.

⁸ “For Feeble-Minded of the State,” *The Atlanta Constitution*, 23 July 1911, E12.

⁹ “Georgia’s Duty to Feeble-Minded,” *The Atlanta Constitution*, 5 August 1911, 4.

In 1912 a paper entitled “Sterilization, the Only Logical Means of Retarding the Progress of Insanity and Degeneracy” was presented at an annual meeting of physicians in Milledgeville by Dr. G.I. Garrard.¹⁰ Dr. W.L. Champion of Atlanta was one of the first doctors publically to propose sterilization of “idiots, rapists, feeble-minded, and other defectives” at an annual meeting of the Medical Association of Georgia in 1913.¹¹ He argued that sterilization could remove defective genes from the gene pool. “No one recognizes more quickly than the physician the mental defects that are transmitted from one generation to another,” he wrote.¹² Sterilization was the best way to prevent mental defectives and their offspring from becoming “burdens of future generations.”¹³ Salpingectomy and vasectomy provided simple solutions to the problem. In his paper Champion included a sterilization law modeled on the bills adopted by New York and Connecticut. His arguments displayed blatant racism. He considered alcohol to be a “poison,” then he insisted that there had been a “rapid increase of insanity among the negro race since they were made free citizens” because they drank.¹⁴ Dr. George Johnson of Milwaukee, Wisconsin noted that the Medical Association of Georgia endorsed sterilization. He proposed that “the South can find in the sterilization of the morally unfit its best solution to the vexing negro problem.”¹⁵ “The ranks of criminals, moral degenerates, and imbeciles contain thousands of negroes,” he argued.¹⁶ These arguments moved the members of the MAG, and they directed the physicians in charge of the asylum at Milledgeville to draft legislation to introduce

¹⁰ Peter G. Cranford, *But For the Grace of God, Milledgeville!: The Inside Story of the World's Largest Insane Asylum* (Augusta, Georgia: Great Pyramid Press, 1981), 68.

¹¹ W.L. Champion, “Sterilization of Confirmed Criminals, Idiots, Rapists, Feeble-minded and Other Defectives,” *J. Med. Assoc. Ga.* 3 (1913): 112.

¹² *Ibid.*, 113.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ “Declares Sterilization is Solution to Negro Problem,” *The Atlanta Constitution*, 20 April 1913, 7.

¹⁶ *Ibid.*

sterilization to the Georgia legislature.¹⁷ In a report to Governor Joseph Brown in 1913, the trustees of the Milledgeville hospital asked for a law “to sterilize certain classes of patients, such as criminals and defectives.”¹⁸

Despite the sterilization efforts of the MAG, the legislature actually did not consider the measure until the late 1920s. The people at large were still concerned mostly with the construction of a training school for the feeble-minded. In 1918 the Georgia legislature urged Governor Hugh Dorsey to appoint a commission to investigate the menace of the feeble-minded in Georgia. This was his charge from the legislature:

[The committee will], after full investigation as to the numbers and conditions of the feeble-minded persons in Georgia who are now, or who may be likely to become charges upon the public, to report such facts and figures as they may secure and make such recommendation as may seem to them suitable to relieve the State of the menace of the uncared-for feeble-minded who are such a fertile source of crime, poverty, prostitution and misery not only to themselves, but to all with whom they are brought now in contact.¹⁹

Dorsey followed the charge and appointed a citizen commission to investigate the issues raised in the resolution. The citizen panel quickly realized that they lacked the expertise to conduct such a survey, so the task was turned over to the all-too-willing National Committee for Mental Hygiene (NCMH).²⁰ The organization volunteered for the task and sent Dr. V.V. Anderson to Georgia to lead a team of researchers.

Dr. Anderson was an unabashed advocate of the institutionalization of feeble-minded children. “These little defective children become a burden and a menace to the community,” Anderson argued.²¹ He insisted that the state should provide institutions because feeble-minded

¹⁷ Ibid.

¹⁸ “Law to Sterilize Asked by Trustees,” *The Atlanta Constitution*, 10 May 1913, 5.

¹⁹ 1918 *Ga. Laws*, Pgs. 921-922.

²⁰ Larson, *Sex, Race, and Science*, 69.

²¹ “Anderson Urges Mentality Tests,” *The Atlanta Constitution*, 30 March 1919, 5.

children were “the cause of retarding the education of the normal members of the class.”²²

Therefore, Georgia should be more progressive in its approach to the problem. He claimed that “in most states an intelligent and understanding policy towards this vital problem has already been initiated.”²³ New York, New Jersey, and Ohio provided his shining examples. Georgia was reportedly one of only states that had not carried out a mentality survey by 1919, so this was Anderson’s proposed task.

Women’s clubs and other civic organizations provided broad support for Dr. Anderson’s survey. The Atlanta Women’s Club appointed Mrs. B.M. Boykin to head its efforts to assist Anderson. “If the mental defect were only recognized in time and the children placed where they could grow up happy and self-supporting just think what it would mean,” she said.²⁴ Boykin’s efforts included imploring other state clubs to set aside time at their next meetings to discuss the problem of the feeble-minded. She also sent out information pamphlets and urged clubs to arrange time for a mental health expert to speak to “a large community meeting.”²⁵ Dr. Anderson also assisted in garnering support for a training facility. The Manufacturer’s Association of Georgia backed the idea of a home for the feeble-minded after Anderson spoke to them. Anderson argued that the feeble-minded are a “constant source of trouble” with a propensity for accidents. The Association adopted a resolution pledging their support for Anderson’s efforts in order to defend against crime, vagrancy, venereal disease, and a host of other social ills.²⁶ It is important to note that this advocacy concerned the construction of a training center for the feeble-minded, not eugenic sterilization. Although doctors pushed for sterilization legislation, women’s groups and civic organizations were not yet that progressive.

²² Ibid.

²³ Ibid.

²⁴ “Mrs. Boykin Appointed Federation Chairman,” *The Atlanta Constitution*, 23 March 1919, C8.

²⁵ “Mrs. Boykin Urges Club’s Aid in Survey,” *The Atlanta Constitution*, 6 April 1919, B11.

²⁶ “Manufacturers Back Feeble-Minded Home,” *The Atlanta Constitution*, 18 May 1919, B7.

Anderson's survey of the state included those already in jails, almshouses, orphanages, and other public institutions. This evinced his intention to show a definitive link between feeble-mindedness and social problems. In order to understand Anderson's findings in Georgia, it is necessary to understand his definition of "feeble-mindedness." "Feeble-mindedness is 'a state of mental defect, existing from birth or from an early age, due to incomplete brain development, in consequence of which the person affected is unable to perform his duties as a member of society in the position of life to which he was born,'" Anderson wrote.²⁷ His assertions echoed the latest in eugenic science, including many of the unfounded claims that Richard Dugdale and Henry Goddard made in their family studies. For example:

Feeble-minded persons are especially prolific, and reproduce their kind with greater frequency than do normal persons, and through such reproduction provide a legitimate outlet for the exercise of charitable impulses from each generation, and an endless stream of defective progeny, which are a serious drain to the resources of the nation; for this condition is inherited; it is the result, in about 80% of all cases, of defective germ plasm, the expression of defective family stocks, which transmit this condition from generation to generation, in accordance with the well known laws of heredity. There is no doubt as to the hereditary potency of this defect in blighting future generations.²⁸

Anderson's idea that feeble-minded persons procreated at a rate several times that of the normal population and the assertion that charity only exacerbated the problem were crucial to effective eugenic arguments. This charity was "the stupid work...of preserving and increasing our socially unfit strains, for each succeeding generation."²⁹

Anderson used a racial disparity in evaluating exactly who was feeble-minded. Whites were considered feeble-minded if they tested below 10 ½ years mental age. Negroes were the same if below 8 years.³⁰ He found that in state prisons, 65.8 % of male and 76 % of females,

²⁷ Georgia, *House Journal* (1919), 216.

²⁸ *Ibid.*, 217-218.

²⁹ *Ibid.*, 222.

³⁰ *Ibid.*, 216.

regardless of race, were classified as degenerates of some type.³¹ County jails, however, had much lower numbers of defective persons. 30% of white inmates had a mental level under 10 years, while 73% of negroes had a mental level under 10 years.³² Anderson felt that the evidence of feeble-mindedness in prisons furnished some of his best evidence. “The depredations growing out of their criminal behavior furnish one of the most satisfactory explanations for a statewide policy of protection against the menace of Feeble-mindedness,” he wrote.³³

The argument that feeble-minded, immoral women spread most venereal diseases was a key part of Anderson’s survey. “Probably the greatest single factor in the spread of venereal diseases is the feeble-minded prostitute.”³⁴ His committee studied the records of 122 women who were convicted of prostitution in Georgia. Of those women, 43.5% were found to be feeble-minded.³⁵ Anderson abhorred Georgia’s catch, treat, and release policy on diseased prostitutes. “Are we not acting stupidly in returning to the community girls whose future immoral conduct we can predict with as much certainty as we can predict that on a hot summer day most of the people will be found on the shady side of the street?” he asked.³⁶

The cost to society of educating the feeble-minded in regular schools, both in dollars to the state and in retarding the education of regular children, was another important part of Anderson’s arguments for eugenic segregation.

All educational authorities agree that they are unable to profit by ordinary methods of public school instruction. They are a burden to the teacher and a constant menace and hindrance to the other children in the classes. Their stupidity marks them as dunces of the schools and their simple-mindedness renders them the constant butt of jokes, and the perennial source of childish ridicule.³⁷

³¹ Ibid., 232.

³² Ibid., 234.

³³ Ibid., 226.

³⁴ Ibid., 209.

³⁵ Ibid., 209.

³⁶ Ibid., 239.

³⁷ Ibid., 251.

Educators at this point were not interested in assuring society that no child was left behind in education. Rather, like the eugenicists, they were primarily concerned with producing the most competitive students possible. To them, feebleminded children acted as a proverbial ball and chain. Anderson's report illustrates this sentiment:

We will hardly have the space to enter into a discussion of the energy, time, attention and patience that the children who are retarded mentally exact of the grade teacher, to say nothing of the harm that they are doing to the more normal children in taking time and mental energy that could be so much more profitably devoted to those capable of proper progress. The expense of the mentally retarded is seen in their repeating of grades.³⁸

All of these assertions played into Anderson's five key recommendations to combat the problem of feeblemindedness in Georgia. First, he recommended the establishment of a training school and farm colony for feebleminded persons with a custodial department for those severely retarded, plus a training school that emphasized practical training. He advocated that the feebleminded be educated in vocational trades. His farm idea was quite utopian in prospect. In the farm colony, the feebleminded would clear land, milk cows, "and make waste land available for farming, thus increasing its value and decreasing the cost of maintaining themselves as wards of the State."³⁹ While this idea seems sound in theory, in practice it would certainly be a failure because the majority of the workers would be mentally retarded, as Georgia soon discovered.

Second, Anderson suggested special education classes in public schools where feebleminded children would be separated from normal classes. Anderson asserted, "These backward children have just as much right to education as the normal child. This education can be made of the largest profit to the child and society, if it is directed along lines that shall give him industrial training."⁴⁰ This was the dominant approach to the training of the mentally

³⁸ Ibid., 253.

³⁹ Ibid., 261.

⁴⁰ Ibid.

retarded until the promulgation of the Individuals with Disabilities Education Act in the 21st century. The act now requires that mentally handicapped children be educated in the least restrictive environment possible. But these protections for the handicapped did not exist in the early 20th century, and the focus of education was much less democratic.

Next, Anderson insisted on reforms in state law to insure the proper supervision of the feeble-minded. He suggested that a statewide agency oversee the feeble-minded and that statewide clinics become available for their identification and treatment. Finally, he suggested that the state adopt laws that contained “provisions for the diagnosis, commitment, parole, and discharge of feeble-minded persons, stating who are qualified to diagnose feeble-mindedness, and making the usual provisions for the protection, care, training and segregation of mental defectives.”⁴¹

Governor Hugh Dorsey approved of the recommendations. The “report submitted has been well done,” he wrote.⁴² For Dorsey, financial reasoning was perhaps the most persuasive of Anderson’s arguments.

Money and space sorely needed for those who must necessarily be cared for [in Milledgeville], is devoted to many feeble-minded, who not only could be better served elsewhere, but whose confinement at that Institution with idiots, lunatics and others hopelessly mentally sick, is hardly short of a crime. [...] Suitable provision for the proper care and training of these unfortunates would not only be economy, but would also save them, in many instances, to themselves and society.⁴³

The *Atlanta Constitution* published part of the report under the headline “Mental Defectives in Alarming Number Found in Georgia.”⁴⁴ The article asserted that the high number of

⁴¹ Ibid., 264.

⁴² Ibid., 204.

⁴³ Ibid.

⁴⁴ “Mental Defectives found in Alarming Number in Georgia,” *The Atlanta Constitution*, 27 June 1919, 3.

feeble-minded citizens was due to “the result of failure to make early provisions” for their care.⁴⁵ An editorial in the same paper published a week later reported that Anderson’s survey was “able to make such a startling revelation of facts and statistics before the legislative committee [in the Georgia House] that without a single dissenting vote the proposed remedial measure was recommended for enactment.”⁴⁶ “It will be a humane step in the direction of progress,” they concluded.⁴⁷

Now events began to move quickly. By July 9, 1919, the Georgia House passed a bill that called for the construction of a home for the feeble-minded. Some representatives objected that it might become a place to send “negro misdemeanants” at the expense of the state.⁴⁸ Another representative objected that the bill was entitled to the “blue ribbon for freaks.” He argued that the home would “pave the way for putting criminals into a state institution and keep them from nursing roads, where they belonged.”⁴⁹ Yet the bill passed the House by a vote of 148 to 19. The Senate passed the bill unanimously.⁵⁰ One senator stated the bill was “a measure of conservation rather than appropriation”, as the state would be eventually saved large sums of money by having mental defectives cared for.⁵¹ Governor Dorsey agreed, and the bill to “establish the Georgia Training School for Mental Defectives” was passed in August 1919. The measure outlined who could be admitted to the school:

Any person with mental defectiveness from birth or from an early age, or those that become mentally defective from injury or disease so pronounced that he or she is unable to care for himself or herself and manage his affairs with ordinary prudence... This type of persons shall be known and designated as Mental Defectives.⁵²

⁴⁵ Ibid.

⁴⁶ “Our Feeble-Minded,” *The Atlanta Constitution*, 2 July 1919, 10.

⁴⁷ Ibid.

⁴⁸ “Feeble-Minded Will Have Home,” *The Atlanta Constitution*, 9 July 1919, 5.

⁴⁹ “House Votes Home for Feeble-minded,” *The Augusta Chronicle*, 9 July 1919, 3.

⁵⁰ Georgia, *Senate Journal* (1919), 833-834.

⁵¹ “Training School Up to Governor,” *The Atlanta Constitution*, 9 July 1919, 8.

⁵² *Ga. Laws* (1919), 379.

The bill also allowed for an “appeal to the court” in cases where the family members objected to a patients commitment to the facility.⁵³

In 1920 the State of Georgia purchased the 325-acre Tuttle-Newton Orphanage at Gracewood, near Augusta, Georgia. It was soon converted into the Georgia Training School for Mental Defectives, colloquially known as Gracewood. The Augusta Board of Commerce and the City of Augusta contributed a total sum of \$25,000 for the first year of the school’s operation.⁵⁴ The school opened to its first patient on July 5, 1921. The first year ended with one physician, nine employees, and fifty-two patients. The school was plagued with funding problems from the beginning of its operation. In 1922 Governor Thomas Hardwick vetoed a \$30,000 appropriation for the school because he felt it was “improperly drawn.” Mills B. Lane, the founder of the Citizens and Southern (C & S) bank in Savannah, offered \$50,000 to keep the school from closing.⁵⁵ Financial crisis was thus averted. Later in the 1920s, Dr. George H. Preston wrote an article for the *Atlanta Constitution* called “Financial Aspect of Feeble-mindedness.”⁵⁶ He argued that reforms such as the Gracewood School saved the state money over time. \$300,000 was being spent on the feeble-minded per year at Milledgeville and Gracewood “without the slightest returns in progress and safety.”⁵⁷ Because Gracewood was only a training school it was inadequate to segregate the feeble-minded from the rest of society. He argued that other Southern states, such as Mississippi and South Carolina, appropriated far more funds for their feeble-minded schools. Seven years later, Dr. J.W. Oden, the new superintendant of Gracewood, urged the state to appropriate more funds for the school. He

⁵³ Ibid, 381.

⁵⁴ “Augusta Wants School,” *The Atlanta Constitution*, 4 March 1920, 16, and “Gracewood Mental Facility Marks Half Century of Work,” *The Rome News-Tribune*, 11 July 1971, 4B.

⁵⁵ “\$50,000 Offered by Lane,” *The Atlanta Constitution*, 9 September 1922, 1.

⁵⁶ George H. Preston, “Financial Aspect of Feeble-mindedness,” *The Atlanta Constitution*, 31 May 1922, 4.

⁵⁷ Ibid.

argued that Anderson's 1919 survey found ample numbers of feeble-minded citizens because Georgia failed to do anything about the problem. "500 Mental Defectives Now in Urgent Need of Institutionalizing," the post caption read. "We may expect the children of feeble-minded parents to form the very backbone of the vast and grim procession of paupers, criminals and prostitutes of tomorrow," Oden wrote.⁵⁸ The Gracewood School did eventually grow and prosper over the years, but it is important to note that the evidence suggests that the funding problems there and at the Milledgeville Asylum were a cause for the introduction of sterilization laws in the state legislature.

⁵⁸ "Dr. Oden, Head of Gracewood School for Feeble-Mindedness, Asks More Funds," *The Atlanta Constitution*, 7 July 1929, 3.

Part II: The Passage of Sterilization Legislation in Georgia

“Contrary to the Constitution of the United States all men are not born equal—physically, mentally, or economically.”

~Dr. W.L. Funkhouser

Sterilization legislation in Georgia was passed primarily as a function of the efforts of doctors, politicians, and activist women’s social groups. By the 1930s eugenic ideas enjoyed broad popularity in the State, and the legislation was passed in a wave of progressive reform known as Georgia’s “Little New Deal.” Although populist Democratic Governor Eugene Talmadge vetoed the Georgia sterilization law in 1935, the bill was easily passed when politicians from the pro-Roosevelt wing of the Democratic party came to power in 1937. Despite its popularity, there was some opposition to the movement from Roman Catholics and a few concerned private citizens. The people of Georgia were well aware of the Nazi abuses of sterilization legislation in Germany, yet they embraced a notion of American exceptionalism. They thought that legislative safeguards would prevent the same abuses here. Some even looked to Germany as a shining example of an efficacious sterilization program. While Georgia’s experience in passing sterilization legislation closely matched the experience of other states, it was delayed because progressivism did not take hold in Georgia, and the South generally, until the late 1930s.

Advocacy

The Medical Association of Georgia and other groups had long advocated the passage of a eugenic sterilization measure. And in the 1930s, even though the basis of eugenic science was quickly eroding, they saw their efforts grow to fruition. In 1932 the MAG announced a

progressive legislative program that called for “the sterilization of the hopelessly and criminally feeble-minded and insane after thorough examination.”⁵⁹ They also advocated more governmental involvement in the inspection of hospitals, the licensing of physicians, and the registration of automobile drivers, amongst other issues. By 1934 the MAG’s Committee on Public Policy and Legislation asserted that they had enough public support to pass sterilization legislation.

For the past few months, the lay public have been actively engaged in presenting our plea on Sterilization of the mentally deficient. It appears, in the present light, that they may prepare the minds of the legislators better than we have done. Many talks on the subject have been given before organizations all over the state, and the voters seem ready to demand that a suitable bill be passed.⁶⁰

The committee was correct. In early 1934 the Women’s Advisory Board to the Mayor and Aldermen of Savannah passed a resolution to join the twenty-seven other states that had passed sterilization laws.⁶¹ The Augusta Junior League, a group of young society women influenced by their experiences distributing free goods to destitute households, “met with lawmakers and arranged talks on birth control and sterilization throughout the state.”⁶² Government officials were also crucial to the sterilization effort. E.E. Lindsey, chairman of the State Board of Control, was a well-known advocate of sterilization. He posited that hereditary defectives posed an unnecessary cost burden to the state because of overcrowded asylum conditions. He also asserted in several speeches that physical defects could be removed from society by eliminating their cause—bad genes.⁶³ According to Chairman Lindsey,

It is a financial problem for the state government and the taxpayers, just as it is an economic and social problem for the people of the state. [...] Of course, it would be some time before the effects of a sterilization program would be felt generally, but there are cases where it would help at once. In addition, many patients now in

⁵⁹ “Report of the Committee on Public Policy and Legislation—State Legislation,” *J. Med. Assoc. Ga.* 21: (1934), 335.

⁶⁰ “Report of the Committee on Public Policy and Legislation,” *J. Med. Assoc. Ga.* 23 (1934): 304.

⁶¹ “Women Urge Sterilization,” *New York Times*, 3 Feb. 1934, 9.

⁶² Edward J. Larson, “Breeding Better Georgians,” *Georgia Journal of Southern Legal History* 1:1 (Spring/Summer 1991): 63.

⁶³ *Ibid.*

the hospital have children. In the generations to come the problem will be greater than it is now if something is not done to stop the insane from having children.⁶⁴

He argued that patients should be evaluated for sterilization by a panel of experts and then subjected to an operation once approved by the board.⁶⁵

The sterilization movement, although popular, was not unopposed. Roman Catholics were perhaps some of the most vehement opponents. In May 1934 Father Joseph E. Moylan of the Catholic Shrine of the Immaculate Conception in Atlanta delivered a sermon that strayed from religious teaching and delivered a secular message. He acknowledged that the state had the right to sterilize the feeble-minded as a last resort, but he argued that the state “does not have the right to sterilize its citizens when there are other and even more effective means of accomplishing the purpose of the eugenics movement.”⁶⁶ Father Moylan advocated eugenic segregation and subsistence farms as a solution. “We do not believe that the state has a right to pry into the family secrets of her citizens.”⁶⁷ He believed that the feeble-minded should be given a fair opportunity to help themselves. This was in line with the position of the Catholic Church on sterilization bills in the 1930s.⁶⁸

Ellis Arnall, the speaker pro-tem of the Georgia House in 1935, introduced a sterilization bill in January of that year that called for “one surgeon and one alienist of recognized ability” to examine those people who were incarcerated in state institutions for criminals and the feeble-minded.⁶⁹ The House Hygiene and Sanitation Committee narrowed the scope of the bill to include only “patients” in the custody of the state who “would be likely, if released without

⁶⁴ “Sterilization Act Expected to Come Before Assembly,” *The Atlanta Constitution*, 25 Nov. 1934, 6A.

⁶⁵ *Ibid.*

⁶⁶ “Move for Sterilization in Georgia Assailed by Catholic Priest Here,” *The Atlanta Constitution*, 14 May 1934, 7.

⁶⁷ *Ibid.*

⁶⁸ John T. Noonan, Jr., *Contraception: A History of Its Treatment by Catholic Theologians and Canonists* (Cambridge, Mass.: Harvard University Press, 1966), 424.

⁶⁹ Georgia House Bill 204 (1935), sec. 1-3, Georgia Dept. of Archives and History, file 37-1-5; iv-5-3 (box 164.) “Alienist” is an old term for a psychiatrist.

sterilization, to procreate a child...who would have a tendency to physical, mental, nervous disease or deficiency.”⁷⁰ The bill had the same intellectual predicates as sterilization legislation in other states. People should be sterilized “for the protection of such individuals, the State, and future generations.”⁷¹ It established a state eugenics board and explained the procedure for appeal of the board’s decisions through the superior court of the county where the patient resided. If no objection was noted within ten days, then the superintendant of the mental facility where the patient was incarcerated was to carry out the board’s sterilization ruling.⁷² The bill was very similar in design to the model legislation that Harry H. Laughlin proposed in his *Eugenical Sterilization in the United States*.

Records obtained from the Georgia Department of Archives and History reveal that sterilization legislation was indeed advocated by civic organizations and civic leaders. In January 1935, J.E.D. Shipp, the president of the Sumter County Board of Education, wrote a letter to Governor Gene Talmadge imploring him to consider and approve a sterilization law. He argued that the Virginia and California laws provided excellent models for a proposed law in Georgia.⁷³ It is doubtful that Talmadge ever considered the idea because he replied to Shipp with an unsigned form letter.⁷⁴ That same month J. Clarence Moss of the American Legion Post at Indian Springs, Georgia, wrote to Talmadge with a legislative agenda. The agenda included capitol punishment for robbery, burglary, and kidnapping, as well as sterilization, restricted marriage licensing laws, and an age limit for marriage. Moss wrote,

⁷⁰ Georgia, *House Journal* (1935), p. 1840. See also, Edward J. Larson, “Breeding Better Georgians,” *Georgia Journal of Southern Legal History*, Vol. 1, No. 1 (Spring / Summer 1991), 65.

⁷¹ Georgia, *House Journal* (1935), p. 1839.

⁷² Georgia, *House Journal* (1935), p. 1844.

⁷³ “J.E.D. Shipp to Governor Eugene Talmadge,” Georgia Department of Archives and History, in Governor’s Subject Files (Talmadge), file 1-1-5, RCB 7664.

⁷⁴ “Governor Eugene Talmadge to J.E.D. Shipp,” Georgia Department of Archives and History, in Governor’s Subject Files (Talmadge), file 1-1-5, RCB 7664.

We favor sterilization of all mental incompetent persons, and for certain chronic diseases; We favor a law to compel persons to stand a physical and mental examination, by a competent physician, before a marriage license can be issued, such a law would help to build a better physical and mental body of our future generation.⁷⁵

Talmadge thanked Moss for advising him of the bills in which his Legion post was interested.⁷⁶

The Medical Association of Georgia, ever the sterilization advocates, also wrote to Talmadge to endorse a “suitable sterilization law.”⁷⁷

Georgia newspaper editorials featured much more passionate advocacy. In February 1935 over 200 citizens in Augusta signed a united letter delivered to each member of the state legislature. “How much of our money are you willing to contribute to the growth of a yearly increasing crop of half-wits?,” the letter began.⁷⁸ They used cost burden arguments to appeal to taxpayers. “Are you content to see your own children entering our own state university, which is impoverished for funds because five times as many individuals are entering homes for mental defectives each year as are being registered in universities and colleges of our country?,” the letter continued.⁷⁹ Since much of the objection to sterilization centered on the idea that it was a cruel and unusual procedure, its advocates had, since the late 1890s, worked hard to dispel this notion. “Sterilization is not a mutilating operation in any sense of the word. No glands or organs are removed, nor does it impair the health or normal sex life of the patient,” they argued.⁸⁰ After assuaging fears of mutilation, the Augusta citizens cited a few cases in which feebleminded people had been released from state institutions and allowed to procreate. Their arguments

⁷⁵ “J. Clarence Moss to Governor Eugene Talmadge,” Georgia Department of Archives and History, in Governor’s Subject Files (Talmadge), file 1-1-5, RCB 7664.

⁷⁶ “Governor Eugene Talmadge to J. Clarence Moss,” Georgia Department of Archives and History, in Governor’s Subject Files (Talmadge), file 1-1-5, RCB 7664.

⁷⁷ “Medical Association of Georgia to Governor Eugene Talmadge,” Georgia Department of Archives and History, in Governor’s Subject Files (Talmadge), file 1-1-5, RCB 7664.

⁷⁸ “Leading Augusta Citizens Urge Passage Of Pending Selective Sterilization Bill,” *The Atlanta Constitution*, 17 Feb. 1935, 7B.

⁷⁹ Ibid.

⁸⁰ Ibid.

created the same pseudoscientific state of fear that earlier eugenics advocates used for the passage of sterilization legislation in other states. “Within the next hundred there will not be enough normal people to care for the sub-normal,” they stated.⁸¹ The editor of the *Atlanta Constitution* agreed. “Georgia has gone far too long without affording this protection to society,” he wrote.⁸²

The fear mongering of sterilization advocates was indeed effective. The sterilization bill passed the Georgia House of Representatives on March 7, 1935 by a landslide vote of 117 to 29, with little protest.⁸³ The editors of the progressive *Augusta Chronicle* rejoiced, and they acknowledged the key role that the Augusta Junior League played in the passage of the bill.

The very intelligent campaign for a sterilization law in Georgia which was conducted by a number of prominent young Augusta women did much toward educating the members of the Legislature and the people of Georgia generally as to the great necessity for such a law in this state.⁸⁴

The editors also took the time to congratulate the Georgia legislators on their enactment of the progressive sterilization measure.

The *Chronicle* congratulates the members of the Georgia House of Representatives upon their wise and patriotic claim in voting for a sterilization law, which would place Georgia among those progressive states in the Union which are doing their part to stomp out insanity, imbecility, and crime.⁸⁵

The Georgia Senate passed the sterilization bill by a 30-10 vote less than two weeks after the House vote. This vote came with much more debate, however. The Senate added a provision to the bill that allowed for an appeal of the sterilization decision in the superior court of the county in which the patient resided.⁸⁶ It was assumed that Governor Talmadge would sign

⁸¹ Ibid.

⁸² “The Feeble-Minded Menace,” *The Atlanta Constitution*, 17 Feb. 1935, 6B.

⁸³ “Senator Speaks Almost 5 Hours in One-Man War,” *The Atlanta Constitution*, 8 March 1935, 1.

⁸⁴ “Sterilization Bill Passes the House,” *The Augusta Chronicle*, 9 March 1935, 4.

⁸⁵ Ibid.

⁸⁶ “Eugenics Bill Passes Senate,” *The Savannah Morning News*, 20 March 1935, 1.

the bill because one of the bill's chief proponents, Control Board Chairman E.E. Lindsay, was a Talmadge political appointee.⁸⁷ The editors of the *Augusta Chronicle* rejoiced yet again.

The bill now goes to the governor for signature and we hope that he will promptly approve it, since it is a step forward for Georgia in the great campaign to have a population in the future with the minimum number of feeble-minded, with fewer jail and penitentiary occupants, fewer in the insane asylums and with feeble-minded children reduced to a minimum.⁸⁸

Governor Talmadge surprisingly disagreed, despite the purported cost savings of the sterilization bill, and he vetoed it on March 26, 1935. "They made no provision in here to except the governor and the adjutant general," Governor Talmadge said to Adjutant General Lindley Camp. "Lindley, you and I might go crazy some day and we don't want them working on us," Talmadge said.⁸⁹ Talmadge's motivation for vetoing the sterilization legislation is ambiguous. According to Edward Larson, "In a phrase, the governor had personalized the concerns that populists had always felt towards eugenics; and certainly his poor and working-class white supporters would not object to the veto."⁹⁰ Yet, as Larson also points out, Talmadge vetoed 163 measures that spring, including "such major progressive propositions as old-age pensions and free textbooks."⁹¹ Talmadge later boasted "that he threw every New Deal bill in the trash without reading it."⁹² Talmadge's reactionary politics saved the people of Georgia from sterilization measures for a short time. The editors of the *Augusta Chronicle* lambasted Talmadge for his decision.

We are sorry that Governor Talmadge has struck a blow at progress, at social security for the future and in favor of a continuation of such terrible conditions that will mean more and more insane, more and more feeble minded, with criminals augmented and hospitals filled to capacity. It is a real tragedy in

⁸⁷ "Sterilization Bill Passed By Senate," *The Atlanta Constitution*, 20 March 1935, 1.

⁸⁸ "Sterilization Bill Passes the Senate," *The Augusta Chronicle*, 21 March 1935, 4.

⁸⁹ "Talmadge Vetoes Bill to Sterilize Criminals, Insane," *The Atlanta Constitution*, 27 March 1935, 1.

⁹⁰ Larson, "Breeding Better Georgians," 67.

⁹¹ *Ibid.*

⁹² Quoted in William Anderson, *The Wild Man from Sugar Creek: The Political Career of Eugene Talmadge* (Baton Rouge: Louisiana State University Press, 1975), 119.

Georgia's annals, the veto of the sterilization bill, and we believe the governor has made one of his most egregious mistakes.⁹³

It is interesting to note that several citizens wrote to Talmadge in the period between the Senate passage of the bill and his veto. On March 26 the Doctors of Fulton County sent Talmadge a late night telegram in which they “overwhelmingly endorc[ed]” sterilization.⁹⁴ Yet the most interesting last minute communications to the Governor involved opposition to the bill. David L. Lewis, a resident of Atlanta, wrote a letter to Talmadge that described sterilization as an undemocratic, illegal operation. “It is a measure aimed at the poor and the unfortunate,” Lewis wrote. “It is vague in application and unscientific in principle” because “feeble-mindedness is not a definite disease.”⁹⁵ Lewis' assertions were similar to those of people who opposed sterilization in other states years before it was considered in Georgia. By the mid-1930s the scientific community had a heightened understanding of genetics. “The idea that children of feeble-minded parents are generally feeble-minded also has no scientific support,” Lewis argued. In a bit of light-hearted humor, he added “If this idea were true the world would be entirely inhabited by idiots by this day and time.”⁹⁶ With these words Lewis exposed a problem that hardcore eugenicists had never explained: why did perfectly normal people produce mentally handicapped children? The reverse was also an unanswered question: how could supposedly “feeble-minded” people produce perfectly healthy, normal children? These key questions were central to the downfall of eugenic science.

Lewis also argued that sterilization was “opposed to the fundamental principals of law.” He reasoned that “sterilization [was] as final as electrocution” because it could not be undone if a

⁹³ “The Governor's Veto of the Sterilization Bill,” *The Augusta Chronicle*, 27 March 1935, 4.

⁹⁴ “F. Phinzy Calhoun to Governor Eugene Talmadge,” Georgia Department of Archives and History, in Governor's Subject Files (Talmadge), file 1-1-5, RCB 7664.

⁹⁵ “David L. Lewis to Governor Eugene Talmadge,” Georgia Department of Archives and History, in Governor's Subject Files (Talmadge), file 1-1-5, RCB 7664.

⁹⁶ *Ibid.*

mistake was made.⁹⁷ He also found it repugnant that a person would be tried before a panel of three politicians and punished without a trial by jury. He rejected the genetic determinism embraced by eugenicists. “It is ridiculous to suppose that the children of bandits, forgers, &c are likely to be bandits and forgers also.”⁹⁸ It is unknown whether or not Talmadge or any of his staff read Lewis’ letter, as the Georgia Archives do not contain a response to Lewis. Nonetheless, Lewis’ letter shows that there was articulate resistance to the sterilization bill from other people and organizations in addition to the Catholic Church.

Lewis’ letter also addressed an idea crucial in the historiography of eugenic sterilization. Did knowledge of Nazi abuses of sterilization and eventual genocide lead to the eventual decline of eugenics in America? Lewis’ letter, alongside several newspaper articles and editorials, suggests that people in Georgia were aware of the Nazi abuses of sterilization.

[Sterilization] creates a powerful and terrible weapon for use by some unscrupulous political faction in the distant future. It is notable that 180,000 persons have been ordered sterilized in Germany, and it is by no means unlikely that they committed the error of voting the wrong way.⁹⁹

Lewis’ fears were shared by people world wide, including Pope Pius XI. On May 24, 1935, he addressed delegates to an international hospital conference in Vatican City. He asserted that “incalculable damage will result for the whole world” if Germany’s sterilization program and paganism were allowed to spread into other parts of the world.¹⁰⁰ Of course, despite the Vatican’s protests, the Nazi sterilization program continued undaunted. The Associated Press reported in July 1935 that “Nazis today continued their anti-Semitic campaign despite warnings from higher-ups, and pushed their sterilization program, despite Catholic protests.”¹⁰¹ Despite

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ “Reich’s Sterilization Is Attacked by Pope,” *The Atlanta Constitution*, 25 May 1935, 2.

¹⁰¹ “Nazis Undaunted, Ignore Warnings,” *The Atlanta Constitution*, 18 July 1935, 1.

this, the editors of *The Atlanta Constitution* praised Germany for its sterilization of 56,000 in one year.¹⁰² “With proper legislative safeguards there can be but little reasonable objection to the growing custom of rendering the mentally, physically unfit incapable of reproducing the species...Georgia should join the list of progressive states which have enacted and are enforcing this necessary measure for the protection of society.”¹⁰³ When the sterilization bill was reconsidered and passed by the Georgia House and Senate in 1937, the editors of the *Atlanta Constitution* praised the merits of eugenic sterilization next to an editorial that documented the abuse of Polish Jews.¹⁰⁴ The evidence suggests that sterilization was adopted with a hint of American exceptionalism. The people of Georgia seemed to think that the abuses of sterilization that occurred in Germany could not happen in America. Sterilizations in Georgia actually increased post-World War II despite the exposure of the Nazi concentration camps and eugenics gone mad.

Financial Crisis and Sterilization

During the 1935 session of the state legislature, Roy Harris, Ellis Arnall, and Eurith Rivers (then the house speaker) introduced progressive reforms that included free schoolbooks, an old age pension plan, and unemployment benefits. These bills too were part of the massive Talmadge veto of 1935. All three legislators broke completely with Talmadge because his administration bitterly opposed Franklin Roosevelt’s New Deal. This was one of the key reasons for the election of progressive Democrat Eurith D. Rivers to the Georgia governorship in late

¹⁰² “Sterilization,” *The Atlanta Constitution*, 26 August 1935, 4.

¹⁰³ *Ibid.*

¹⁰⁴ See “Sterilization Progresses” and “The Jew In Poland,” *The Atlanta Constitution*, 23 Feb. 1937, 4.

1936.¹⁰⁵ Populism was officially on its way out as Rivers launched Georgia's "Little New Deal." In the opinion of historian Numan Bartley, Talmadge style populism "reached the point that it was no longer able to provide for or to govern its own people."¹⁰⁶ The citizens of Georgia embraced eugenics at a time of deep financial crisis, a development that made the cost burden arguments of the progressive reformers ring especially true. Yet the progressivism of Rivers, Ellis Arnall, and Roy Harris seemed necessary to transform Georgia from a colonial economy to a modern market economy. The New Deal and the Rivers Administration vastly improved public health in Georgia, alongside programs for rural electrification, public safety, and a proliferation of public works.¹⁰⁷ Sadly, eugenic sterilization was included amongst these progressive improvements.

A serious financial crisis was also brewing within the Medical College of Georgia and the Gracewood Institution in Richmond County. According to Phinizy Spalding,

As the depression worsened, University Hospital became overloaded with 'indigent poor' and had to face basic problems of what to do in a situation where 'humane consideration' might demand entry and treatment for all but where economic realities dictated otherwise.¹⁰⁸

Federal monies pouring into Georgia despite Talmadge opposition were the salvation of the hospital system. The citizens of Augusta embraced these funds. According to Spalding, "all of these sentiments should be taken as constant within the frame of reference of American progressivism on the national level."¹⁰⁹

House Speaker Roy Harris of Augusta wasted no time introducing a sterilization bill that was identical in every respect to the failed 1935 bill. "The bill is regarded as one whose passage

¹⁰⁵ Numan V. Bartley, *The Creation of Modern Georgia*, 2nd ed. (Athens: The University of Georgia Press, 1990), 173-176 and Edward J. Cashin, *The Story of Augusta* (Augusta: Richmond County Board of Education, 1991), 255.

¹⁰⁶ *Ibid.*, 178.

¹⁰⁷ *Ibid.*, 191.

¹⁰⁸ Phinizy Spalding, *The History of the Medical College of Georgia* (Athens: University of Georgia Press, 1987), 169.

¹⁰⁹ *Ibid.*, 113.

is assured, since the last legislature passed such a measure and with the known support of Governor Rivers it is believed that the passage of the measure will be much easier than in the legislation of 1935,” the editors of the *Augusta Chronicle* gloated.¹¹⁰ The editors of *The Atlanta Constitution* again endorsed the bill.

The measure is in accord with modern methods through which progressive government is endeavoring to combat the rising volume of crime and the crowding of institutions with insane and mental defectives.¹¹¹

The *Journal of the Georgia Medical Association* agreed as victory in the fight for sterilization legislation was at hand. Dr. Avary M. Dimmock of Atlanta implored the citizens of Georgia to follow the Nazi example and pass efficient, effective sterilization legislation. He wrote,

Up to Jan. 1, 1936, the eugenic sterilizations performed in state institutions amounted to 23,166. [...] Compare this with the fact that in Germany 56,000 people underwent the operation in one year. We, the doctors of this country, cannot sit by and do nothing. While it is true that nature does sterilize a number of the unfit it is equally true that she cannot be depended upon to remedy the situation: we must do it.¹¹²

His argument that governments must adopt a policy of artificial selection over natural selection was classic eugenic dogma. Dr. W.L. Funkhouser echoed Dimmock’s sentiments and went a step further. “The time may come when it is necessary to resort to euthanasia for those who are mentally and physically beyond scientific restoration to some degree of physical and mental health and happiness,” he wrote.¹¹³ He argued that sterilization legislation could prevent that day from coming.

It is doubtful that the future will be as gloomy as it looks, for nature is a great equalizer if left alone. The medical profession, however, is reducing infant mortality and increasing longevity, salvaging the unfit to become a care to family

¹¹⁰ “The Sterilization Law,” *The Augusta Chronicle*, 15 Jan. 1937, 4.

¹¹¹ “The Sterilization Measure,” *The Atlanta Constitution*, 30 Jan. 1937, 4.

¹¹² Avary M. Dimmock, “Human Sterilization,” *J. Med. Assoc. Ga.*, 26 (1937): 424.

¹¹³ W.L. Funkhouser, “Human Rubbish,” *J. Med. Assoc. Ga.*, 26 (1937): 199.

and State; yet it is doing little or nothing toward enforcing the laws of eugenics, sterilization, and birth control.¹¹⁴

Like all eugenicists, Funkhouser argued for artificial selection, though he probably did not realize that euthanasia was already being used in Germany. It doubtful that any of those who lauded Germany's sterilization efforts knew that they had taken their program into genocide. Regardless, with Germany as the shining example of an efficacious sterilization program, the Georgia House passed the bill with a 152 to 13 vote. The Georgia Senate followed suit with a vote of 27 to 1, and Governor Eurith Rivers signed the bill into law on February 24, just six weeks after its introduction.¹¹⁵

The Georgia sterilization law created a State Board of Eugenics composed of the Chairman of the State Board of Control, the Director of the State Board of Health, and the Superintendent of the Milledgeville State Hospital. The law cited hereditary degeneracy as its predicate.

When it shall appear to the superintendent, manager, or director, of any State home or hospital for mental or physical disease [that a patient] if released without sterilization, [would] procreate a child, or children, who would have a tendency to serious physical, mental, or nervous disease or deficiency, said superintendent or manager...shall submit to the State Board of Eugenics a recommendation that a surgical operation be performed upon said person for the prevention of parenthood. Such operation shall be a vasectomy for males, and a salpingectomy for females.¹¹⁶

The law also specified that the family of the patient had ten days to file an appeal before the order of the Board was carried out. This law was very similar to statutes adopted in Virginia and California, and to Harry Laughlin's model sterilization statute. The first sterilization conducted under the auspices of eugenic science occurred the next year, in 1938. At this point the

¹¹⁴ Ibid., 197-198.

¹¹⁵ "Sterilization Progress," *The Atlanta Constitution*, 23 Feb. 1937, 4. See also "Votes Sterilization in Georgia," *The New York Times*, 20 Feb. 1937, 19 and Larson, "Breeding Better Georgians," 70. See also, *Georgia Senate Journal* (1937), 1085 and *Georgia House Journal* (1937), 1278.

¹¹⁶ 1937 *Ga. Laws*, Chapter 5, Sec. 3, 414-415.

progressive reformers' aim of protecting Georgia from the menace of the feeble-minded came to fruition. Sterilizations occurred irrespective of any concern for individual rights, and implementation of pseudoscientific ideas long disproven trumped any concern for human dignity.

Chapter 4: Sterilization in Georgia, 1937-2010.

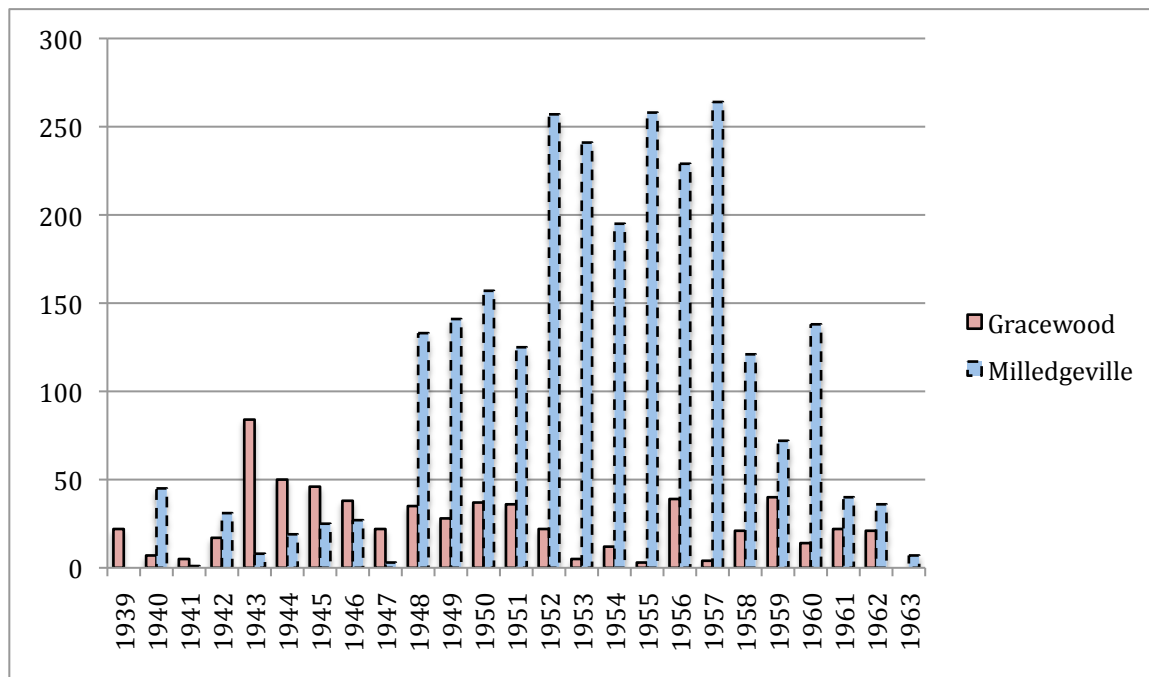
Part I: Eugenic Sterilization in Practice, 1937-1963.

“---. 15 years – 7 months – mental age- 6 years – 5 months – I.Q. 47. History accompanying case shows that her mother was very irresponsible, and apparently feeble-minded. There are three other brothers and sisters, all feeble-minded. This and the rest of the family were discovered living out in the woods in Wheeler County in a truck body. She is a sex pervert.”

~Georgia Sterilization Files, 31RTBa, 25 April 1939.

The first eugenic sterilization procedure in Georgia was performed at Milledgeville in 1938.¹ 3,023 sterilizations occurred from that point until 1963, leading Georgia to the fifth highest number of sterilizations in the Union by official accounts.

Figure 1: Sterilizations in Georgia per year, 1937-1963²



¹ T.G. Peacock, “Georgia Program for Sterilization,” *J. Med. Assoc. Ga.* 42 (1953): 276.

² Julius Paul, *Three Generations of Imbeciles Are Enough: State Eugenic Sterilization Laws in American Thought and Practice* (Washington, D.C.: Walter Reed Army Institute of Research, 1965), 326-327. It should be noted that the official Georgia number cited by Dr. Paul is not congruent with the Georgia Sterilization Files from the Department of Archives and History.

Although several superintendants of the Gracewood Training School for Mental Defectives and the Milledgeville State Hospital conducted sterilization procedures, the evidence suggests that Dr. Thomas G. Peacock, superintendant of Milledgeville from 1948-1959, was chiefly responsible for sterilization in Georgia. An analysis of the Georgia Sterilization Files reveals that most family members were silent about the sterilization of their loved ones. Some wrote letters of approval, and far fewer people wrote letters of objection or made attempts to stop the procedure from occurring. The nature of the appeals process and the condition that an appeal had to be made in the county in which the person was institutionalized (in this case, Baldwin or Richmond Counties) helped Peacock's sterilization campaign, as travel in the 1950s was not as easy as it is today. It should be noted that the number of sterilizations annually decreased after Dr. Peacock was ousted after an investigation of the conditions at Milledgeville in 1959. Sterilizations ended when a new superintendant, I.H. MacKinnon, eschewed them. The 1937 law was repealed in 1970, and since that point successive sterilization laws have been narrowed in scope in order to comply with modern jurisprudence.

It may not be possible to ascertain how many sterilizations actually occurred in Georgia because the Sterilization Files housed in the Georgia Archives are incomplete. The following survey of the Georgia Sterilization files does not provide an official count of sterilizations or a statistical analysis of the records. Rather, this thesis employs the records to illustrate the dominant theme of societal deference to scientific expertise, because of legal coercion, poverty, or lack of education, which defined the eugenics movement in Georgia. The Sterilization Files generally include a record and request sent to the State Board of Eugenics, an affirmative response from the Board, an official letter to the person-to-be-sterilized's next of kin, and a

report of the actual operation. Some of the files have correspondence between the next of kin and the superintendant at either Milledgeville or Gracewood. The files contain over 4,500 requests sent to the Board of Eugenics. Some of them have no information on the fate of the patient, and others contain only a record of the sterilization operation. Because the Sterilization Files are considered to be medical records, they are redacted for the protection of the persons involved. This chapter outlines the course of the eugenics movement in Georgia and provides a survey of illustrative records.

Dr. T.G. Peacock's Sterilization Logic

Dr. T.G. Peacock presided over the majority of the sterilizations that occurred in Georgia as a member of the State Board of Eugenics. An article published in the *Journal of the Medical Association of Georgia* in 1953 entitled "Georgia Program for Sterilization" provides insight into his sterilization ideas.³ He adhered to the hereditarian philosophy of national eugenicists long after science had disproven it, although he also believed that environmental factors could influence a child's upbringing. He wrote:

The protection of potential children from the risk of inheriting unstable minds is not the only advantage of the sterilization of mentally diseased patients. We who administer the state program believe that those with psychotic episodes are not fit to rear and care for children. The children are certain to be poorly conditioned by the unfavorable parental surroundings.⁴

The State had sterilized over 1100 people by 1953 when the article was published. Peacock did not feel that the state was doing enough to address the problem of the feebleminded. "We do not claim that our program in Georgia is complete. We feel it is almost trying to sweep back the

³ T.G. Peacock, "Georgia Program for Sterilization," *J. Med. Assoc. Ga.* 42 (1953): 276-278.

⁴ *Ibid.*, 277.

ocean with a broom,” he wrote.⁵ Like national eugenicists, Peacock argued that the cost savings to the state far outweighed any concern for individual rights. “Sterilization shows additional furloughs, decreasing taxes and increasing freedom for the patient,” he wrote.⁶ The following evidence suggests that Dr. Peacock was an ardent sterilizer who ruthlessly enforced Georgia’s sterilization statute.

A Sampling of the Sterilization Correspondence

The sterilization law in Georgia linked institutional release with sterilization, meaning that patients were often released only after they had undergone a sterilization procedure. “We believe that we have saved the state thousands of dollars by being able to discharge numbers of patients who could not otherwise have gone home,” Dr. Peacock wrote.⁷ Many of the requests sent to the Eugenics Board expressed this idea:

The medical staff would feel more inclined to recommend this patient’s removal from institution if a sterilization operation should be performed so that Society might be protected.⁸

Those whose relatives were institutionalized understood this coercive element. One letter to Dr. Oden reads: “I have talked [the sterilization procedure] over with ---. She is perfectly willing to undergo the operation so she can come back to me.”⁹ Some of the correspondence shows that relatives might have misunderstood what a sterilization procedure actually entailed. Several cases illustrate that family members thought that the sterilization operation might help their loved one’s psychiatric condition. “Also glad to know that you all have find [*sic*] the trouble

⁵ Ibid.

⁶ Ibid., 278.

⁷ Ibid.

⁸ Georgia Sterilization Files (Hereafter “Sterilization Files”), 84 RTB, 28 May 1940, Georgia Department of Archives and History. This provides an example of the sterilization for the protection of society that the requests generally employed.

⁹ Sterilization Files, 84COR, 18 May 1950.

with ---. I have no objection to the operation [*sic*] if you all think it will help her [*sic*] you all know what is best for her.”¹⁰ Another person thanked Dr. Peacock for his interest in the welfare of the patient. “I am sure that you and your staff are doing all in your power to restore my daughter to normal life. Please accept my many thanks for your interest in the welfare of my daughter.”¹¹ “I only hope the operation will help him to get well [*sic*] Please tell me will he ever get well and be a normal person any more,” another asked Dr. Peacock.¹² “If the Board see [*sic*] that an operation might improve his condition I’m willing for them to perform it.”¹³ Although this correspondence evinces a clear misunderstanding of the nature of the sterilization operation, Dr. Peacock and other superintendants did not find it necessary to provide families who agreed to the procedure with further information. Their form letter explanation that “the operation will not prevent normal sexual life, but will prevent the procreation or bearing of children” was enough to satisfy their sterilization objectives.¹⁴ Some family members were even elated that a state agency had addressed their case. “I am very proud to know that the State Board Of Eugenics is meet [*sic*] on June the 13, 1950 and Pass [*sic*] of the advisability of sterilization operation on --- and I don’t see any reason that I would wish to object to the operation,” a person from Oglethorpe, Georgia wrote.¹⁵ These people’s letters display a sad misunderstanding of the State’s motives in sterilizing their relatives. The State sterilized to save money, not to cure patients, as these people seemed to think.

¹⁰ Sterilization Files, 1237COR, 29 May 1950.

¹¹ Sterilization Files, 1365COR, 24 November 1950.

¹² Sterilization Files, 1548COR, 14 November 1951.

¹³ Sterilization Files, 1771COR, 9 June 1952.

¹⁴ Example taken from Sterilization Files, 1771NTC, 31 May 1952.

¹⁵ Sterilization Files, 1234 COR, 18 May 1950.

Fear of human sexuality is another theme that is prevalent in the Georgia Sterilization Files. The suspicion that a female was “oversexed” could lead to sterilization. An example from a sterilization request reads:

---, colored. Admitted to the above hospital on January 25, 1946. Age 20; single. Presented to staff and diagnosed psychosis with mental deficiency. Was sent here because she was sex problem at home. Wild over soldiers. Social Worker reports she had sex relations with 14 soldiers in one night.¹⁶

The woman in question was sterilized by Salpingectomy a few months later.¹⁷ Another woman, diagnosed with dementia praecox, was sterilized because she committed “all kinds of sex acts among her children.”¹⁸ Yet another was recommended for sterilization because she talked “about sexual intercourse all the time” in addition to being “violent and destructive.”¹⁹ “History of this child states that she has carried on sex affairs with men on several different occasions...sterilization is recommended” another report reads.²⁰ All of these women had one thing in common: their race. All of the women were Black. This trend might be a reaction to the old stereotype of Black women as “jezebels,” or oversexed, immoral women.²¹ Rarely, sterilization would be requested by a parent for the protection of the patient from sexual predators. This case provides an example:

Age 14; single. Presented to clinic and a diagnosis of psychosis with mental deficiency recorded. Mother forced to leave patient alone at home as she goes out to work. Fear that someone might take advantage of patient and she might get pregnant.²²

¹⁶ Sterilization Files, 672 RTB, 12 September 1947.

¹⁷ See Sterilization Files, 672RPT, 20 March 1948.

¹⁸ Sterilization Files, 681RPT, 6 September 1947.

¹⁹ Sterilization Files, 686RPT, 10 September 1947.

²⁰ Sterilization Files, 4835RTB, 8 September 1961.

²¹ See Deborah Gray White, *Ar'n't I a Woman: Female Slaves in the Plantation South* (New York: W.W. Norton, 1999), 27-61. Chapter One, “Jezebel and Mammy: The Mythology of Female Slavery” explains this deeply rooted Southern stereotype.

²² Sterilization Files, 1038RTB, 22 June 1949.

In other cases, sterilization for the protection of the patient might be requested by a county health official, as was the case with a 12-year-old Stephens County girl in 1950. After it was revealed that the girl had an I.Q. of 37 and past “sexual experiences,” the Stephens County Director of Public Welfare wrote to Dr. Peacock to request a sterilization operation because the girl had few relatives to inclined to care for her. Further investigation by the county revealed that the girl lived in a poorly maintained home with eight other children and a mother who “[ran] around with other men,” thus setting a poor example for her children.²³ The girl was described as a “tall, slender negro girl” who was “nervous.” According to the report, “both parents...agreed that sterilization is a necessary protective measure.”²⁴ She was sterilized in September of 1950 for seemingly moral purposes.²⁵ The evidence suggests that this was a common occurrence.

Only 80 of the approximately 4,500 sterilization records reveal any evidence of objection to the sterilization procedure, and the majority of those records reveal that those whose families objected were sterilized despite the objection. Some people had no idea what a sterilization operation entailed. This letter, written to Dr. Peacock from the mother of a 22-year-old Black male, provides an excellent example:

I receive your letter Saturday and I don't understand it. And I only sent my son [to Milledgeville] for three months. I didn't throw him away. Will you please give him to me. [*sic*] I didn't want to make a [writing illegible] out of him. I don't understand it he is himoun [*sic*]. He is my only son and i [*sic*] need him. i [*sic*] am alone. Write me back and give me some kind of understanding. The mark of a drink man, and that white [*sic*] he that way. I don't want you to kill my son. Please give him to me.²⁶

²³ Sterilization Files, 1240CORc, 9 June 1950.

²⁴ Sterilization Files, 1240CORd, 9 June 1950.

²⁵ Sterilization Files, 1240RPT, 15 September 1950.

²⁶ Sterilization Files, 1528COR, 16 October 1957. Underlining mine for emphasis.

Records reveal that he was sterilized in January 1952 by vasectomy.²⁷ His mother clearly had a low level of literacy, and no doubt this was the case with many of the relatives of those who were sterilized.

Fear is a common element amongst the objection letters written to Dr. Peacock. Take, for example, this letter written by a woman in Chickamauga, Georgia:

I was in Milledgeville a few days ago. And I went to the hospital to see ---. He seemed like he was doing pretty good. And I don't want him operated on if you can get around it. These people here is [*sic*] putting some kind of dope in whiskey to run you crazy. I believe he will be all right after some of that dope is out of him. So you please write me again before the 24th and let me know what you think about it. I thank you. Please let me know at once. Because I am worried and just don't know.²⁸

The woman was obviously terrified to the point that she tried to find explanations for her relative's mental illness. Dr. Peacock responded with a general form letter explanation:

We think that he should have the sterilization operation. The only purpose of the operation is to prevent the procreation of child or children who by reason of inheritance would have a tendency to serious mental, physical, or nervous disease of deficiency. The operation will have no effect on his mental condition nor will it prevent normal sexual life. [...] We feel sure that if you better understood the nature of this operation, you would have no objection.²⁹

The records do not reveal whether or not a visit or further objection was made to Dr. Peacock, but the man in question was sterilized in March 1954.³⁰

Because the 1937 Georgia sterilization required that objections to decisions made by the Board of Eugenics be filed in the Superior Court of the county in which the patient was committed, Dr. Peacock sterilized with virtually no meaningful opposition. Record 2596 elucidates his willingness to follow the law absolutely. In November 1954, Peacock received two letters objecting to the sterilization of a male from Ogeechee, Georgia. "No sir: I am not

²⁷ Sterilization Files, 1528RPT, 14 January 1952.

²⁸ Sterilization Files, 2257CORa, 16 November 1953.

²⁹ Sterilization Files, 2257CORb, 16 November 1953.

³⁰ Sterilization Files, 2257RPT, 26 March 1954.

willing for that to be,” the relative wrote. “You just turn him over to me and he will be all right. We never has [*sic*] had any troble [*sic*] with him before so answer me at once.”³¹ Ten days later the same relative wrote to Dr. Peacock again to note her objection to the procedure. “I am not willing for him to have that sterilization. I would rather for you all to turn him back over to me,” the relative demanded. Dr. Peacock responded with the same form letter on both occasions:

As you were notified on November 9th, the State Board of Eugenics has ordered this sterilization and you have ten days from receipt of the notice to file with me, as Superintendent of the Milledgeville State Hospital, an appeal from the decision with the Superior Court of Baldwin County, Georgia. I cannot reverse the decision of the Board, but you have the privilege of appeal. The operation is a simple one and we believe that it would be to his advantage to have it done.³²

The records do not reveal whether or not the man was sterilized, but the general trend of the records is that few people escaped sterilization.

Some family members used age as their primary objection to the sterilization operation. One father defended his 30-year-old daughter’s natural rights. “Considering her young age and childless marriage I prefer not to take that natural right away from her. Should she be released as normal again soon, she may wish to rear a family.”³³ But that was exactly what Dr. Peacock successfully prevented. He wrote:

It is the opinion of that staff that --- should have the sterilization operation. This operation is to prevent the bearing of children, who by reason of inheritance might become mentally unbalanced. Also, the bearing of children is likely to cause mental disturbance in the patient. Patient is likely to become chronically insane, thus unfit to rear children.³⁴

The file contains no further objection from the father, and a tubal sterilization was recorded in September 1956.³⁵ In another case, the brothers and sisters of a 24-year-old man from Charlton

³¹ Sterilization Files, 2596CORa, 17 November 1954.

³² Sterilization Files, 2596CORd, 30 November 1954.

³³ Sterilization Files, 3125CORa, 26 June 1956.

³⁴ Sterilization Files, 3125CORb, 28 June 1956.

³⁵ Sterilization Files, 3125RPT, 6 September 1956.

County appealed to Dr. Peacock not to sterilize their sibling because he “never had a chance in life.”³⁶ He too was sterilized at Milledgeville.³⁷ The relatives of an 18-year-old Black man from McDuffie County noted that they were afraid of submitting him to sterilization because he was young and had never been operated on before.

I don't want yerll [*sic*] to cut him. When I got this letter and read it I start to worry. We miss him so bad I fell [*sic*] he order be all write [*sic*] to come home. [...] We just miss him so bad. I don't yall [*sic*] to operation [*sic*] on him. Don't you hurt him.³⁸

Dr. Peacock responded with a form letter and the sterilization was carried out in June 1960.³⁹

One case in the Sterilization Files reveals that Dr. Peacock could be stopped, but only on his own terms. Case 1497 involved a sterilization order on a 19-year-old Black male from Fulton County.⁴⁰ “I am expecting to attend the meeting [of the Eugenics Board] to state my objections to the operation,” the man’s relative wrote to Dr. Peacock.⁴¹ Although the record is silent on the Board’s decision, it is safe to assume that the Board did pass the sterilization order. A letter dated July 30, 1951, from the Georgia Department of Law to Dr. Peacock discussed signing an affidavit for the Superior Court of Baldwin County.⁴² Dr. Peacock and his lawyers prepared a trial memorandum on the constitutional issues raised by the case and submitted it to the Superior Court. The memorandum reveals the legal logic behind sterilization in Georgia. Peacock’s arguments appealed to pre-New Deal constitutional jurisprudence. First, he argued that “the Fifth Amendment is inapplicable...for it makes no limitation on State legislation.”⁴³ Given this argument, Peacock’s intent must have been to avoid the Due Process issues that struck

³⁶ Sterilization Files, 3765CORa, 29 November 1957.

³⁷ Sterilization Files, 3765RPT, 5 February 1958.

³⁸ Sterilization Files, 4034CORa, 16 August 1958.

³⁹ Sterilization Files, 4034RPT, 7 June 1960.

⁴⁰ Sterilization Files, 1497RTB, 26 June 1951.

⁴¹ Sterilization Files, 1497CORa, 18 June 1951.

⁴² Sterilization Files, 1497CORc, 30 July 1951.

⁴³ Sterilization Files, 1497CORf, (n.d.).

down sterilization laws in the early 20th century. Next, Peacock argued that the Privileges and Immunities Clause of the Fourteenth Amendment did not prohibit Georgia from sterilizing. *Jacobson v. Massachusetts*, which held that a compulsory sterilization statute was a valid exercise of state police powers to protect public health and safety, and *Buck v. Bell*, which upheld the Virginia sterilization law, provided Peacock's authority.⁴⁴ Although *Buck v. Bell* did not specifically address Fourteenth Amendment issues, Peacock "believed that the ruling of that case was sufficiently broad to cover any objection."⁴⁵ Given these two cases, Peacock used this logic to end the memorandum:

It is clear that the law is well settled respecting constitutionality of sterilization statutes having reasonable application and providing for hearing and judicial review. The Georgia statute here in question meets every requirement stated by the courts in the above cases and is, therefore, valid and effective exercise of the police power of this state.⁴⁶

Given the jurisprudence, these were strong arguments, but the State Board of Eugenics never gave them the chance to be adjudicated. An order dated November 24, 1952 shows that the Board vacated its sterilization order.⁴⁷ Perhaps it was afraid that an adverse ruling would end the sterilization program. Strategically, it would certainly have been better to continue the sterilization program in peace rather than open it up to public and judicial scrutiny. Whatever their reasoning, the record shows that the man was not sterilized.

1959: The Milledgeville Exposé and the End of Peacock's Tenure

In March 1959, the president of the Medical Association of Georgia appointed a committee to investigate the Milledgeville State Hospital at the request of Governor Earnest

⁴⁴ *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), and *Buck v. Bell*, 274 U.S. 200, (1927).

⁴⁵ Sterilization Files, 1497CORh, (n.d.)

⁴⁶ Sterilization Files, 1497CORi, (n.d.)

⁴⁷ Sterilization Files, 1497CORj, 24 November 1952.

Vandiver. The results of its study came as a shock to those unfamiliar with the history of the institution. The investigators, headed by Dr. W. Bruce Schaefer, found evidence of unsanctioned experimental drug testing, nurses performing surgeries, and alcoholism and drug abuse among the staff at the 12,000 patient institution.⁴⁸ One of the recommendations that the committee made was for the immediate removal of Dr. Peacock as superintendant. “This Committee appreciates the services of Dr. T.G. Peacock and the need for a person of his qualifications to be Superintendant of Milledgeville State Hospital. In kindness to Dr. Peacock’s physical condition and devotion to duty, he should be retired for reasons of ill health as soon as feasible and replaced,” they wrote.⁴⁹ During the course of the committee’s investigation it was revealed that Dr. Peacock “had a problem with alcohol” before he became superintendant. Although this would clearly be a sign of defective heredity, Dr. Peacock never volunteered to have himself sterilized.

The findings of the Schaefer Committee were echoed by a series of articles by Jack Nelson that appeared in the *Atlanta Constitution* in March 1959. Nelsons articles exposed unapproved drug experimentation, doctors operating under the influence of alcohol, and nurses performing “major surgery.”⁵⁰ This was part of a pattern of abuse that investigators consistently exposed at the hospital, yet no one took any action to fix the problems until 1959. “Whatever the investigation itself reveals will not change a thing. The mental hospital still will be one of the state’s shames. Our care of mental patients still will be ranked as among the lowest in the nation,” the editors of the *Atlanta Constitution* wrote.⁵¹

⁴⁸ W. Bruce Schaefer, et al., “Report of the Milledgeville Study Committee,” *J. Med. Assoc. Ga.* 48 (1959): 275-286.

⁴⁹ *Ibid.*, 278.

⁵⁰ See Jack Nelson, “Unapproved Drugs Given Mental Cases,” *The Atlanta Constitution*, 5 March 1959, 1, “Alcohol, Drug History is Found in 25 pct. of State Hospital Doctors,” *The Atlanta Constitution*, 6 March 1959, 1, “Nurse Did Key Surgery, Aide Swears,” *The Atlanta Constitution*, 7 March 1959, 1,

⁵¹ “State Hospital is Shame to Georgia,” *The Atlanta Constitution*, 10 March 1959, 4.

Despite the pessimistic tone of the *Atlanta Constitution* editors, changes did occur at Milledgeville because of the exposé. Although neither Jack Nelson or the Schaefer Committee mentioned sterilization, frequency of the procedure went into sharp decline after Dr. Peacock left the Milledgeville hospital as a result of the investigation. Dr. I.H. MacKinnon succeeded him as superintendant in 1959. In a letter to Julius Paul, Dr. MacKinnon commented, “there have been no changes in the laws relative to sterilization. The changes have been in the philosophy of the superintendant, not making it necessary for the Eugenics Board to make any decisions.”⁵²

⁵² Paul, *Three Generations*, 326.

Part II: The Statutory Revision and Death of Eugenics in Georgia

“As we enjoy Arnall's progressive legacy, we must also own his mistakes. On behalf of all its citizens, Georgia should apologize.”

~Cynthia Tucker, *The Atlanta Journal-Constitution*⁵³

Repeal of the 1937 Law

The revision of Georgia's sterilization laws occurred amid conservative Democrat Herman Talmadge's arguments for the sterilization of welfare mothers. They, rather than mental defectives, became the new focus of the sterilization movement. As Governor of Georgia Talmadge argued that welfare should be denied to children born to single mothers out of wedlock.⁵⁴ As a federal senator he “urged congressional legislation to sterilize unmarried women on welfare who repeatedly bore children.”⁵⁵ This was part of the younger Talmadge's national welfare reform efforts in the 1950s and 1960s. In 1966 the Georgia legislature authorized voluntary sterilization of legally married persons so long as the both spouses consented in front of a notary public and received a full medical explanation of the sterilization operation from a surgeon. This was part of a broader movement for voluntary sterilization. This 1966 law repealed previous laws that made voluntary sterilization illegal.⁵⁶ That same year state representative John Henderson, Jr. caused controversy when he introduced legislation that would allow parents to sterilize unmarried minors and legal incompetents. “Faced with united opposition, Henderson withdrew his bill from consideration and worked with its opponents in

⁵³ Cynthia Tucker, “Apology for Sterilizations is Necessary,” *The Atlanta Journal Constitution*, 7 February 2007, 15A.

⁵⁴ See Susan L. Thomas, “Women, Welfare, Reform and the Preservation of a Myth,” *Social Science Journal* 34 (1997): 351-369.

⁵⁵ Larson, *Sex, Race, and Science*, 160 and Julius Paul, “The Return of Punitive Sterilization Proposals: Current Attacks on Illegitimacy and the AFDC Program,” *Law and Society Review* 3 (Aug 1968), 81 and “Sterilization Emotional Issue,” *Rome News-Tribune*, 11 September 1959, 4.

⁵⁶ *Ga. Laws* (1966), 453.

drafting a compromise measure.”⁵⁷ The compromise was passed in 1970 when the Georgia legislature repealed the 1937 eugenic sterilization law. The legislature found that the current laws did not allow for the performance of sterilization procedures on persons:

who, because of mental retardation, brain damage, or both, are irreversibly and incurably mentally incompetent to the degree that such persons with or without economic aid (charitable or otherwise) from others could not provide care and support for one or more children procreated by them in such a way that such children could reasonably be expected to survive to the age of twenty-one (21) years without suffering or sustaining serious mental or physical harm.⁵⁸

In effect, the law was narrowed with more respect for individual rights. Either the parents of the individual to be sterilized or a state health official was required to petition for sterilization. Once the petition was granted by the superior court the patient was to be examined by two physicians, neither of whom were allowed to perform the sterilization operation.⁵⁹ Hospital administrators then had to evaluate and approve the case. The patient had to be considered to be “irreversible and incurable.”⁶⁰ After the hospital approved the sterilization procedure, a state judge had to approve their ruling by a legal preponderance of the evidence. The person subject to the sterilization procedure could appeal to the superior court and they had the right to counsel at all steps of the process.⁶¹ The 1970 law repealed the 1937 and 1966 laws in their entirety. In 1971 the legislature amended to the act to specify that parental consent was not required for the sterilization operation if the parent had not provided care for the child in more than six months.⁶² This amendment guaranteed that the state still had full parental rights over its wards. This law was not again narrowed until the 1980s, when a lawsuit brought the 1970 law under judicial scrutiny.

⁵⁷ Larson, *Sex, Race, and Science*, 161.

⁵⁸ *Ga. Laws* (1970), 684.

⁵⁹ *Ibid*, 685.

⁶⁰ *Ibid*, 686.

⁶¹ *Ibid*.

⁶² *Ga. Laws* (1970), 869.

1983: The Georgia Supreme Court Aligns with the New Jurisprudence

A fresh concern for the rights of the individual evinced a libertarian streak in liberal political discourse during the 1960s. The advent of privacy jurisprudence in *Griswold v. Connecticut* (1965) showed that this development was not isolated only to the public sphere. The legal community was influenced by these ideas as well.⁶³ The *Griswold* court struck down a Connecticut statute that prohibited the use of contraceptives as a violation of the “right to marital privacy.” According to Justice Douglas, “specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance.”⁶⁴ In other words, although the right to privacy was not specifically outlined in the Constitution, it could be implied that the right is tacitly asserted by other specific guarantees. The Ninth Amendment’s recognition that citizens retain rights not specifically enumerated in the Constitution buttresses this logic. The right to privacy was once again asserted in *Roe v. Wade* (1973) when the Supreme Court held that a woman’s right to an abortion was constitutionally protected.⁶⁵

The *Griswold* court also held that the Connecticut law did not withstand strict scrutiny because the law did not serve a compelling interest. To satisfy strict scrutiny review, a statute must be drawn such that the interests of the state are served without depriving a person of their fundamental rights. This development was the most critical to the end of eugenics in Georgia. *Griswold* held that a law governing contraceptive use did not satisfy a compelling state interest in light of an individual right to privacy. Sterilization law can be found unconstitutional with this same logic. The state’s concern with its own fiscal welfare and the state’s duty to preserve

⁶³ *Griswold v. Connecticut*, 381 U.S. 479 (1965).

⁶⁴ *Id.* at 484.

⁶⁵ *Roe v. Wade*, 410 U.S. 113 (1973).

the health and welfare of her own citizens does not currently justify the invasion of an individual's reproductive rights.

In 1983 the Georgia Supreme Court heard the case of Judy Diane Motes, a mentally retarded woman who, through her attorney, objected to a sterilization procedure that was to be performed on her in Hall County.⁶⁶ The court ruled that the 1970 sterilization statute was invalid in light of contemporary Supreme Court jurisprudence, thus demonstrating that the old due process and equal protection arguments against sterilization from the early 20th century had achieved full force in light of the "rights revolution." Motes contended that Georgia's sterilization statute was overly broad, that it lacked adequate guidelines and safeguards for the protection of the patients, and that the law violated the Equal Protection and Due Process clauses of the constitution. She considered the sterilization procedure to be an invasion of her right to privacy and her fundamental right to bear children.⁶⁷

The legal standard of review was the central question in the *Motes* case. The 1970 Georgia sterilization law mandated that a preponderance of the evidence was the necessary standard by which to evaluate involuntary sterilization cases. The Georgia Supreme Court ruled that this was incorrect in light of *Skinner v. Oklahoma*, which held that procreation was a fundamental right, and *Santosky v. Kramer*, which held that a standard of "clear and convincing proof" was necessary in all cases concerning the termination of parental rights.⁶⁸ In light of this jurisprudence, the court ruled unanimously that the 1970 law was invalid. "In the case before us

⁶⁶ *Judy Diane Moats v. Hall County Department of Family and Children Services*, 251 Ga. 373 (1983). See also, Thomas D. Harper, "Georgia Supreme Court Invalidates Involuntary Sterilization Statute," *J. Med. Assoc. Ga.* 72 (1983): 795-797 and Sidney P. Wright, "Involuntary Sterilization in Georgia: The Aftermath of *Motes v. Hall County Department of Family and Children Services*," *Ga. St. U. L. Rev.* 1 (1984-1985): 75-99.

⁶⁷ 251 Ga. at 373

⁶⁸ *Santosky v. Kramer*, 455 U.S. 745, at 769.

the substance of the statute is fatally defective and no person should be involuntarily sterilized under such a statute,” the justices ruled.⁶⁹

In 1985 the Georgia legislature reconsidered the 1970 sterilization law and passed a similar measure that took the *Motes* ruling into account. The new law allowed for persons to request a closed trial by jury upon the application of either the petitioner or the respondent. The law also mandated that the judge of the probate court must use a standard of “clear and convincing evidence” the person to be sterilized is “irreversible and incurable.”⁷⁰ The law was recast in 2010 to narrow the scope of who could apply for sterilization. At this point only parents and legal guardians can apply for sterilization of mentally retarded children. The standard by which the sterilization operation is to be evaluated is still “clear and convincing evidence.” The Georgia legislature currently justifies its position in this way:

The General Assembly finds that the present laws of this state provide no means for the performance of sterilization procedures upon persons who, because of a developmental disability, brain damage, or both, are irreversibly and incurably mentally incompetent to the degree that such persons, with or without economic aid (charitable or otherwise) from others, could not provide care and support for any children procreated by them in such a way that such children could reasonably be expected to survive to the age of 18 years without suffering or sustaining serious mental or physical harm.⁷¹

Thus, the justification for involuntary sterilization has now changed from a hereditarian defense of society to a defense of the unborn child, with legal procedures and safe guards in place to assure due process under the law and the equal protection for all involved.

⁶⁹ 251 Ga. at 375.

⁷⁰ *Ga. Laws* (1985), 1138.

⁷¹ O.C.G.A. § 31-20-3 (2010)

The State of Georgia Apologizes for Eugenic Sterilization

In 2007 Georgia State Representative Mary Margret Oliver, a Democrat, introduced a resolution to apologize for Georgia's involvement in the eugenics movement "at the request of a constituent."⁷² Several other states had already apologized for their involvement in the eugenics movement, and Representative Oliver felt that it was appropriate to follow suit. "The better job we do of recognizing our history, the better job we can possibly do in the future and understand where we need to go," she said.⁷³ Sharon Cooper, a Republican and the head of the House Health and Human Services Committee, did not agree. She thought that the bill was somewhat inappropriate. "I'm not sure I agree with one generation apologizing for another generation when all the parties that were involved are long dead," Cooper said. "In the whole world there is lots of history that, seen in today's eyes, we would certainly hope would never be repeated, but it's history. You can't change it."⁷⁴ Yet Cooper was incorrect. As *Atlanta Journal-Constitution* (AJC) writer Gayle White later showed, several of the people that Georgia sterilized were still alive and well.⁷⁵ Although the eugenics apology was effectively stonewalled in the State House of Representatives, Republican David Shafer decided to introduce an apology resolution to the Georgia Senate. His resolution was passed March 27, 2007. At that point the State finally acknowledged its wrongful actions and its betrayal of individual rights, an action that provided little solace for those individuals who were denied the natural right to raise a family.

⁷² Mary Margret Oliver, "MMO Third Email Newsletter – 2007 General Assembly Session," retrieved 18 October 2010 from <http://marymargaretoliver.org/media.html>.

⁷³ Jeremy Redmon, "Apology Asked for Sterilizations," *The Atlanta Journal-Constitution*, 2 February 2007, 1.

⁷⁴ Ibid.

⁷⁵ See Gayle White, "Involuntary Sterilization in Georgia: Why Did it Happen?," *The Atlanta Journal-Constitution*, 4 February 2007, 1A, and "State's Regret no Solace to '51 Victim," *The Atlanta Journal Constitution*, 8 July 2007, 3D.

Figure 2: The Georgia Eugenics Resolution⁷⁶

A RESOLUTION

Expressing profound regret for Georgia's participation in the eugenics movement in the United States and marking the centennial of the first eugenic sterilization law in the United States; and for other purposes.

WHEREAS, the so-called science of eugenics emerged in the late 19th century as an outgrowth of Darwinian evolutionary theory, first advanced by anthropologist and geneticist Francis Galton, a cousin of Charles Darwin; and

WHEREAS, in the early 20th century, this pseudo-scientific movement gained popularity in the United States and advocated the improvement of the human race by the application of Darwinian principles to eliminate supposed hereditary flaws such as mental disability and physical deformity and to alleviate human suffering through selective breeding and birth control; and

WHEREAS, eugenics was endorsed by so-called "progressive" academicians, scientists, politicians, and newspaper editors, often over religious objections that such matters "ought to be left to God"; and

WHEREAS, in 1907, Indiana became the first state to enact a eugenics based sterilization law, mandating the sterilization of "confirmed criminals, idiots, rapists, and imbeciles"; and

WHEREAS, eventually more than 30 states enacted similar compulsory sterilization laws, resulting in the forced sterilization of more than 65,000 individuals in the United States; and

WHEREAS, the Supreme Court sanctioned the practice of compulsory sterilization in the infamous 1927 decision by Justice Oliver Wendell Holmes in which the court upheld Virginia's sterilization of a young woman in a mental health facility on the grounds that "three generations of imbeciles [were] enough"; and

WHEREAS, with the editorial support of *The Atlanta Constitution*, the Georgia General Assembly passed a eugenics law in 1935, but that law was vetoed by Governor Eugene Talmadge; and

WHEREAS, in 1937, after Governor Talmadge had left office, Georgia enacted a new law creating the State Board of Eugenics and authorizing the compulsory sterilization of Georgia's patients in state mental health facilities as well as Georgia inmates in state prisons and reformatories; and

WHEREAS, Georgia's eugenics law remained on the books until 1970; and

WHEREAS, more compulsory sterilizations were performed in Georgia between 1937 and 1970 than in any other state in the nation except North Carolina; and

WHEREAS, eugenics legislation devalued the sanctity of human life, placed claimed scientific benefit over basic human dignity, and denied the God given rights recognized by our Founding Fathers; and

WHEREAS, eugenics legislation targeted the most vulnerable among us, including the poor and racial minorities, wrongly dehumanizing them under the color of law and for the claimed purposes of public health and good; and

WHEREAS, in the past five years, several other states, including Virginia, Oregon, North Carolina, and California, have publicly repudiated their involvement in the eugenics movement; and

WHEREAS, the year 2007 marks the centennial of the first eugenic sterilization in the United States and the 70th anniversary of the passage of Georgia's sterilization law.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that the members of this body express their profound regret for Georgia's participation in the eugenics movement and the injustices done under eugenics laws, including the forced sterilization of Georgia citizens.

BE IT FURTHER RESOLVED that the members of this body hereby support the full education of Georgia citizens about the eugenics movement in order to foster a respect for the fundamental dignity of human life and the God given rights recognized by our Founding Fathers.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to the public and the media."

⁷⁶ S. Res. 247, 149th Gen. Assem., Reg. Sess. (Ga. 2007). March 27, 2007.

Conclusion

The story of the eugenics movement in Georgia showcases the darker side of our human nature and our tendency as a society to mistreat those who are different from us—the poor, the disabled, and those outside the mainstream of society. Eugenics in Georgia constituted a war against the weak motivated by men and women—progressive reformers—who ascribed to utilitarian philosophies. They believed that it was their moral imperative to defend society as a whole against the menace of the feeble-minded who would, without intervention, endlessly propagate their kind and burden society with an unimaginable number of degenerates. When their segregation efforts failed they turned to surgical sterilization to carry out their mission, but only when voters in Georgia finally accepted a progressive role for the state in the midst of the Great Depression. Some of the reformers advocated eugenics with what they thought were the best interests of society at heart. Ellis Arnall and others like him sponsored sterilization solely for political gain.¹ They pushed for sterilization with clear knowledge of Nazi abuses in Germany. Indeed, the reformers looked to Germany as a shining example of what an efficacious sterilization program could do in Georgia. It is clear that these progressive men and women betrayed their American political inheritance of natural rights and economic individualism. They clearly had little respect for human dignity, or at least convinced themselves that the feeble-minded did not merit equal concern or respect.

Dr. Thomas G. Peacock ruthlessly carried out the provisions of the 1937 sterilization law during his tenure as superintendent of the Milledgeville State Hospital (1948-1959). The idea that the realization of the horrors of Nazi eugenics somehow curbed sterilization in Georgia is

¹ Larson, *Sex, Race, and Science*, 224 n.80: “Arnall...welcomed the opportunity to sponsor an attention grabbing progressive measure as a way to advance his own political career.” Ellis Arnall, interview with Edward Larson, Atlanta, 25 July 1989.

patently false. The evidence from the Georgia Sterilization Files presented in this thesis suggests that Dr. Peacock easily took advantage of the poor and the semiliterate. The majority of them had little legal recourse once the State Board of Eugenics ordered the sterilization operation. The files reveal little to no compassion on Dr. Peacock's part. The sterilizations declined in number only when Peacock was replaced after an exposé of the Milledgeville facility revealed the abuses that occurred under his administration. Peacock was himself a recovering alcoholic, and many of the doctors and staff that he hired had alcohol and drug problems.² Many of the patients recommended to the Board for sterilization showed alcohol as an underlying cause for their psychosis. Thus, these patients were sterilized by hypocrites in an amazing case of projection bias. The sterilization of patients went into decline only after a superintendent who did not explicitly endorse eugenic philosophy replaced Dr. Peacock. Dr. I.H. MacKinnon ended eugenic sterilization in Georgia when he ended the practice in 1963.

Since 1970 the laws governing involuntary sterilization in Georgia have been narrowed in scope to the point that only a parent or guardian can request sterilization for a mentally retarded child. Procedural safeguards are now in place to insure that the patient's rights to equal protection and due process under the law are protected to the utmost extent. This development symbolizes victory for those who spoke out against the practice of sterilization in Georgia in the 1930s, including Eugene Talmadge, the Catholic Church, and a few concerned citizens.

One specter of the eugenics movement still remains. Herman Talmadge's call for the sterilization of welfare mothers in the 1950s is still fresh sixty years later. Our societal discourse still posits poor mothers as immoral women guilty of chronic pregnancy and welfare dependence. The approval of Norplant birth control implants by the FDA in 1990 spurred state

² A short summary of the findings of the MAG "Schaeffer Report" can be found in Harold P. Henderson, *Ernest Vandiver, Governor of Georgia* (Athens, Ga.: University of Georgia Press, 2000.), 100.

legislators to engage in another war against the weak and advocate Norplant as a condition of welfare receipt. Norplant is a temporary sterilization device implanted under a woman's arm that gradually releases levonorgestrel, a synthetic hormone, for up to five years. Although Norplant is no longer sold in the United States, it should be noted that the mere mention of an easy method to control welfare mothers, seen as indiscriminate breeders of unwanted children, who lack in self control and pass their bad values and welfare dependence to their children, brought out our more moralistic traits and our tendency to control others.³

Currently a group known as "Project Prevention," founded by Barbara Harris, leads a campaign to provide drug addicts financial incentive to either be placed on birth control or submit to permanent sterilization. These payments are made to drug addicted people who are not capable of making rational decisions. The groups marketing displays the same lack of respect for human dignity evident in the earlier eugenics movement. "Don't Let a Pregnancy Ruin Your Drug Habit," one of their posters reads.⁴ Harris' own words dehumanize the addicts. As she said in a statement: "We don't allow dogs to breed. We spay them. We neuter them. We try to keep them from having unwanted puppies, and yet these women are literally having litters of children." This group targets the poor and the destitute and coerces them into forfeiting their basic human rights. The treatment they provide is, because of the addiction factor, not informed and consensual, as all medical procedures should be. They offer no addiction treatment. Indeed, they offer to feed the addiction by providing addicts with easy money. They, too, have no respect for human dignity.

³ See Susan L. Thomas, "Women, Welfare, Reform and the Preservation of a Myth," *Social Science Journal* 34:3 (1997): 351-369.

⁴ Committee on Women, Population, and the Environment, "CRACK Uses Unethical Tactics to Stop Women with Substance Abuse Problems," 13 July 2006, <http://www.cwpe.org/resources/healthrepro/cwpe-crackfacts> (accessed 28 October 2010).

Perhaps the best lesson this thesis has to offer is the assertion that the American government has absolutely no place regulating the reproductive rights of its citizens. This thesis demonstrates that any attempts to do that have been absolutely unethical. Previous attempts reek of class warfare and racism, and they should never be repeated. If anything, the narrative of eugenics in Georgia demonstrates the ease with which the many can be harmed by an interested and powerful few, be they politicians or scientists. It would be terrifying to live in a society where the government could literally cut a person open to achieve its aims. We should strive to break free of the eugenic mythology of our predecessors and insure that their society is never rebuilt.

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GEORGIA STERILIZATION FILES

(All Files Currently Housed Electronically in the Georgia Department of Archives and History)

Each sterilization case has a unique case number.

RTB: Record to the State Board of Eugenics.

COR: Correspondence between family members and the State Board of Eugenics.

RPT: Sterilization report.

NTC: Family notification of the sterilization procedure.

31RTBa, 25 April 1939.

84COR, 18 May 1950.

84RTB, 28 May 1940.

672RPT, 20 March 1948.

672RTB, 12 September 1947.

681RPT, 6 September 1947.

686RPT, 10 September 1947.

1038RTB, 22 June 1949.

1234 COR, 18 May 1950.

1237COR, 29 May 1950.

1240CORc, 9 June 1950.

1240CORd, 9 June 1950.

1240RPT, 15 September 1950.

1365COR, 24 November 1950.

1497CORa, 18 June 1951.

1497CORc, 30 July 1951.

1497CORf, (n.d.).

1497CORh, (n.d.)

1497CORi, (n.d.)

1497CORj, 24 November 1952.

1497RTB, 26 June 1951.

1528COR, 16 October 1957.

1528RPT, 14 January 1952.

1548COR, 14 November 1951.

1771COR, 9 June 1952.

1771NTC, 31 May 1952.

2257CORa, 16 November 1953.

2257CORb, 16 November 1953.

2257RPT, 26 March 1954.

2596CORa, 17 November 1954.

2596CORd, 30 November 1954

3125CORa, 26 June 1956.

3125CORb, 28 June 1956.

3125RPT, 6 September 1956.

3765CORa, 29 November 1957.

3765RPT, 5 February 1958.

4034CORa, 16 August 1958.

4034RPT, 7 June 1960.

4835RTB, 8 September 1961.