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# A Vast Injustice: The Public Debate and Legislative Battle over Compulsory Eugenic Sterilization in Louisiana, 1924 -- 1932

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“A VAST INJUSTICE”  
THE PUBLIC DEBATE AND LEGISLATIVE BATTLE OVER COMPULSORY EUGENIC  
STERILIZATION IN LOUISIANA, 1924-1932

A Dissertation

Submitted to the Graduate Faculty of the  
Louisiana State University and  
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in

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by  
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## ABSTRACT

From 1924 to 1932, Louisiana lawmakers considered five bills that would have granted superintendents of state institutions and some private hospitals the authority to forcibly sterilize their patients. Based on similar legislation passed in thirty-six other states, the bills cited eugenics as evidence that stripping these patients of their ability to reproduce would prevent the conditions such as feeble-mindedness from passing on to the next generation. Although none of the bills passed both houses of the Louisiana legislature, a couple of them came dangerously close to becoming law.

The debate among legislators, professionals, and social reformers provides a greater understanding of how Louisianans considered the controversial procedure. Proponents claimed that the procedure would end crime and poverty and save the state money. Opponents argued that eugenics was junk science and sterilization was a dangerous scheme. National figures contributed to the debate over compulsory eugenic sterilization in Louisiana, and the arguments offered resembled those in the national debate.

Scholars have credited the opposition of Louisiana's influential Roman Catholic Church as the reason why the state never adopted compulsory eugenic sterilization. A careful study of the public debate surrounding the bills and the breakdown of the legislative votes, however, suggests the failure resulted from more complex factors than a simple religious objection. The legislative vote indicates that the Catholic Churches' objections did not always convince state senators from majority Catholic districts. Many of these lawmakers voted for the bills. Although, the Catholic opposition to the procedure did help to defeat the bill, other factors played a role. A prominent feature within the public debate is a discussion over individual rights versus the ability of the state to violate those rights in order to protect the public good. These

finding not only challenge the accepted interpretation surrounding compulsory eugenic sterilization in Louisiana, but they suggest that simple explanations, such as religious divisions, do not necessarily explain legislative votes.

## CHAPTER 1

### Introduction

“I believe that we should not too much regret the death of the physically and mentally defective and that we should protect the race from the continuation of gross defects in the germ plasma.” This brief, yet disturbing statement was part of a creed adopted by the Eugenics Research Association in 1930. Published in the New Orleans *Times Picayune*, this statement perfectly sums up the attitudes held by those in Louisiana who campaigned for the state to adopt the compulsory eugenic sterilization. From 1924 to 1932, the Louisiana legislature considered five bills that would have given the state the authority to forcibly sterilize patients in some of the state’s mental hospitals. Louisiana was not alone in considering the controversial measure. Most states debated similar legislation throughout the first three decades of the twentieth century that would have allowed for the forcible sterilization of criminals, those with psychological disorders, and the intellectually disabled. Spurred on by the work of organizations like the Eugenics Records Office and the American Eugenics Society, proponents of compulsory sterilization throughout the nation argued that conditions like feeble-mindedness were hereditary. Sterilizing the carriers would eliminate the condition in future generations. Indiana passed the nation’s first compulsory sterilization law in 1907. Several other states followed suit. However, state supreme courts struck down many of these early sterilization laws. Undeterred,



proponents continued to fight for and obtain the passage of laws that stripped institutionalized patients of their ability to reproduce.<sup>1</sup>

Thirty states enacted compulsory eugenic sterilization legislation. Nationwide, over 60,000 men and women were forcibly sterilized throughout the first half of the twentieth century. In the south, Alabama, Georgia, Mississippi, North Carolina, South Carolina and Virginia passed sterilization laws and actively sterilized some of their citizens. However, Louisiana was not the lone southern state to reject the procedure. Florida, Kentucky, Tennessee and Texas never enacted a compulsory sterilization law. Therefore, Louisiana was not unique in its rejection, even among southern states. As one of several states to prevent its citizens from undergoing the procedure, Louisiana's debate over compulsory eugenic sterilization not only contributes to the history of the state it also helps to shed light on the bases of support and opposition for the procedure beyond the state's borders.<sup>2</sup>

Although scholars have examined various other aspects of compulsory eugenic sterilization, there have been no studies on the public debate in the context of a state legislature considering implementing the procedure. The Louisiana legislature did not publish a full record of its debate, but the accounts of the public discussion of the issue and the occasional newspaper stories that quoted lawmakers' comments allow for the analysis of the debate surrounding the bills. Examining the public debate over the legislation provides new insight into the way that public officials, experts, professionals, activists and concerned citizens considered the procedure.

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<sup>1</sup> "Eugenics Creed Affirms Belief in High Birth and Death Rates as Closest to Natural Laws," *Times Picayune*, August 24, 1930; Philip R. Reilly, M.D., J.D. *The Surgical Solution: A History of Involuntary Sterilization in the United States* (Baltimore: The Johns Hopkins University Press, 1991). 33.

<sup>2</sup> "By the Numbers," *The Times* (Trenton, N.J.) May 3, 2002.

It is possible to gain a greater understanding of the issues that surrounded compulsory eugenic sterilization and if factors such as class biases, gender and race discrimination, and blind faith in expertise played a role in support for the legislation. Other scholars credit the Catholic Church with the procedure's ultimate defeat, examining the debate in Louisiana will help to reveal other factors in compulsory sterilization's demise.

There would have been no compulsory eugenic sterilization without eugenics. Although societies throughout the ancient and modern world practiced various forms of eugenics, the roots of modern eugenics that served as the basis for compulsory sterilization came about in the late nineteenth century. Charles Darwin's evolutionary research and the discovery of Mendel's Law led late nineteenth British scientist Francis Galton to theorize that human intelligence attributes and weaknesses were hereditary. Improving the human race was possible if the strongest, most capable and intelligent men and women produced large families. Conversely, preventing the weakest from reproducing would eliminate those undesirable traits. American eugenicists embraced the negative approach to his theory. Richard Dugdale helped to usher in the modern American eugenics movement with his 1877 publication of *The Jukes: A Study in Crime Pauperism, Disease and Hereditary*. In his study, Dugdale found that criminals were often related to other criminals, which led him to believe there must be a genetic component to criminal behavior. Though Dugdale attributed most of the Jukes family's problems to poor environmental conditions, eugenicists used his and other late nineteenth century works to initiate several programs to prevent the so called unfit from reproducing. For example, states implemented measures that provided separate housing for institutionalized men and women. The eugenics movement continued to gain momentum during the early years of the twentieth century because of the work of Charles Davenport and Harry H. Laughlin at the Eugenics Records

Office. The Eugenics Record office, a privately funded organization, founded in 1910 was established to perform research into eugenics. Davenport and Laughlin's work in linking mental, physical, and emotional disabilities and impairments to inherited conditions persuaded policymakers in states to pass legislation that restricted marriages of couples deemed unfit to reproduce, segregate mental health facilities, and eventually forcibly sterilize some citizens.<sup>3</sup>

The 1907 Indiana act allowed for a "criminal, idiot, rapist, or imbecile in a state institution whose condition has been determined to be 'unimprovable' by an appointed panel of physicians," to be sterilized against his will. State legislatures later expanded laws to include patients at mental health hospitals and asylums. Therefore, the feeble-minded, insane, epileptic and others deemed unfit to reproduce would be eligible for forced sterilization.<sup>4</sup>

Though opponents of forced sterilization laws challenged and defeated them in state courts, the United States Supreme Court handed them a crushing defeat in 1927. The high court ruled in *Buck v Bell* that compulsory sterilization was constitutional. The ruling that has never been reverse prompted a new wave of legislation, particularly in the south, and an increased use of existing laws. In the decision, eight of the nine justices agreed with the state of Virginia that it had the authority to sterilize Carrie Buck, a young woman confined to one of its state institutions, without her consent. Attorneys for the state argued that Buck was feeble-minded. They also insisted that Buck's mother, housed at the same institution, was also feeble-minded as was Buck's young daughter. The court agreed with the state's argument that feeble-mindedness was hereditary and that compulsory sterilization did not violate a patient's equal protection under the

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<sup>3</sup> Reilly, *The Surgical Solution*, 25-8.

<sup>4</sup> Ibid, 25-6, 28; Edward J. Larson, *Sex, Race, and Science: Eugenics in the Deep South* (Baltimore: The Johns Hopkins University Press, 1995), 28.

law or due process rights. Instead, compulsory sterilization was well within the state's power to protect the common good. In his famous opinion affirming Virginia's statute, Oliver Wendell 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." He then went on to compare compulsory sterilization to compulsory vaccinations and proclaimed, "Three generations of imbeciles are enough." Louisiana's debate was one of many going on in the country during this time.<sup>5</sup>

The debate over compulsory eugenic sterilization included terms and procedures that require some explanation. As mentioned, Francis Galton coined the term eugenics. It comes from the Greek meaning "well-born" and insists that human traits such as intelligence are hereditary and therefore the fate of mankind rests on which traits are passed down to the next generation. By managing human reproduction, people can ensure that humanity will continue to improve. There were two types of eugenics. The first type was positive eugenics; it encouraged men and women considered genetically fit to reproduce. Negative eugenics, on the other hand, intended to improve the human race by eliminating undesirable traits. Another term used by sterilization proponents was "germ plasm." This antiquated term described the material that housed the individual human traits contained within a person. Feeble-minded, is another antiquated term that eugenicists used. The term was a catchall used to describe various conditions that ranged from "severe" mental and physical handicaps to people deemed to have low intelligence. Some even considered the inability to keep a job or dependency on public assistance as a sign of feeble-mindedness. There were two common sterilization procedures frequently mentioned during the debates. The first was the vasectomy. This slightly invasive

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<sup>5</sup> *Buck v Bell*, 274 U.S. 200 (1927)

surgical procedure performed on men cut the vas deferens, preventing them from fathering a child without removing the testis or disturbing function. Perfected in the early twentieth century, the vasectomy replaced castration as the preferred method to sterilize men. Salpingectomy was a more invasive operation performed on women. Through an incision in her abdomen, a surgeon would remove all or a portion of her fallopian tubes.<sup>6</sup>

Scholarly approaches to eugenics and compulsory sterilization tend to examine the motivation behind the movement in one of two ways. The first approach argues that sterilization was an attempt by the progressive elite to manage society. These reformers saw eugenics and sterilization as a new approach to correct social ills. Instead of addressing the environmental factors associated with issues such as crime and poverty, they focused their attention on the individuals impacted by them. Therefore, to eliminate crime, these reformers proposed eliminating future criminals instead of improving educational and training opportunities. Preconceived racist and classist beliefs held by this group also helped them to accept sterilization as a viable option. The second approach considers eugenics and compulsory sterilization as an attack on the lower classes, racial minorities, and women. Similar to studies that detail the beliefs surrounding eugenics, the works that discuss its application tend to view eugenics as a scheme concocted by white upper and middle class social, professional, and political leaders to control and ultimately suppress racial and ethnic minorities, the lower class, and women. This interpretation differs from the former in that reform was not the motivating factor. Instead,

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<sup>6</sup> Edwin Black, *War Against the Weak: Eugenics and America's Campaign to Create a Master Race*, (New York: Four Walls Eight Windows, 2003), 55; Harry H. Laughlin *Eugenical Sterilization in The United States*, (Chicago: Psychopathic Laboratory of the Municipal Court of Chicago, 1922), 411, 418.

prejudicial attitudes concerning class, gender, and race drove proponents to sterilize certain groups of people.

Scholars who view compulsory eugenic sterilization as progressive movement initiative argue that its proponents saw it as the ultimate reform to correct social ills. According to Donald K. Pickens, reactionary political beliefs coupled with evolutionary science helped to usher in the eugenic movement in the United States, according to those who subscribe to it being a political movement. In *Eugenics and the Progressives*, he argues that conservatives within the Progressive movement were responsible for the nation's eugenics movement. Eugenicists like Charles Davenport believed that Progressive reforms such as child labor laws allowed the genetically weak, who he believed were destined to die young – before they could reproduce -- to live long enough to reproduce. Therefore, programs intending to improve the lives of the poor and disadvantaged were actually prolonging misery by allowing them to perpetuate poverty into future generations. The Great Depression radically altered this thinking by revealing that economic forces equally affected the fit and the unfit. Like Pickens, Thomas C. Leonard's *Illiberal Reformers* charges that progressive reformers embraced and promoted eugenics and compulsory sterilization in order to manage the poor and perfect society. However, in this conservative approach to eugenics and sterilization, Leonard charges that left wing progressives concocted the scheme, not reactionaries within the movement as Pickens insists.<sup>7</sup>

A more popular interpretation of the motivation behind compulsory eugenic sterilization is that it was a program devised by upper and middle class whites to control the lower class,

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<sup>7</sup> Donald K. Pickens, *Eugenics and the Progressives* (Nashville: Vanderbilt University Press, 1968); Thomas C. Leonard, *Illiberal Reformers: Race, Eugenics, and American Economics in the Progressive Era* (Princeton: Princeton University Press, 2016).

women, and racial and ethnic minorities. Edwin Black's *War Against the Weak* argues that leaders, such as Harry Laughlin and Charles Davenport, created the eugenics movement to encourage upper class white Anglo-Saxon Protestants to reproduce while at the same time to control the reproduction of other races and ethnicities. Black argues that eugenicists and their corporate sponsors supported eugenic based studies and lobbied for legislation in the U.S. and Europe as a means to protect and expand the supposedly stronger Nordic race. Simultaneously, eugenicists lobbied for policies restricting both the immigration and reproductive capabilities of other races and those they deemed to be unfit.<sup>8</sup>

According to Richard Hofstadter and Mark A. Haller, proponents of eugenics and sterilization, motivated by prejudicial attitudes, applied Darwinian principles to social problems. In *Social Darwinism in American Thought*, Hofstadter examines the way that Darwin's theory of evolution affected "social thinking in America." The major changes that the nation experienced at the turn of the century led social conservatives to embrace Darwin's study and apply it to society. For example, Darwin's notions of survival of the fittest and that changes must move slowly appealed to conservatives' "laissez-faire" approach to life. They celebrated competition and rejected reforms that would have protected the weak from what they believed their destiny to be. Inspired by Francis Galton's work and Mendelian genetics, eugenicists believed that they could use biology to identify and correct social problems. Unlike other Social Darwinists who opposed interference from the government disrupting the natural order, eugenicists supported programs like sterilization that required state intervention. It was in their support for government intervention and their concern for improving society instead of focusing on the individual that

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<sup>8</sup> Edwin Black, *War Against the Weak: Eugenics and America's Campaign to Create a Master Race* (New York: Four Walls Eight Windows, 2003).

led eugenicists to see themselves as progressives. Similarly, in *Eugenics: Hereditarian Attitudes in American Thought*, Mark Haller explains how early sociologists, criminal anthropologists, and psychologists looked to improve American society by implementing both environmental and eugenic reforms. Yet, eugenicists would eventually argue that the defective genes of feeble-minded people prevented their benefiting from environmental reforms. By the 1910's and early 1920's, critics of eugenics began making the argument that poverty and crime resulted from deeply entrenched class divisions and not from an inherited condition. Though these arguments gained popularity among scholars and academics, they were not as widely distributed among the general population, as were the arguments for eugenic policies. As a result, throughout the 1920's, state legislatures continued to pass eugenic based legislation even as many questioned the science used to justify them. Conservative historians, such as Thomas Leonard, reject Hofstadter and Haller's claims by insisting that eugenics was born out of the progressive movement and not a conservative manipulation of Darwinism.<sup>9</sup>

Scholars examining how the eugenics movement affected women tend to view the movement as an attempt by upper and middle class governing authorities to control lower class and minority women's fertility. Though Linda Gordon's *The Moral Property of Women: A History of Birth Control Politics in America* deals primarily with the politics of birth control, she does devote considerable attention to eugenics. Although early feminists tended to support eugenics by the end of the nineteenth century, many feminists stopped supporting the movement because they saw it as a means to force women into motherhood. During the 1910's and 1920's,

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<sup>9</sup> Richard Hofstadter, *Social Darwinism in American Thought*, Rev. ed. (New York: George Braziller, Inc., 1959), 4; Mark H. Haller, *Eugenics: Hereditarian Attitudes in American Thought* (New Brunswick, NJ: Rutgers University Press, 1984).



eugenics went from encouraging the upper class to have more children to trying to control the fertility of the poor and lower class women. Instead of the Great Depression damaging eugenicists' arguments, Gordon claims that it strengthened them. Proponents of eugenic sterilization not only linked feeble-mindedness to economic dependency but they touted the procedure as a cost-saving program for states that employed it. Gordon cites sterilization laws passed in the late 1930's as an example of the procedures' popularity during the Great Depression and thus challenges the earlier notion that the Great Depression dismantled the argument that poverty had genetic roots. Though her ideas concerning birth control are opposite of Gordon's, Angela Franks' *Margaret Sanger's Eugenic Legacy: The Control of Female Fertility* also frames the eugenics movement as an attempt by the elite to control the poor. Franks contends that Margaret Sanger believed in using birth control to "control women's fertility," and that eugenics was another means to prevent undesirable births. Moreover, it was the elite's responsibility to determine who should reproduce and who should not.<sup>10</sup>

Two recent publications also argue that eugenics based programs like compulsory sterilization were established to control the poor and lower classes. Nancy Isenberg's *White Trash* traces the history of poor whites in America from early European settlements to the twentieth century. In it, she argues that upper class policy makers implemented eugenics based programs like sterilization to control this marginalized group. In *Imbeciles*, Adam Cohen provides detailed insight into *Buck v Bell*, the United States Supreme Court case that affirmed the constitutionality of the procedure. In his analysis, Cohen argues that compulsory sterilization

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<sup>10</sup> Linda Gordon, *The Moral Property of Women: A History of Birth Control Politics in America* 3<sup>rd</sup> ed., (Urbana: University of Illinois Press, 2003); Angela Franks, *Margaret Sanger's Eugenic Legacy: The Control of Female Fertility* (Jefferson, North Carolina: McFarland and Company, Inc., 2005), 7.

was a mechanism through which the powerful controlled the weak. Like others before him, Cohen sees eugenics as a plot initiated by the upper class, politically class to reign in the poor and helpless.<sup>11</sup>

While some historians focus on the debate and the motives of the proponents, others have looked at the social or cultural context that gave rise to the debate. Although these studies do not argue for a specific motivating factor, many of them attribute class, race and gender biases as being important to the proponents' case. In *Inventing the Feeble-minded: A History of Mental Retardation in the United States*, James W. Trent, Jr. argues that mental health professionals and state officials changed the definition of mental retardation throughout the early to mid-twentieth century in order to fit both their needs and societal needs. Just as the definition for mental retardation changed over time, so did the reason for involuntary sterilization. Physicians first used sterilization to control behavior within institutions; however, limited funds, overcrowding and the onset of the Great Depression forced physicians to alter their reasoning and sterilize patients for eugenics purposes in the hopes that they could release them into the public.<sup>12</sup>

Steven Noll's *Feeble-Minded in Our Midst: Institutions for the Mentally Retarded in the South 1900-1940* also examines the role that social forces played in the execution of eugenic policies. However, he focuses exclusively on the South. Noll addresses how southern race, class and gender distinctions determined who was feeble-minded and the care, or lack thereof, that they received. For example, the state was more likely to rule lower class white women to be

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<sup>11</sup> Nancy Isenberg, *White Trash: The 400-Year Untold History of Class in America* (New York: Viking, 2016); Adam Cohen, *Imbeciles: The Supreme Court, American Eugenics and the Sterilization of Carrie Buck* (New York: Penguin Books, 2016).

<sup>12</sup> James W. Trent, Jr. *Inventing the Feeble-minded: A History of Mental Retardation in the United States* (Berkeley: University of California Press, 1994).

feeble-minded, institutionalized and sterilized than any other group because experts believed that they posed the biggest threat to southern society. Since institutions for blacks were virtually non-existent, blacks were the least likely to be sterilized.<sup>13</sup>

Marouf Arif Hasian, Jr.'s *The Rhetoric of Eugenics in Anglo-American Thought* studies the debate over eugenics by community, religious, and political leaders, which leads him to the conclusion that, "Eugenics was not a science but rather a movement that had more to do with reactionary politics than with the real laws of biological inheritance." In their arguments, American eugenicists claimed that historical precedent supported their cause and they rejected the notion of personal liberty. Instead, they claimed that it was the government's responsibility to manage society by managing its citizens. Opposition to eugenics in America came from a variety of sources including black leaders, the Catholic Church and Socialists. Their arguments, according to Hasian tended to reject the science and the social implications that it produced. For example, as blacks attacked the science that claimed that the black race was inferior to the white race, Socialists claimed that the upper class was using eugenics to control the lower class.<sup>14</sup>

Christine Rosen also looks at the debate over eugenics but she focuses on discussion among Christians. In *Preaching Eugenics: Religious Leaders and the American Eugenics Movement*, Rosen highlights theological differences among Christian faiths that inspired conflicting opinions on eugenics. Rosen argues that the social gospel and a post-millennial outlook led some Protestant reformers to embrace eugenics as a worthwhile reform option. While these reformers wanted to improve the environmental conditions of the poor, they

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<sup>13</sup> Steven Noll, *Feeble-minded in Our Midst: Institutions for the Mentally Retarded in the South 1900-1940* (Chapel Hill: University of North Carolina Press, 1995).

<sup>14</sup> Marouf Arif Hasian Jr., *The Rhetoric of Eugenics in Anglo-America Thought* (Athens: The University of Georgia Press, 1996), 3-4.

considered restricting the poor from reproducing as another way to reduce and prevent poverty. On the other hand, evangelical Protestants who subscribed to the pre-millennial outlook were less likely to champion eugenics as a viable reform. Human initiatives to perfect human qualities, they believed, were useless.<sup>15</sup>

Although sometimes echoing the themes in the larger studies, a final approach has been to focus on the families studies that proponents cited as evidence for the need to sterilize. These studies reveal how the family studies tapped into preexisting biases such as racism and class conflict in order to convince congress, state legislators and officials, as well as the public to support eugenic policies. David J. Smith's *Minds Made Feeble: The Myth and Legacy of the Kallikaks*, takes an in depth look at one of the many family studies that eugenicists used to argue for the inheritability of poverty, crime, and general feeble-mindedness. Smith argues that even though there were glaring issues with the study, for example Henry Herbert Goddard's inability to identify the family's patriarch, the scientific community and the public accepted it. The study was so popular in the early twentieth century because it corroborated existing racial and social prejudices. Like earlier scholars, Smith also makes the connection between progressive reformers and eugenicists. However, instead of arguing that the two movements separated because they were incompatible, Smith claims that eugenicists supported the progressive measures like child labor restrictions while opposing other policies like free text books for children. Preventing children from working would have made them a financial liability for poor couples and would therefore be less likely to have children while free textbooks would have

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<sup>15</sup> Christine Rosen, *Preaching Eugenics: Religious Leaders and the American Eugenics Movement* (New York: Oxford University Press, 1984).

made children less expensive. Moreover, Smith shows how eugenicists used the Kallikak study to advance everything from immigration restrictions to compulsory sterilization laws.<sup>16</sup>

Nathaniel Deutsch's *Inventing America's "Worst" Family: Eugenics, Islam, and the Fall and Rise of the Tribe of Ishmael* shows how Oscar McCulloch's late nineteenth family study of the Ishmaels was used to push two opposing political agendas and how those political agendas reflected the era in which they were created in. McCulloch, an Indiana minister and social gospel advocate, conducted the study in order to understand why the family was impoverished. Though McCulloch did not believe that the Ishmaels inherited their propensity for crime and poverty, his assistant who finished the study did. Even though the Ishmaels were of Anglo-Saxon stock and had been in America since the colonial period, Harry Laughlin cited the study in his testimony on behalf of the 1924 immigration restriction bill. According to Laughlin, the study proved that an "Asiatic Menace" threatened the United States and that the U.S. should not allow people like the Ishmaels to immigrate. Deutsch's study reveals how important social forces and political agendas were in considering how researchers interpreted data.<sup>17</sup>

There are no full-length treatments of the eugenics movement in Louisiana. Regional studies that examine the movement in the South do, however, touch on Louisiana. In *Sex, Race and Science* Edward Larson looks at how national experts and local reformers, motivated by racism and class and gender biases, promoted the eugenics movement in the Deep South. The region with a small progressive population, few cities, and a commitment to Evangelical Protestantism was not a prime location for the eugenics movement to take hold. However, the

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<sup>16</sup> David J. Smith, *Minds Made Feeble: The Myth and Legacy of the Kallikaks* (Rockville, Md: Aspen Systems Corp, 1985).

<sup>17</sup> Nathaniel Deutsch, *Inventing America's "Worst" Family: Eugenics, Islam, and the Fall and Rise of the Tribe of Ishmael* (Berkeley: University of California Press, 2009).

family studies published early in the century and eugenics experts lobbying state lawmakers convinced them to pass laws that sexually segregated institutions and prohibited biracial marriages. Larson also shows how women were particularly influential in lobbying for eugenics legislation in the South. Eugenicists targeted civic-minded upper to middle class women's organizations who would then press state policy makers. Louisiana shared many of the same qualities with the other southern states considering sterilization, but with one major exception. Similar to other states in the region, Louisiana was a perfect example of women leading the fight for sterilization. Larson details the role that Jean Gordon played. Her commitment to preserving the white race led Gordon to establish the Milne Home and to push for a compulsory sterilization law. Yet, the state's large Catholic population and the church's active role in combating the controversial procedure differentiated Louisiana from other southern states considering the issue. Therefore, while compulsory sterilization proponents in other Deep South states like Mississippi and Georgia were successful in securing the enactment of a compulsory eugenic sterilization bill Larson credits Louisiana's powerful and influential Roman Catholic Church with preventing a similar law from passing there. Steven Noll spends less time on Louisiana than Larson does. However, he does mention that Louisiana was one of the few southern states to reject compulsory sterilization. Like Larson, the legislation failed in these states, Noll argued, because it violated "religious values" and was an abuse of state power.<sup>18</sup>

Only two works are dedicated exclusively to Louisiana. Instead of focusing on eugenics or sterilization, these two articles concentrate on Jean Gordon's work and motivations. Kathryn Kemp's article, "Jean and Kate Gordon: New Orleans Social Reformers" argues that prejudicial views of the lower class and racial minorities motivated the Gordon sisters' work. The upper

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<sup>18</sup> Larson, *Sex, Race and Science*; Noll, *Feebleminded in Our Midst*, 77.

middle class Gordon sister were concerned that those that they considered “unfit” would “destroy” the nation. This deep concern led Kate to advocate that only “intelligent” white women be given the right to vote and Jean’s insistence that the “unfit” be prevented from having children. Rebecca S. Carrasco’s “The Gift House” also attributes Gordon’s racist attitudes as a motivating factor behind her support for compulsory sterilization. However, Carrasco goes further by coupling Gordon’s racism with her desire to improve society as spurring her interest in sterilization as the ultimate reform initiative.<sup>19</sup>

Louisiana was one of a handful of states that never enacted a compulsory sterilization law. Other southern states also rejected the measure. Therefore, Louisiana was not unique. Studying how Louisianans considered compulsory eugenic sterilization can shed light on how others across the nation debated the procedure. There is no doubting the Catholic Church’s role in helping to defeat compulsory eugenic sterilization in Louisiana or how Jean Gordon’s regressive, but common, views on the lower class inspired her to make the controversial procedure her life’s work; however, upon closer inspection, the struggle over and ultimate failure of the legislation in the state is more complicated and ambiguous. Examining the public debate in Louisiana and the legislative votes cast on the bills introduced from 1924 to 1932, casts doubt on the role that the Catholic Church had in blocking the bill and on the impact of class, race, and gender based arguments. Moreover, Louisiana’s experience does not confirm the assertion that eugenics and compulsory sterilization was a scheme concocted by progressive elites to manage

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<sup>19</sup> Kathryn W. Kemp, “Jean and Kate Gordon: New Orleans Social Reformers, 1898-1933,” *Louisiana History* 24, no. 4 (Autumn 1983): 389-401; Rebecca S. Carrasco, “The Gift House: Jean M. Gordon and the Making of the Milne Home, 1904-1931,” *Louisiana History* 34, no. 3 (Summer 1993): 322-4.

society. Rather, the public debate on the issue that includes portions of the legislative debate tends to focus on the rights of individuals versus the authority of the state to violate those rights if it deemed to be in the best interest in society to do so. Therefore, the mixed reaction among Louisiana's lawmakers coupled with an emphasis on individual rights versus society's interest in the debate, points to a deeper ideological explanation for why compulsory eugenic sterilization failed in Louisiana than previously argued.

Complicating the Church's role in the defeat of compulsory eugenic sterilization is the voting record, particularly in the state senate. Although the Catholic Church heavily opposed the measure and Archbishop John W. Shaw took a very public stand against it, some Catholic Senators and House members who represented Catholic majority districts voted for each bill. In some cases, these senators offered the most consistent support. For example, four different south Louisiana Senators representing majority Catholic districts introduced each of the five bills. The fact that senators from southern, Catholic-majority districts did not cast a majority of votes against sterilization and that they joined with their colleagues representing northern Protestant-majority districts indicated that the sterilization issue did not divide neatly along Louisiana's traditional northern-southern split. The vote in the House of Representatives, on the other hand, revealed a more traditional split between north and south Louisiana and Catholics versus Protestants. Archbishop Shaw's opposition certainly played a role in defeating compulsory eugenic sterilization, but it was not the sole reason.

Louisiana's history also undermines both of the traditional explanations for the acceptance of compulsory sterilization. The argument that compulsory sterilization was an attack lobbed against the poor, racial minorities, and women does not fit with the voting record. A majority of the lawmakers from wealthier areas of the state voted against the measure while



those representing the state's poorest districts voted for it. As evident in the portions of the legislative debate made public, most lawmakers attacked the bill as unfairly targeting the poor. Moreover, Gordon was the only proponent who specifically mentioned women. The conflicting voting record in both the house and senate on ban of the teaching of evolution challenges the notion that compulsory sterilization's failure was due to a rejection of expert opinion. A large number of senators and representatives who voted for sterilization in 1926 also voted for the ban on teaching evolution. These lawmakers essentially refused to let Louisiana public school and college students learn about a scientific theory that they accepted in forcibly sterilizing institutionalized patients. This complicates the tie between the belief in evolution and eugenics that Hofstadter posed. Although rooted in evolution, a belief in eugenics did not necessarily require a belief in evolution. In *Summer for the Gods*, Edward Larson's study on the Scopes Trial, he argues that opposition to teaching Darwin's theory of evolution was two pronged. First, opponents questioned the science and argued that the theory challenged the Biblical account of the origin of man. Second, since the curriculum countered the beliefs of a majority of taxpayers, teachers should not be allowed to teach it. Therefore, public policy concerning education should reflect the majority's opinion even if that opinion violates the teacher's right to freedom of thought and speech. Although he attributes Catholic opposition to sterilization as the reason for the procedure's defeat in Louisiana, Larson's majority rule versus minority rights may be a better way to explain the defeat of both compulsory sterilization and the teaching ban.

Louisiana's debate and legislative vote on compulsory eugenic sterilization suggests that the issue was complicated and ambiguous. Simply looking at the public debate it appears that it was an issue pitting the Catholic Church against secular reformers and state medical officials. Moreover, the language used in the debate tends to support the argument that class and gender

prejudices played a role in the way that lawmakers considered the bill. However, the senate vote debunks this simple explanation. Senators representing majority Catholic districts consistently voted for the measure over the eight-year period. Moreover, senators from wealthy districts rejected the procedure and many publically defended those threatened with sterilization. An important aspect of the public debate, missing from treatments on Louisiana, is the focus on individual liberties versus the authority of the state to violate those rights for the public good. This basic issue diametrically divides opponents and proponents and serves as the basis of the debate, and helps to clarify some of the conflicting results in the legislative vote. The following chapters intend to explain the complexity surrounding the issue and provide insight into the legislative mentality.

Chapter One briefly explores the national debate surrounding eugenics and compulsory sterilization. It examines how major proponents like Charles Davenport and Harry Laughlin made the case for the controversial procedure and how its opponents countered them. Proponents insisted that the pseudo-science of eugenics proved those individuals that they deemed feeble-minded, unfit, or defective inherited the conditions and they would pass them on to their children. Feeble-mindedness did not simply affect the afflicted person's intellect or ability, they argued, but rather it was the source of poverty, crime and prostitution. Therefore, in order to deal with these complicated social issues, they believed that they must address the source of the problems. By preventing the feeble-minded from reproducing, eventually crime, poverty, and other social ills would disappear. Opponents of compulsory eugenic sterilization on the national stage challenged every aspect of the proponents' case. They began by poking holes in eugenics. Evidence that feeble-mindedness and other conditions were hereditary was suspect at best, they argued. Moreover, even if there was a genetic link to the conditions, the claim that

it was the source of society's ills was improvable. At the heart of the opponents argument was the belief that individuals, despite their mental, physical, or intellectual capabilities, had the right to maintain their reproductive ability. Under no circumstance did the state have the authority to strip a person of his or her ability to reproduce without his or her consent.

Placing Louisiana in the context of the national debate reveals that the way that Louisianans debated compulsory eugenic sterilization did not differ from the way that national figures did. This is partly because some national proponents participated in Louisiana's debate and that nationally known experts helped to shape the opinions of the state's foremost advocate, Jean Gordon. Therefore, an examination of Louisiana may help to shed light on how others across the country viewed compulsory eugenic sterilization.

Chapter Two offers a closer examination of the major participants in Louisiana's debate. Debated by the state's medical, legal, religious leaders as well as politicians and reformers, Louisiana experience challenges the claims that eugenic sterilization was a plot by the state's social and professional elites to attack the poor and working class. The division also undermines the argument that a progressive elite class fully supported the procedure.

Jean Gordon was the most important figure in Louisiana's push to enact compulsory sterilization. The prominent New Orleans social reformer made a career out of advocating for the city's disadvantaged women and children. Her experience working with and her increasing knowledge of those deemed feeble-minded led Gordon to embrace sterilization as the surest means to stamp out the condition. Inspired by her newly discovered cause, Gordon opened the Milne Home for Girls. The private institution not only gave Gordon a platform to educate others on the feeble-minded, but also a place where she had the operation performed on those she

considered unfit for reproduction. Up until her death in 1931, Gordon helped to craft each bill and actively lobbied the legislature to enact the controversial procedure in Louisiana.

Scholars often point to Archbishop Shaw as the state's major opponent to sterilization, but he was not alone. Although he was very important, especially in the 1924 and 1926 debates in vehemently arguing against the procedure, he was not the only important opponent. Dr. Clarence Pierson, a medical doctor and superintendent of Louisiana's Central Hospital came out against compulsory sterilization in 1928. The doubt that he raised from 1928 to 1930 helped to fill the vacancy left by Shaw in 1926, the last time that he publically spoke out against the procedure. Shaw never explained why he did not speak out against compulsory sterilization after 1926.

There are also several other prominent figures who added to the discussion in Louisiana. They include medical doctors and state health officials like physician John N. Thomas, Charles A. O'Niell, the Chief Justice of the State's Supreme Court, and religious leaders from a variety of Christian denominations. Though their expertise and education differed, many shared similar backgrounds and pedigrees. Therefore, their support or objection to sterilization was not the result of defining external characteristics like class, education or religion. Rather, the differences stemmed from deeply held ideological beliefs.

Chapter Three discusses the 1924 and 1926 bills as well as the public debate and context surrounding them. Although the 1924 sterilization bill was the first such piece of legislation, it was not the first time that the state legislature considered a eugenics-based bill. In 1918, it signed off on a bill that segregated patients based on sex in the state's mental hospitals in an attempt to keep the patients from engaging in sexual relationships and conceiving children. A marriage bill passed in 1924, required men seeking a state marriage license to undergo a medical

examination. Although not a eugenics measure, the 1924 marriage bill is important in understanding the mentality of legislators. By voting for it, members of both the state house and state senate seemed to agree that the state has the authority to intervene in personal matters when it came to public health. A final bill that helps to provide context during this period was the bill to ban the teaching of Darwin's theory of evolution in public schools, colleges, and universities. After passing the state house of representatives, the bill failed to garner enough support in the senate and failed to become law. Interestingly, many of the state representatives and state senators who voted for the teaching ban also voted for the compulsory sterilization bill in 1926. Therefore, they wanted to implement a procedure loosely based on a science that they did not want taught in schools. Like the marriage bill, the teaching ban helps to understand the legislature's mentality. It points to Larson's theory on majority rule versus minority rights as well as a distrust of expertise.

In addition to the legislation, Chapter Three explores the rhetoric surrounding the public debate; the multitude of factors that other scholars have argued went into considering compulsory sterilization, and the role that the Catholic Church played in Louisiana. Arguments concerning race, class and gender were part of the debate. However, they did not appear to play a significant role in how the legislature voted. Moreover, the votes in both 1924 and 1926 seem to indicate that the Catholic Church's role in defeating compulsory sterilization was important but it was not solely responsible.

Chapter Four continues the examination of the legislative acts and public debate surrounding them. It traces the bills introduced from 1928 to 1932. Although the bills and the debate remain much the same as they were in 1924 and 1926, circumstances surrounding the bills introduced in 1928 and after changed. One notable development was that after 1926 Shaw

did not publically comment on any of the bills introduced. The reason for his silence is unknown. Newspaper coverage also dropped off at this time. Beginning in 1928, newspapers published fewer reports about the bills as they made their way through the legislature. This development indicates that public interest in the measure may have been waning.

The most significant changes, however, were the election of Huey Long as governor in 1928 and a split among state medical officials concerning the effectiveness of sterilization to curb feeble-mindedness. Although Long never endorsed or condemned sterilization, his election ushered in a new era in Louisiana politics that affected the bills. A new political dichotomy developed around the brash politician. His campaign message, championing the common Louisianans and attacking corporations and corrupt government policies, seemed to fit well with the arguments that sterilization opponents were making. However, several of the governor's supporters also championed the sterilization legislation. The second important development during this era was Clarence Pierson's break with the state's established medical community in publically coming out against sterilization. The one time supporter of the procedure actively lobbied against the 1928 bill and published a hotly debated article questioning the effectiveness and necessity of sterilization to prevent feeble-mindedness and insanity.<sup>20</sup>

Bills introduced from 1928 to 1932 experienced a mixed reaction. The 1928 compulsory sterilization bill failed to make it out of the senate. On the other hand, a eugenic marriage bill that included a sterilization clause for couples deemed unfit for reproduction passed the senate comfortably. Yet, state representatives heartedly rejected it. Two years later, the 1930 bill passed the senate but citing the fight over the proposed constitutional convention in the house,

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<sup>20</sup> Clarence Pierson, "Are We Sufficiently Progressed Scientifically for the Legal Sexual Sterilization of Inmates of State Institutions in Certain Cases," *New Orleans Medical and Surgical Journal* 82 (1929): 350-7.

Jean Gordon pulled it from consideration. Less than a year later, Gordon would be dead. Gordon's sister, Kate, took up the cause and lobbied for the 1932 bill. However, this attempt experienced the biggest defeat by failing to get a committee vote. A second sterilization bill that required that the parents or legal guardians of minors or interdicted adults recommended for sterilization give permission for the procedure failed to garner enough votes in the senate. The 1932 legislative session would be the last time that Louisiana Lawmakers would consider a eugenics based sterilization bill.

## CHAPTER 2

### The National Debate

Louisiana's debate on compulsory eugenic sterilization was part of a larger national discussion. While Louisianans ultimately rejected implementing the procedure, state level participants on both sides of the issue echoed the arguments made on the national level. National figures, such as Harry Olson, Albert Wiggam, and Rosewell Johnson lectured Louisiana audiences on the benefits of sterilization. Furthermore, the five bills introduced between 1924 and 1932 were nearly identical to Virginia's statute. Thus to understand and fully appreciate the debate that took place in Louisiana, insight into the national debate is required.

The debate on compulsory eugenic sterilization revealed two diametrically opposed viewpoints in regards to state power and the rights of individuals. Eugenicists and sterilization advocates argued that evidence proved that conditions such as low intelligence, circumstances such as poverty, and activities such as crime were inheritable traits passed down from parent to child. In order to eliminate low intelligence, poverty and crime, the state should not allow those possessing the traits to reproduce. The state, they argued, has the right to take away an individual's ability to produce biological children because their very existence jeopardized the future well-being and even continued existence of society. Opponents of eugenics and sterilization rejected the notion that inherited conditions caused society's problems. Instead, they argued that other factors were to blame. Therefore, the state did not have an appropriate reason to deny a citizen his or her reproductive ability. More importantly, by forcibly sterilizing citizens, the state violated their inalienable rights, including the right to maintain their reproductive ability. Although most opponents did not explicitly say that men and women have



a natural right to reproduce, they certainly implied that individuals have the right to maintain the ability to reproduce.

Those who argued for sterilization did so because they believed that society was more important than the individuals that made it up. Eugenacists even considered society a living entity that had superior rights to people. According to economic historian Thomas C. Leonard, some progressive reformers viewed individuals as “organs” or “cells” that made up the body of the state. Therefore, a person’s purpose was to serve the state and he or she could reproduce so long as the state benefited from his offspring. When eugenacists and sterilization proponents discussed the state, they are not necessarily discussing an administrative body. They gave the state qualities typical reserved for people. Just as people had the right to self-defense, so too did the state have the right to eliminate future threats to its existence and progress. Furthermore, the state should direct reproduction. As Leonard noted, those who supported eugenics did not hail from one side of the political spectrum. Its supporters included conservatives such as Charles Davenport and socialists like George Bernard Shaw. In spite of political leanings, eugenacists believed in the science of eugenics, they rejected “human equality,” and instead subscribed to the notion of a natural human “hierarchy.” Finally, they believed that the state should determine who should reproduce. It was far too dangerous to allow human reproduction to fall to chance.<sup>21</sup>

National proponents made a case for sterilization that Louisiana’s advocates adopted. First, they identified, labeled and defined the individuals they wanted to sterilize as feebleminded or defective. Next, proponents made the case that the feebleminded and defectives, because they embodied the problems, were the source of society’s ills, and thus a threat. Since eugenacists

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<sup>21</sup> Thomas C. Leonard, *Illiberal Reformers: Race, Eugenics & American Economics in the Progressive Era* (Princeton : Princeton University Press, 2016), 102, 115-16.

believed that feeble-mindedness and defectiveness was hereditary, any children born to a feeble-minded or defective person would also have the condition. Therefore, these children would constitute a threat to the state's future well-being and advancement. Proponents bolstered their dubious claims by creating and citing scientifically flawed family studies. They then went on to explain how preventing those deemed feeble-minded from reproducing would perfect the social order. One option to prevent reproduction was sexually segregating inmates at state institutions. Yet, the preferred and permanent option was compulsory sterilization. Society's progress, they insisted, was more important than an individual's right to maintain his or her ability to reproduce. Therefore, if it was in society's best interest for state medical officials to sterilize a person against his or her will, the procedure was justifiable. Finally, proponents attempted to create animosity toward those that they wanted to sterilize by using demeaning language to describe them. Similarly, they used language that personified the state in an effort to elicit support for the procedure. By dehumanizing those that they wanted to sterilize and personifying society, proponents believed it would make it easier for people to accept the forcible sterilization of individuals somehow less human to protect the social order that had human qualities.

National opponents of compulsory eugenic sterilization vehemently rejected proponents' claims. They insisted that there was not sufficient evidence to support eugenicists' claims that the feeble-minded and defectives were the source of social problems and sterilization was a violation of individual rights. Society's ills were not heritable traits passed down from parent to child. Opponents, citing their own family studies, tended to argue that the people who proponents wanted to sterilize were merely victims of unfortunate circumstances. Even the opponents who were open to the possibility that feeble-mindedness and defectiveness were

inherited argue that segregation was adequate in preventing them from reproducing.

Sterilization, on the other hand, violated the inalienable rights of the individual and was, thus, never an option. Louisiana's opponents would take up these same arguments.

The call for sterilization began with its proponents labeling the people who they wanted sterilized as either "feeble-minded" or "defective." Merriam-Webster defined the archaic term feeble-minded as "irresolute, vacillating, mentally deficient, foolish, and stupid." In addition to using the term to describe low intelligence, eugenicists and sterilization advocates used it as a catchall to describe the cause of antisocial behavior and poverty. They claimed that the feeble-minded embodied social ills like crime, poverty, and immorality. Criminals committed crimes because they were inherently criminals, just as the poor were poor because they were born that way. In 1910, Charles Davenport, a Harvard trained zoologist, world renowned eugenicist and founder of the Eugenics Record Office, described feeble-mindedness as "a lumber-room," that "comprises various mental deficiencies, such as inability to count, to repeat phrases, to learn to write or to draw, to meet difficult situations by intelligent adjustment, to control the appetites and passions, to appreciate moral ideas." Later on, Davenport argued that the feeble-minded lacked a "socially important trait," a moral compass that prevented normal people from committing a crime or abusing drugs or alcohol. Without self-restraint provided by this trait, the feeble-minded could not help but lie, steal, runaway, or engage in promiscuous behavior. Historian, eugenicist and prolific writer on prejudicial racial theories Lothrop Stoddard agreed with Davenport's assessment of what constituted feeble-mindedness. In *The Revolt Against*

*Civilization*, Stoddard wrote, “Feeble-mindedness is a condition characterized by such traits as dull intelligence, low moral sense, lack of self-control, shiftlessness, improvidence, etc.”<sup>22</sup>

Henry H. Goddard, director of the New Jersey Home for the Education and Care of Feeble-Minded Children in Vineland, New Jersey, agreed with Davenport’s assertion that the feeble-minded lacked a moral compass. He claimed that the “moron” was the most dangerous of the feeble-minded because he lacked morality; individuals who made up this group, he insisted, refused to work and often turned to crime. The women in it engaged in prostitution “because they have natural instincts with no power of control and no intelligence to understand the wiles and schemes of the white slaver, the cadet or the individual seducer.” Moreover, immorality ran in families. Goddard concluded that law abiding, intelligent and independent citizens made up the legitimate branch of the family. While “on the bad side,” he found, “paupers, criminals, prostitutes, drunkards, and examples of all forms of social pest with which modern society is burdened.” He then identified feeble-mindedness as “largely responsible for these social sores.” The feeble-minded caused problems because they were the problem. However, the threat did not simply come from the feeble-minded.<sup>23</sup>

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<sup>22</sup> *Merriam Webster Deluxe Dictionary*, 10<sup>th</sup> Collegiate Ed., adj. “Feeble-minded”; Charles B. Davenport, *Eugenics: The Science of Human Improvement by Better Breeding* (New York: Henry Holt and Company, 1910), 280-1; Charles B. Davenport, *Heredity in Relation to Eugenics* (New York: Henry Holt and Company, 1913), 9; Lothrop Stoddard, *The Revolt Against Civilization: The Menace of the Underman* (New York: Charles Scribner Son’s, 1922), 93-4.

<sup>23</sup> Henry H. Goddard, *The Kallikak Family: A Study in the Heredity of Feeble-mindedness* (New York: The MacMillan Company, 1912), 54-5, 116.

In order to cover all undesirable behavior and characteristics, eugenicists also insisted that defectives were a threat. To compliment his definition of the feeble-minded, Stoddard offered a description of the defective. “Defective persons,” Stoddard explained, “are more or less unfit for holding useful places in the social order and tend to sink in to the social depths, where they form those pauper, vagabond, and criminal elements which are alike the burden and the menace of society.” Defectives lacked the necessary skills and wherewithal to participate in civil society. They became poor because they were unable to manage money or maintain employment. Defective people were not necessarily feeble-minded, even though they shared some of the same traits; however, eugenicists identified both groups as threats. Similarly, Judge Harry Olson, Chief Justice of Chicago’s Municipal Court and founder of the Municipal Court’s Psychopathic Laboratory, argued that criminals possessed an emotional defect. By contributing crime to an emotional defect inherent within the criminal, eliminating future crimes meant preventing future criminals.<sup>24</sup>

After identifying, labeling and describing the individuals proponents wanted to sterilize, leaders of the national sterilization movement then went on to explain how those they targeted were threats. The feeble-minded and defectives suffered from low intelligence and poverty while actively engaging in immoral and criminal behavior. The danger that they posed did not necessarily come from their present actions, but from the legacy that eugenicists and proponents argued that they would leave. For proponents, the feeble-minded and defectives were the sources

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<sup>24</sup> Stoddard, *The Revolt Against Civilization*, 93-4; Harry Olson, introduction to *Eugenical Sterilization in the United States*, by Harry H. Laughlin (Chicago: Psychopathic Laboratory of the Municipal Court of Chicago, 1922), vi.

of immorality, poverty, and crime and their continuation would place an unbearable burden on the state.

According to sterilization advocates, the feeble-minded were also the source of sexual immorality. Arthur Estabrook of the Eugenics Records Office and author of several family studies published by the organization, noted that “licentiousness” and “the loose marriage relationships has been one of the outstanding features” of a group of related families afflicted with feeble-mindedness, he called the Ishmaels. Most of the legal marriages ended in divorce, but a majority of the group never bothered to marry and simply “cohabitated.” His most damning charges were that the clan had multiple sexual partners, engaged in prostitution, and even carried on incestuous relationships. While Estabrook’s evidence was scant, his indictment of the Ishmaels and the feeble-minded, in general, was brutal but common.<sup>25</sup>

Eugenicists and sterilization advocates emphasized the danger that feeble-minded women posed because of their sexual immorality. They considered women a greater threat than men. For example, Paul Popenoe and E.S. Gosney, both of the Human Betterment Society, in their study of California’s sterilization law, claimed feeble-minded women were more dangerous than feeble-minded men because the women were, “oversexed, feebly inhibited, lack[ed] other interests and are not merely a ready prey to unscrupulous males, but too often herself an aggressor in this field.” Feeble-minded men, on the other hand, did not pose as great a threat. According to the authors, feeble-minded men were generally unattractive and not aggressive.

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<sup>25</sup> Arthur Estabrook, *The Tribe of Ishmael*, (Cold Springs Harbor, New York: Eugenics Records Office, 1915), 402-3.

These men were “quite unable to compete with males of higher intellectual levels in this sphere.”<sup>26</sup>

In addition to their loose morals, the feebleminded, according to eugenicists, tended to be poor or members of the lower class. Eugenicists claimed that the feebleminded were not victims of unfortunate situations, but rather, they were poor because they were destined to be poor. In his *New Decalogue of Science*, psychologist and nationally known lecturer on eugenics, Albert Wiggam wrote, “Heredity is the chief maker of men,” and that “happiness” or “misery” was a result of genetics and not environmental conditions. Class distinctions were inborn and no amount of reform or improvement could change a man’s inherent nature. “[The] social classes...are ordained by nature; that it is, in the slums which make slum people, but slum people who make the slums.” Henry Goddard made a similar observation, “If all of the slum districts of our cities were removed to-morrow and model tenements buil[t] in their places, we would still have slums in a week’s time, because we have these mentally defective people who can never be taught to live otherwise than as they have been living.” People, not circumstances, caused the problems.<sup>27</sup>

By asserting that poverty rested within the pauper, eugenicists rejected reforms aimed at improving their lives by improving their environments, seeing them as futile. “They were feeble-minded,” wrote Henry Goddard commenting on one family he studied, “and no amount of education or good environment can change a feeble-minded individual into a normal one, anymore than it can change a red-haired stock into a black-haired stock.” Paul Popenoe and

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<sup>26</sup> Paul Popenoe and E.S. Gosney, *Sterilization for Human Betterment: A Summary of 6,000 Operations Performed in California, 1909-1929* (New York: The MacMillan Co, 1929), 40, 39-40.

<sup>27</sup> Albert Wiggam, *The New Decalogue of Science* (Garden City, NY: Garden City Publishing Co., 1925), 42; Goddard, *The Kallikaks*, 70-1.

Roswell Johnson agreed that attempts to improve a person's situation by making changes to his environment were useless. They claimed that "tenement-dwellers" who were given bathtubs used the gifts to store coal, rather than use them to bathe. Lothrop Stoddard argued against attempts aimed at improving the lot of the "weak" because they were useless and they jeopardized society's progress. The advent of modern civilization hindered the role that natural selection played in eliminating the weak and preserving the strong. The poor were hopeless. They were not victims of circumstances but rather perpetrators of poverty. Therefore, eugenicists claimed that the only way to eliminate want was to eliminate the needy.<sup>28</sup>

Attempts to prevent crime by improving circumstances were also ineffective proponents argued because criminals were born and not made. In his examination of Harry Olson's Psychopathic Laboratory of the Municipal Court of Chicago, French Strother, writer for *The World's Work*, attacked the idea that environmental issues lead to criminal behavior. While he conceded that urban areas were "more exciting," triggering criminal minds, poverty did not necessarily lead to crime. He insisted that most poor people never committed a crime and attacked efforts to clean up impoverished areas as a means to end crime. Limited educational opportunities or growing up without access to green spaces did not cause crime. Many criminals, according to Strother, came from privileged upbringings. Crime was an emotional defect that compelled the criminal to act and no environmental reform could ever correct it.<sup>29</sup>

Even though eugenicists argued that the feeble-minded and defective were the purveyors of low intelligence, loose morals, poverty, and crime, their physical appearance failed to provide

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<sup>28</sup> Goddard, *The Kallikaks*, 53; Paul Popenoe and Roswell H. Johnson, *Applied Eugenics* (New York: The MacMillan, Co., 1918), 169; Stoddard, *The Revolt Against Civilization*, 17.

<sup>29</sup> French Strother, "The Cure for Crime," *The World's Work*, August 1924, 395-6.



any clues. According to Goddard, defective mental development with no outward physical signs of feeble-mindedness characterized “pure strains” of the disorder. He cited a dentist who claimed, “The finest set of teeth he has ever seen were in the mouth of an imbecile in an institution for feeble-minded.” While Popenoe and Gosney argued that feeble-minded men tended to be “generally unattractive,” and therefore less of a threat to reproduce, the fact that there were no physical distinctions made the risk to society that much greater. The inability to identify a defective person added to the risk that they posed to society.<sup>30</sup>

The feeble-minded were also a problem because they were a financial burden. Charles Davenport estimated that 8 percent of the United State’s population was unable to “support themselves.” He further estimated that care for the feeble-minded cost “two hundred million dollars or more a year.” Davenport offered a reason for the rising cost. He claimed, that when women, reliant on public assistance, were allowed to marry, they inevitably returned, with their husband to “the poorhouse as permanent inhabitants and bring half a dozen imbecile children to be a permanent charge of the community.” Davenport went on to call poorhouses that did not segregate its wards based on sex “one of the country’s worst dangers.” While Davenport did not specifically mention the feeble-minded, remember, one of the hallmarks of the feeble-minded was that they were typically poor and relied on public assistance. In 1918, Paul Popenoe and Roswell Johnson put the nationwide cost “within sight of a billion dollar annual budget for the insane and

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<sup>30</sup> Henry H. Goddard, “Heredity of Feeble-mindedness” American Philosophical Society, (Philadelphia, PA, July 1912); Popenoe and Gosney, *Sterilization for Human Betterment*, 39-40.

the feeble-minded.” The feeble-minded were not only a threat to the social order and the cause of society’s ills, but they were expensive.<sup>31</sup>

Immorality, poverty, and crime were not conditions that reflected social issues; rather, they were problems inherited by their perpetrators. The only way to cure the ills that society faced, according to eugenicists, was to prevent those from possessing the problems from being born. In order to prove their claims, eugenicists relied on conjecture masked as science.

The evidence that eugenicists used came from pseudo-scientific and deeply flawed family studies. They conducted and cited *The Jukes*, *The Kallikaks* and “Tribe of Ishmael,” in order to accomplish two goals. First, in their minds, family studies proved their claims about the feeble-minded and defective being the source of the nation’s problems. Second, they used them to help strengthen their sterilization arguments. These poorly conducted studies typically traced the ancestry of criminals, the feeble-minded, or other individuals deemed unfit to prove the heritability of illegal behavior. For instance, Henry H. Goddard’s *The Kallikaks* claimed to have traced the ancestry of a family whose members include feeble-minded and criminal members to the illegitimate offspring of a Continental soldier and a feeble-minded barmaid. Family studies conducted by the Eugenics Records office and others intent on proving eugenics ignored other factors, such as poverty, that could have contributed to problems. Instead of exploring a variety of causes for society’s ills, the family studies simply pointed to familial connection among a group of people and concluded that they had inherited their problems. In his 1927 decision upholding Virginia’s compulsory sterilization law, Supreme Court Justice Oliver Wendell

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<sup>31</sup> Charles B. Davenport, “The Geography of Man,” in *Heredity and Eugenics*, ed. William Ernest Castle (Chicago: The University of Chicago Press, 1912), 308; Davenport, *Heredity in Relation to Eugenics*, 67-70; Popenoe and Johnson, *Applied Eugenics*, 131.

Holmes cited “experience” as evidence of heredity “play[ing] an important part in the transmission of insanity, imbecility, etc.” The experience vital in Holmes’s decision was not scientifically sound. Rather, eugenicists conducted or interpreted family studies and other investigations in a way that proved that poverty, crime, and feeble-mindedness were genetic disorders.<sup>32</sup>

Eugenicists used the faulty family studies to prove that the feeble-minded and mental defectives created unnecessary financial burdens on society. Evidence from early twentieth century family studies reinforced the belief that the feeble-minded and mental defective were an ever-increasing burden to a state’s finances. Arthur Estabrook argued that the Ishmaels, like the Jukes, were unable to provide for themselves. “There is hardly a family in the Tribe that has not had some beggars; in many of the families almost all the members are adept in the art of begging and have plied their trade for years.” They also relied on public assistance and many found themselves living in poor houses. Estabrook noted that it was not “uncommon for three generations in one family to be in the poor house at the same time.” In commenting on the Jukes study produced at the turn of the twentieth century, French Strother argued in 1924, “No member of this family has been a really useful member of society.” Rather, he insisted that the men were criminals, paupers, or inmates in an insane asylum, while the women were prostitutes and mothers to illegitimate children. Therefore, Strother estimated, “The Jukes family has cost society several millions of dollars – all the result of the mating of one degenerate couple.” Although these studies were flawed and the conclusions that researchers drew from them were highly suspicious, they offered eager eugenicists evidence that poverty was a hereditary trait.

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<sup>32</sup> Buck v. Bell, U.S. (1927)

By removing the trait from society's gene pool poverty would disappear securing the nation's finances.<sup>33</sup>

The reason why these studies were popular accepted, historian J. David Smith argued, was that the eugenicists' conclusions tended to support some people's preconceived biases concerning themselves, their families, and their race. These studies confirmed their "superiority," while relegating others to an "inferior" status. The family studies were not proof because they were scientifically sound; rather they served to perpetuate the "myth" of eugenics that they helped to create. By enshrining the false narrative of eugenics in the trappings of empirical research, the family studies helped to exacerbate the threat of the feebleminded. The feebleminded threatened to throw society into a downward spiral. In order to stop its decline, society must stop the feebleminded and mental defectives from reproducing.<sup>34</sup>

In addition to arguing that the feebleminded and mental defectives were the source of poverty, crime, and moral decay, eugenicists claimed that they posed an extraordinary threat to a nation's social and political traditions as well as its very existence. "In any particular people, civilization will progress just so far as that people have the capacity to further it and the ability to bear the correlative burden which it entails," wrote Lothrop Stoddard in 1922. In order to make their cases, eugenicists alluded to violent revolutions that had upended well-established social orders. Writing on the heels of the red scare, Lothrop Stoddard asserted that the communist revolution in Russia was not the result of economic conditions. Rather, it came about because communist were born. "Bolsheviks," Stoddard claimed, "are mostly born and not made, we

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<sup>33</sup> Estabrook, "The Tribe of Ishmael, 401-2; Strother, "The Cure for Crime," 396.

<sup>34</sup> J. David Smith, *Minds Made Feeble: Myth and Legacy of the Kallikaks* (Rockville, Md: Aspen Systems Corp, 1985), 78, 111-12.

must realize that new social rebels will arise until their recruiting grounds are eliminated.” The feeble-minded and mental defective, according to Stoddard, were the most susceptible to communist promises and propaganda. They lacked the moral compass necessary to resist the calls for revolution. In order to save the western world from the turmoil of revolution, western nations must eliminate future troublemakers from their gene pool. Stoddard then offered this assurance, “When degenerates and inferiors are no longer permitted to breed like lice, the floods of chaos will soon dry up.” Stoddard’s attack on Eastern Europeans reveals a racial component to the eugenicists’ claims.<sup>35</sup>

Eugenicists accepted the notion that a racial hierarchy existed, with the fabled Nordic race being the strongest. The Nordics, they argued, possessed the finest germ plasma of all the races. The germ plasma’s of the other races fell behind the Nordics and typically, the darker the skin, the poorer the plasma. For example, Paul Popenoe and Roswell Johnson, in their textbook, *Applied Eugenics*, looked to the Haitian Revolution and the subsequent conquest of the island by its former slaves as proof of a civilization’s fate resting in the germ plasma of its people. They argued that the African race, had been unable “under its own initiative [to] rise much above barbarism,” and therefore, they were, “unable to maintain the superior French civilization.” The fact that the rebels were former slaves did not account for the problems that they faced after the revolution. Black people simply did not have the innate qualities to maintain a society established by the genetically superior French. To further their racial claims, Popenoe and Johnson cited the lighter skinned, formerly enslaved Mamelukes of Egypt as examples of former slaves maintaining high civilization. Although the comparison between the Haitians and

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<sup>35</sup> Stoddard, *The Revolt Against Civilization*, 2-3, 233.

Mamelukes was not fair, Popenoe and Johnson saw an opportunity to push their racist argument.<sup>36</sup>

Other eugenicists were more ambiguous in discussing race and its impact on a state's future. A nation's fate rested within its people and it could only advance as high as they would allow it. Judge Olson argued, "The success of democracy depends upon the quality of its individual elements." "High racial elements," Olson contended would result in "government...equal to all the economic, educational, and religious and scientific demands of the times." Olson then issued this warning, "If, on the contrary, there is a constant and progressive racial degeneracy, it is only a question of time when popular self-government will be impossible, and will be succeeded by chaos, and finally a dictatorship." Although Olson did not mention a specific race that threatened the nation, he certainly implied that civilized society demanded racial purity among what he considered the higher order. French Strother insisted that history offered evidence that defectives were responsible for societal decline. For example, "mongrelization of the Roman breed," caused the empire's fall. Again, Strother did not mention a specific race that brought down the Romans. Rather, if the Roman race had remained pure, the Roman Empire would not have fallen. Society was not simply an organization of its members. It was its members. For a nation to prosper, its members must have the inborn ability to prosper. The social order declines, not because society failed the poor or unfortunate, but because society allowed the poor and unfortunate to continue to exist and infect the germ plasma of the state.<sup>37</sup>

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<sup>36</sup> Popenoe and Johnson, *Applied Eugenics*, 284.

<sup>37</sup> Olson in *Eugenical Sterilization in the United States*, v; French Strother, "Crime and Heredity," *The Worlds Work*, September 1924, 556.

The feeble-minded and defectives, being the sources of social ills such as crime and poverty, threatened the continued existence of a nation's political and social order. By allowing them to continue, the state risked having a population that was not intelligent enough or virtuous enough to carry it on. While proponents insist on sterilizing feeble-minded and defectives, regardless of skin color, their concerns for the state's traditions reveals their belief in a racial hierarchy. Only the germ plasma possessed by higher races, such as the Nordics, were capable of advanced civilization. Other lesser races were inherently weaker and thus susceptible to revolutionaries and dictators. Moreover, by pointing to historical precedent to prove their assertions, eugenicists and sterilization proponents distorted evidence, similar to the way they that they interpreted family studies, to make their argument.

In addition to making pseudo-scientific claims to advance their agenda, proponents also employed language that dehumanized the people who they wanted to sterilize while at the same time they gave the state human qualities. By rhetorically stripping individuals of their humanity and personifying the state, proponents hoped to justify their claims. Proponents typically depicted individuals who they targeted for sterilization as diseases. Therefore, sterilizing the person described as a disease would save the state portrayed as a person. Charles Davenport discussed the "life of the state," while Oliver Wendell Holmes mentioned "injury to the state," and "strength of the state." By giving the state human qualities, they made the state vulnerable to human afflictions. Similarly, eugenicists turned the individuals they targeted for sterilization into diseases and parasites. For example, Lothrop Stoddard made some particularly cruel comparisons concerning those he deemed unworthy to reproduce. In one instance, Stoddard claimed "degenerates" and "inferiors" "bred like lice." He also insisted that the feeble-minded "spread like cancerous growths, disturbing the social life and infecting the blood of whole

community.” In these cases, Stoddard not only stripped the people he wants to sterilize of their humanity by comparing them to lice and cancer, but he made them a threat to the society’s health. Just as people had the right to exterminate lice or remove a cancerous tumor from his body, the state had a right to defend itself by sterilizing the menace and saving its future. Judge Harry Olson even argued, “The right and the duty of self defense applies no less to nations than to individuals.” For eugenicists, the state was not only a living entity but it was the most important entity. Its rights and future were superior to the rights of man, who existed to serve it. If a person’s offspring would damage the state, then the state must stop him or her from having children.<sup>38</sup>

To make their case, proponents of sterilization argued that feeble-minded and defective people had inherited qualities that constituted a grave threat to society that required sterilization to save the state from future demise. They initiated their argument by attaching the label feeble-minded or defective to the individuals that they targeted. They used the non-specific terms to describe people with low intelligence, who suffered from poverty or who engaged in immoral or criminal behavior. Proponents then attributed these problems to inherited conditions. Therefore, those who they wanted to sterilize were not victims of their situations, but rather, they were the source of the problems. To justify their claims and to add an heir of scientific confirmation to them, proponents created and cited family studies. While the studies seem to have supported eugenics, researchers conducted the studies, not to test the theory of eugenics, but to prove it. By “proving” the heritability of feeble-mindedness and defectiveness, proponents

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<sup>38</sup> Davenport, *The Science of Human Improvement by Better Breeding*, 16; Buck v. Bell; Stoddard, *The Revolt Against Civilization*, 223, 94; Harry Olson, “Opinion of the Honorable Harry Olson, Chief Justice, Municipal Court of Chicago,” in *Eugenical Sterilization in the United States*, by Harry H. Laughlin (Chicago: Psychopathic Laboratory of the Municipal Court of Chicago, 1922), 322.



then demanded for the sterilization of those carrying the defective germ plasma. Proponents furthered their argument by claiming that the state had a greater right to continue than these individuals' right to maintain his or her ability to reproduce. In making this case, proponents both dehumanized the individuals and personified the state.

After establishing the threat posed by the feeble-minded and defectives, eugenicists offered two solutions: segregation or sterilization. The first one was to sexually segregate inmates housed in state institutions for the feeble-minded. The second, more radical option, was to sterilize them. Segregation was the choice of some like Charles Davenport and Henry H. Goddard. Both Davenport and Goddard expressed concern over state legislatures' lack of understanding of hereditary science and their unwillingness to fund research. Davenport also preferred segregation as opposed to sterilization because he believed that removing the possibility of pregnancy would lead to an increase in the number of cases of venereal diseases and rapes. Goddard did not share his concern, arguing instead, "the evil consequences" of sterilization "are more imaginary than real, since the feeble-minded seldom exercise restraint in any case." The feeble-minded were inherently promiscuous. Sterilizing them would not make them more or less sexually active. Although, they preferred segregation to sterilization, Davenport and Goddard did not completely oppose sterilization. Once science could more accurately predict inheritability of the conditions, Goddard could support sterilization. Davenport did not require more research to begin sterilizing patients. If segregation "proves to be impracticable," Davenport argued, "then sterilization is necessary – where the life of the state is threatened extreme measures may and

must be taken.” As long as segregation prevented individuals, who eugenicists deemed unworthy to reproduce, from having children, it was an attractive option.<sup>39</sup>

However, proponents of sterilization argued that sterilization was a cheaper, more effective way to eliminate the threat. Paul Popenoe and E.S. Gosney provided a detailed defense for sterilization in their 1929 summary of California’s statute. Since eugenicists linked feeble-mindedness and poverty, sterilizing them would reduce the number of state aid recipients and charity cases. In a lecture delivered in New Orleans, Roswell H. Johnson, one time president of the American Eugenics Society and professor of eugenics, explained how expanding sterilization laws beyond the walls of state institutions would reach more of the poor that the laws targeted. “In order that the advantages might reach the lower classes where it is most needed,” Johnson proclaimed, “the sterilization laws should authorize county hospitals to hand free of charge all cases brought in. Sterilization should be put in the hands of social workers and dispensaries.”<sup>40</sup>

They also claimed that sterilization would create a more intelligent people better equipped to handle the demands of society. Sterilization would “raise the level of intelligence and stability of the population.” In doing so, it would protect children by not allowing them to be born to defective parents. Children, Popenoe and Gosney argued, should be given a “fair chance,” and defective parents were incapable of providing it. Most important sterilizing the feeble-minded and mental defectives would save the future. While the authors could not promise

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<sup>39</sup> Davenport, *Heredity in Relation to Eugenics*, 256; Goddard, *The Kallikak Family*, 115-16; Davenport, *Heredity in Relation to Eugenics*, 257-9; Goddard, *The Kallikak Family*, 108-9, 115-16; Davenport, *The Science of Human Improvement by Better Breeding*, 16.

<sup>40</sup> Popenoe and Gosney, *Sterilization for Human Betterment*, 108; “Eugenic Society Lecturer Talks on Sterilization,” *Times-Picayune*, March 21, 1930.

the elimination of all mental defectives in the future, they did believe that the numbers of defectives “could be reduced by perhaps as much as half in three or four generations.”<sup>41</sup>

In a strange twist, proponents of sterilization argued that stripping a person, against his or her will, of his or her ability to reproduce was an attractive option because it offered patients freedom. Popenoe justified stripping individuals of their right to reproduce by arguing that they would be able to leave the institution and under proper supervision be able to live normal lives, and in some cases even marry. The feeble-minded and defective could enjoy most freedoms, except the freedom to reproduce.<sup>42</sup>

It seems ironic that Popenoe would use the promise of freedom as a defense of sterilization. However, it fits in with the sterilization advocates’ beliefs concerning individual liberty. For proponents of sterilization, like Popenoe, individual liberties were only applicable so long as they did not conflict with the interests of the society. Eugenists viewed individuals as merely producers of future generations. A person’s right to reproduce rested on the quality of his future descendants. As Popenoe and Gosney explained, “No one has any right to carry the gene of Huntington’s chorea or hemophilia into another family; the state might well annihilate such diseases as these just as it has yellow fever.” They also viewed sterilization similar to other instances where the state restricted civil liberties for its benefit and protection. For example, states place “restrictions” on convicted criminals, children and the insane. Harry Laughlin went as far as to compare compulsory sterilization to vaccinations and the draft. “Both vaccination and sterilization” Laughlin argued, “are done supposedly for the public good. Vaccination protects the individual and his associates from a serious and loathsome disease in the more

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<sup>41</sup> Popenoe and Gosney, *Sterilization for Human Betterment*, 128, 132.

<sup>42</sup> Paul Popenoe, *The Conservation of the Family* (Baltimore: The Williams and Wilkins Co., 1926), 139.

immediate future; eugenical sterilization protects society from racial degeneracy in the more remote future.” Similarly, he argued that the draft, like sterilization, was “non-punitive, but is demanded by the principle that, in the long run, the welfare of the commonwealth is of vastly more importance to the sum total of human happiness than is the temporary freedom and personal security of the individual.” Laughlin concluded by asserting, “Personal jeopardy is highly preferable to injury to the state.” Supreme Court Justice Oliver Wendell Holmes agreed with Laughlin. In his majority opinion, Holmes commented on the draft, “We have seen more than once that the public welfare may call upon the best citizens for their lives.” He then went on to argue that “those who already sap the strength of the State” should be compelled to make “lesser” sacrifices. He then went onto write, “The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes.”<sup>43</sup>

Sterilization offered a permanent, cost effective solution that put the society’s interest first. Wards housed in institutions would no longer be a threat to pass on their defective germ plasma and could therefore, be released. Moreover, the threat was too great to allow this men and women in this group the smallest chance to reproduce. The risk to the social order was too great and besides, legal precedent had been set where the government forced its citizens to commit an act against their wills. For eugenicists and sterilization proponents, sterilization was the best option because it provided the strongest protections for society against the threats to it posed by some of its citizens.

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<sup>43</sup> Popenoe and Gosney, *Sterilization for Human Betterment*, 120; *Ibid.*, 174; Harry H. Laughlin, *Eugenical Sterilization in the United States* (Chicago: Psychopathic Laboratory of the Municipal Court of Chicago, 1922), 339; 338; *Buck v. Bell*

Opponents of compulsory sterilization vehemently rejected its proponents' arguments. They began by attacking their most basic assumption. Those deemed feeble-minded or mentally defective were not a menace to society or to the future social order. They did not possess tainted germ plasma that caused poverty, immorality or crime; rather, they were victims of their circumstances. Poor living conditions, low wages, and limited educational opportunities produced their problems. Not only did the state not have the authority to sterilize because eugenics was wrong, but because it would violate the inalienable rights of man. Only under very specific circumstances did the state have the right to deny a person his right to life, liberty or property. Perceived future injury to society, based on scant evidence, was not a valid reason. Although opponents did not specifically attack eugenicist's notions concerning society as a living entity, their focus on the rights of man indirectly did. Humans created society in order to protect their rights. The state infringing on individual liberties would violate its purpose and thus damage the social order. Therefore, instead of the individual being a threat to society's future, the real threat to society would come from giving the state the authority to sterilize some of its citizens. Opponents did not agree on where rights came from. While the secular approach rejected the Catholic Church's opposition based on church doctrine concerning man's nature, both the Church and non-religious opponents attacked sterilization as a over-reach by the state and a violation of rights.

To dismantle the argument for the necessity and benefits of sterilization, opponents discredited eugenics. In *Eugenics and Other Evils*, British theologian and writer, G.K. Chesterton claimed that eugenicists' theories were not scientifically sound. They had no proof that their theories worked. Instead of implementing eugenic policies based on empirical evidence, the eugenicists wanted the state to create eugenic programs in order so that they could

prove their theories. As Chesterton wrote, “Not content with the endowment of research, they desire the establishment of research, that is the making of it a thing official and compulsory, like education or state insurance; but still it is only research and not discovery.” New York attorney Charles A. Boston took a similar position in 1913 when he challenged the experts and the evidence behind the recently enacted sterilization laws. Simply because a state legislature enacted a law “declar[ing] that crime, idiocy and imbecility [were] transmissible,” did not make the claim true. Many of the experts, Boston argued, were not biologists, but rather sociologists and “amateur reformers.” He criticized the Washington State Supreme Court’s decision to uphold its sterilization law based in part on science having confirmed the heritability of crime. As evidence, the court cited, “one medico-legal journal, one medical journal and two daily newspapers.” To which Boston objected, “I submit that the daily papers are not eminent scientific authorities, and should not be accepted as such; that an eminent judge is not necessarily a scientific investigator respecting heredity and that the two physicians cited were speaking of the painlessness of the operation as performed by them.” In addition to attacking the evidence, Boston also took issue with the fact that if crime was an inherited condition, the death penalty should have eliminated the condition years ago. Moreover, former penal colonies were not lawless places riddled with crime. Quite the contrary, these countries “[had] produced an unusually high grade of citizenship.” While Boston was open to the possibility that idiocy and imbecility were heritable conditions, he was not “sufficiently fortified with statistics to know whether this [was] inevitable, or whether environment and example are not here also factors of large influence.” Therefore, enacting laws based on limited knowledge that would be foolish. In

raising doubt about the evidence used to support eugenics, its opponents offered other explanations for society's problems.<sup>44</sup>

Researchers who rejected eugenics created family studies of their own to challenge the theory. For example, The Nolly Family study challenged eugenicist claims that feeble-mindedness was hereditary. In it, Irene Case and Kate Lewis argued that unemployment led to poverty and poverty led to alcoholism thus causing issues typically associated with feeble-mindedness. As in other family studies, Case and Lewis selected a large group of related families to study the causes of poverty. While they would not go so far as to say that environment was the only cause of poverty, it was "the chief cause in this particular group of families at least." Most members of the Nolly family were farmers hailing from Western Ireland. They tended to relocate to a section of Chicago "known for its poverty, shiftlessness, drunkenness, and general dependence upon the county." Their new home had a devastating effect on the family. "In Ireland, these people belong to the small-farmer class, and here they are plunged into the narrow, crowded districts of lower city life, making their living, not tilling the soil, but as untrained laborers, the first to be thrown out of work." The Nolly family did not apply for aid because they were inherently lazy or unwilling to work. Rather, the skills that they possessed did not fit well in their new urban home. Therefore, the only jobs available to them were low skill positions with high turnover. Surrounded by poverty and faced with limited employment prospects, many of the Nollies turned to alcohol. Widespread alcohol addiction then led to other problems, "loose morals," syphilis, feeble-mindedness, and a "few instances" of

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<sup>44</sup> Gilbert Keith Chesterton, *Eugenics and Other Evils* (New York: Cassell, 1922), 85; Charles A. Boston, "A Protest Against Laws Authorizing the Sterilization of Criminals and Imbeciles," *Journal of the American Institute of Criminal Law and Criminology*, 4 no. 3 September 1913): 328, 355, 334-5.

crime. Case and Lewis rejected Henry Goddard's conclusion that feeble-mindedness "was a Nemesis from which there was no escape." Instead of being inescapable, feeble-mindedness, poverty, and the other social ills that afflicted families like the Nollies were preventable. "More equal opportunities of education," argued the authors, "would doubtless tend to make them better members of the community and at least self-supporting." Instead of the Nollies threatening the state, the state failed them. Greater access to educational opportunities would break the cycle of unemployment, poverty and alcoholism; thus, allowing the Nollies to become productive, contributing members of society.<sup>45</sup>

Similar to the conclusion that Lewis and Case reached in their study of the Nolly family, Chesterton and Boston argued that poverty and not heredity was the problem that afflicted those deemed undesirable. Chesterton even suggested that if the poor earned higher wages, they would be able to "achieve their eugenical resurrection themselves." After only considering family studies that ignored environmental factors, Boston argued that state houses and assemblies enacted sterilization, "legislation which visit[ed] upon the individual the penalty for bad economic conditions." Both Chesterton and Boston insisted that eugenics and sterilization were essentially plots to punish and get rid the poor. Chesterton pointed out that there was a "plutocratic impulse behind all eugenics," because the programs associated with it only applied "to the lower class and poor – never the wealthy." Boston called sterilization, "one of those raw pseudo-reforms which [was] wrought on the demand of a dangerous, though sincere element in the community, which on account of its obvious sincerity [was] too influential in securing the enactment of its emotional conclusions into law to be enforced against its less influential fellows

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<sup>45</sup> Irene Case and Kate Lewis, "Environment as a factor in Feeble-mindedness: The Nolly Family,"

*American Journal of Sociology* 23, no. 5 (March 1918): 662, 663, 667, 668.



in their common State.” By attributing the poor’s problems to the poor, eugenicists and sterilization advocates could propose eliminating future poor people as the way to end poverty and the issues associated with it. For opponents like Chesterton and Boston, eugenics and sterilization was simply a scheme to punish a class of people without having to address the actual causes of their impoverished conditions.<sup>46</sup>

Boston was leery in giving the authority of a person’s ability to reproduce to a physician or board that may be ill equipped to make the decision or have unsavory motivations. “These sterilization laws deal with individual cases; and they authorize probably ignorant boards of managers, probably ignorant, if not to say malicious, wardens and superintendents, and possibly, if not probably, ignorant institutional physicians to select individual victims for the sacrifice.” Even if there were sound scientific backing to support eugenic sterilization, Boston did not trust that those put in charge of making the decision were capable of doing so. Sterilization laws also provided for potential opportunities for abuse. There was simply not enough evidence and too great a risk involved with compulsory sterilization laws according to Boston.<sup>47</sup>

The laws were also unnecessary. Individuals targeted for sterilization were typically housed in institutions or prisons. Not only were they separate from the public, most inmates and patients resided in sexually segregated facilities. This segregation, according to Boston, was sufficient to prevent unwanted pregnancies. “I am well aware that if not confined in institutions they might not be restrained in the exercise of their power of procreation; but is not their presence in the institutions a practical restraint, and is not the hopelessness of their condition an

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<sup>46</sup> Chesterton, *Eugenics and Other Evils*, 133; Boston, “A Protest Against Laws Authorizing the Sterilization of Criminals and Imbeciles,” 340; Chesterton, 142; Boston , 340.

<sup>47</sup> *Ibid.*, 330.

earnest of their continual restraint?” If a person’s condition prevented him from leaving confines of an institution, separating the patient from patients of the opposite sex was the only precaution needed to keep him or her from reproducing. Sterilization was not only unnecessary but it was most likely unconstitutional. Therefore, if a constitutionally sound option was already in place, why change it? <sup>48</sup>

Boston’s legal and constitutional objections focused on the sterilization of criminals; however, the arguments he used were similar to ones others used against the sterilization of the feeble-minded and mentally defective. As applied to criminals, Boston argued that sterilization constituted cruel and unusual punishment and double jeopardy, both clear violations of the seventh amendment. Sterilization laws also deprived a person of his or her right to due process and equal protection under the law. Boston also insisted that the procedure, “[was] dangerously allied to involuntary servitude, in that it makes one creature absolutely subservient to the will of another, when the other chooses to exercise the will.” In addition to arguing that the laws violated constitutional guarantees, Boston also made the case that compulsory sterilization laws “ignore,” the “*spirit* of individual protection which the Federal Constitution and most of the State Constitutions breath.” They rationalize giving an official the authority to remove a person’s ability to reproduce as being for “the good of posterity and of the community.” Sterilization laws aimed at convicted criminals disregarded the fact that the convict was already serving time for the offense for which he would undergo the operation and, without “any certainty foretell[ing] the character of the unborn children.” The laws also denied the person subject to sterilization a defense to challenging the ruling. The Bill of Rights guaranteed the protection of individual liberty and compulsory sterilization laws violated this guarantee. However,

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<sup>48</sup> Ibid., 337.

sterilization advocates argued that the state has a right to sterilize in order to protect itself, thus justifying the violation. Boston contended that the notion of individual rights and social order were not mutually exclusive.<sup>49</sup>

The community's security and future prosperity, according to Boston, depended on the state upholding the rights of individuals. The benefit to society in sterilizing people for eugenic purposes was "debatable" at best. Instead of protecting the future, compulsory sterilization threatened society by undermining individual liberty. He argued that the Founders purpose in securing individual rights was "for the good of the community." Boston further explained, "Their idea was that experience has taught that the actual good of the community demanded that each individual of which it is composed should have a degree of protection, though he should be only one man in a given case, from the cruelty or injustice of the remaining members of the community." The purpose for protecting each person's individual rights was not to benefit the person but to protect the state. Honoring individual rights, Boston concluded, "made for the peace and welfare of the entire community." Protecting individual rights provided the cornerstone for civil society. Compulsory sterilization laws that target a specific group of people and deny them their liberty threaten the order provided for by the Founders. This argument counters sterilization advocates, like Popenoe and Johnson, who claimed, "Eugenics does not want to diminish this regard for the individual, but it does insistently declare that the interests of the many are greater than those of the few" According to Boston, their claim was bogus because society's future well-being depended on the acknowledgment and protection individual liberties.

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<sup>49</sup> Ibid., 344, 334-5.

Therefore, according to Boston, sterilizing patients and criminals was a greater threat to the future social order than their possible defective offspring.<sup>50</sup>

Compulsory sterilization laws also threatened the social order because their reach was theoretically limitless, and they set a dangerous precedent. State legislatures would begin by sterilizing criminals and those deemed feeble-minded, but what about other groups? By eugenicists associating immorality with feeble-mindedness and criminal behavior, Boston contended that it would be easy for legislators to enact laws allowing for the sterilization of individuals judged morally unfit. Such laws would be completely subjective and therefore dangerous. “There is scarcely any class which they might not plausibly invade with a supposedly philanthropic sterilizing scheme,” Boston warned. Implementing sterilization laws to prevent one group of people from reproducing would most certainly lead to laws providing for the sterilization of other groups. All that would be required to enact new sterilization laws would be to convince a state legislature of the need. Sterilization laws would also set a legal precedent that would further threaten the social order. Boston cautioned that unfounded promises of sterilization as a cure all administered by “benevolent monopolies,” would lead to “an avalanche of legislation which [would] destroy the ancient landmarks of peace and safety to the honest, hard working or merely unfortunate citizen, and domestic tranquility and the reign of justice are alike destroyed.” Compulsory sterilization would usher in more laws that would further erode individual liberties and thus doing irreparable harm to society.<sup>51</sup>

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<sup>50</sup> Ibid., 331, 345; Popenoe and Johnson, *Applied Eugenics*, 161.

<sup>51</sup> Boston, “A Protest Against Laws Authorizing the Sterilization of Criminals and Imbeciles,” 349, 351-2, 357.

In 1926, one year before he cast the lone dissenting vote in controversial U.S. Supreme Court case *Buck v Bell*, Associate Justice Pierce Butler echoed Boston's warning. "Many appear to believe that legislation can take away all the trials and burdens of life, including those that are purely personal; that laws can be devised to furnish employment, prescribe the amount of work and provide for all the needs of life," proclaimed Butler in a speech delivered at the Eucharistic Congress. However, Butler went on to argue that "experience" had revealed the opposite – that the government was incapable of solving life's problems. Although Butler did not specifically mention sterilization, his argument hit at the very basis of the justification for the procedure. Sterilizing the unfit would cure society's problems because it would prevent future problems from being born. According to Butler, legislation did not have the power to do this. Not only was legislation ineffective in correcting society's problems like unemployment and poverty, but the state was overstepping its bounds in an attempt to end them. "To the thoughtful observer it seems that care should be taken lest activities of government be expanded beyond their proper sphere it is possible by too many enactments and regulations to impair the dignity of law and respect for authority." Although the "governed" serve as a check on the government, the promises of utopia that more laws and restrictions offered could deceive the public thus leading them to demand greater government intervention. Once the promised solutions failed, an irreparable rift would emerge between the governed and the government that would ultimately lessen the governments' ability to administer to the state.<sup>52</sup>

While Butler was not speaking on sterilization, his comments provide insight into his philosophical beliefs concerning the proper role of government that most likely influenced his decision to vote against Virginia's compulsory sterilization law. Butler did not believe that the

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<sup>52</sup> "Thousands of Women Attend Catholic Meet," *State Times*, June 22, 1926.

state had the power or authority to fix all of life's problems. The state was not responsible for alleviating want and to give the state the power to do so was dangerous. The danger resulted from the fact that no matter how many laws enacted or state agencies created, the problems would remain. The public, who demanded the solutions, would then lose confidence in the state's ability to govern. The purpose of Virginia's law was to rid the state of future feeble-minded citizens. The government did not have the power or authority to do this. Virginia could not eliminate feeble-mindedness just as it could not provide everyone with a job.

Butler's Roman Catholic faith may have also influenced his decision. Like other opponents, the Roman Catholic Church's official position against eugenics and sterilization also rejected giving the state power over the individual. According to the Encyclical of Pope Pius XI on Christian Marriage, issued on December 31, 1930, men and women have a natural right, ordained by God, to marry. Since the purpose of marriage is to produce children, men and women, thus, have a natural right to have children. Therefore, state officials do not have the authority to "tamper" with natural rights because they were given to individuals by God and not the state. The pope was clearly refuting Popenoe and Johnson's claim that marriage could be "regarded as an inalienable right of the individual, in so far as it [did] not conflict with the interest of the race." The only time that the state had the right to administer a physical punishment on a person, according to the pope, is if the person was guilty of committing a crime. The possibility that the person may produce "defective children," was not a valid reason to prevent marriage or to sterilize. Pope Pius made this point perfectly clear when he proclaimed, "Public magistrates have no direct power of over the bodies of their subjects," because God made man for "Heaven and eternity," not for "earth and time." Although rooted in Biblical and

doctrinal teachings, the Church's position did not differ greatly from those who argue that the eugenic sterilization violated the individual liberties of its victims.<sup>53</sup>

The fact that the Church's objection was similar to legal and constitutional ones proved even more interesting when sterilization opponents rejected the religious argument. For example, Charles Boston, wrote, "I am not in sympathy with those who would discourage such legislation upon religious grounds. I should regard it as fully justified if the facts seemed to me to justify the premise that the parental qualities were so certainly or even probably transmissible as to be a menace to the welfare of the community, and that in the light of such premise the operation could be considered to be practically useful to the community." After making an eloquent argument questioning eugenics and dismantling sterilization's benefit to the community, Boston contradicted himself in order to separate himself from those who objected to eugenic sterilization because of religious beliefs. However, Boston's and the Church's objections both rested in the notion of natural rights. While the church argued that man has a "natural right to enter matrimony," Boston contended that the individual had the right to "be free from unnecessary, unjust, or unregulated interference from others." Boston may not have believed that God ordained man to marry and have children; however, he believed in the notion of individual rights and the state's responsibility to respect them. Why, then, did Boston have such an adverse reaction to religious objections even though they were similar? While Boston did not say, the fact that he was making a legal argument most certainly played a role. He was an attorney and wanted to undercut the legal argument for sterilization. Moreover, Boston most likely did not want his opposition discredited on the ground that it appealed to improvable

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<sup>53</sup> Pope Pius XI, "Encyclical on Christian Marriage," December 31, 1930; Popenoe and Johnson, *Applied Eugenics*, 169-70; Pope Pius XI, "Encyclical on Christian Marriage"

religious assertions. Regardless of whether objections came from religious assumptions or because they were “an invasion of the Bill of Rights,” as Harry Laughlin characterized Boston’s opposition, opponents agreed that the procedure was a violation of individual rights.<sup>54</sup>

Opponents attacked the basis of compulsory sterilization, the science behind it and offered an impassioned defense for the procedure’s potential victims. They challenged the assumption that feeble-mindedness and defectiveness were inherited conditions and the source of society’s problems. Instead of being the root of social ills, those targeted for sterilization were the potential victims of an experimental scheme. Opponents dismantled the findings of the family studies used by eugenicists by creating their own studies that pointed to environmental factors as the causes of poverty, crime, substance abuse, and unemployment. In addition to denying the theory behind eugenics, opponents also argued that the procedure violated the individual liberty of the patient. The government did not have the power or the authority to remove a citizen’s ability to reproduce without his or her consent. By elevating individual liberties above the interest to the state, opponents of sterilization rejected the proponents’ notion that the state was more important than its citizens were.

This examination of the debate on sterilization outside of Louisiana’s borders reveals that it was a deep philosophical discussion concerning the state, its power and individual rights. While the two sides engaged each other on the merits of eugenics, support or opposition to sterilization was not due to a theory. Rather, supporters of sterilization supported the measure because, for them, the health and continuation of the state warranted the procedure. The feeble-minded and defective posed the greatest threat to the state’s future prosperity. They were

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<sup>54</sup> Boston, “A Protest Against Laws Authorizing the Sterilization of Criminals and Imbeciles,” 340; 345; Laughlin, *Eugenical Sterilization in the United States*, 336.



the source of crime, poverty and immorality. Therefore, to eliminate these problems from the state's future, the state must prevent them from entering it. Conversely, opponents argued that certain men did not possess within them society's ills. Yet, discrediting eugenics was only part of their argument. Most of their resistance to forcible sterilization came from their view that not only was it an overreach of state power, but that it clearly violated the inalienable rights of the individuals targeted.

The debate in Louisiana was not much different than the one held nationally. Like their national counterparts, proponents like Jean Gordon and anti-sterilization advocates like Archbishop John W. Shaw argued over eugenics, the power of the state, and the rights of the individual. These national figures, not only influenced the debate in Louisiana, but they actively participated in it. Judge Harry Olson, Albert Wiggam and Roswell H. Johnson, were three of the prominent eugenics and sterilization experts who spoke in Louisiana during its debate over compulsory sterilization. Although Louisianans were at the forefront of the statewide debate, they were part of the larger national debate over the subject. Therefore, by studying Louisiana specifically, it is possible to gain a greater appreciation and understanding of the debate over compulsory eugenic sterilization nationwide.

## CHAPTER 3

### Louisianans

Among the major participants in Louisiana's compulsory eugenic sterilization debate were religious leaders, medical doctors, lawyers and most importantly Jean Gordon. Yet, no consensus among the members of these participants emerged. In their debate they argued over of the merits of eugenics and the effectiveness of sterilization, as well as disagreed on whether or not sterilization was a just policy. Historians such as Edward Larson argue that Louisiana's influential Roman Catholic Church defeated the multiple attempts to enact a sterilization law in the state. Although the Church, headed by Archbishop John W. Shaw, vigorously attacked the bills, it was not alone in its fight. Well-respected state medical officials, like Clarence Pierson and Louisiana's top judge, Chief Justice of the State Supreme Court Charles O'Niell, joined with the Church to stop the bills.

What the debate among these professionals and activists reveals is that the debate over sterilization in Louisiana was not a cohesive attack on the weak or poor by the privileged elite. As some scholars have argued, the policy would have disproportionately affected the poor, and the language that proponents used to promote sterilization tended to disparage the lower classes. Proponents came from Louisiana's professional and social elite, as did the opponents. Yet, opponents challenged proponents' aims and offered a defense for their potential victims.

To understand the overall debate, then one must explore the ways that the members of Louisiana's religious, medical and legal communities debated sterilization. However, no discussion of Louisiana's eugenic sterilization movement would be complete without examining its most fervent advocate, Jean Gordon. From 1924 until her death seven years later in 1931, Gordon made it her life's work to get the state to enact a compulsory sterilization policy.

Therefore, an examination of Jean Gordon's life, work, and beliefs will begin this look into the debate's participants. After exploring Gordon, the division among Christian leaders, including Shaw's position, will follow. Finally, there will be an examination of the discussion among the state's medical and legal communities.

Jean Gordon was the driving force behind Louisiana's compulsory sterilization movement. Gordon, like her sister Kate, dedicated her life to a variety of progressive reform campaigns. Born in New Orleans in 1867, Jean was one of five children. Her father emigrated from Scotland, and both of her parents were "socially prominent" teachers. Although Jean could have easily embraced a comfortable life, she instead went to work. The sisters' first foray into political activism was their participation in Louisiana's late nineteenth-century anti-lottery campaign. Members of the Unitarian Church, both women also took part in numerous public health campaigns and fought for women's suffrage, yet Kate famously took the lead in the campaign to secure the vote for white women in Louisiana. Jean instead, focused her attention on other pressing issues at the time, such as child labor. In 1921, *The Times Picayune* recognized her efforts when it awarded Jean Gordon its Loving Cup for her work with the American Society for the Prevention of Cruelty to Animals, with the Milne Home for Girls, and her fight against tuberculosis. By the 1920's the Milne Home and her fight for sterilization would become Jean's primary causes. After Jean's death, Kate took her sisters place in lobbying the legislature to pass a sterilization bill. Both Jean and Kate leave behind complicated legacies, as do many early twentieth-century southern reformers. The two forces stronger than the sisters' desire to improve society and expand the electorate were their racism and paternalism. As evident by their acceptance of sterilization as the cure for social ills, the Gordon sisters believed

that the only way to improve society was to prevent those they considered unfit from entering it.<sup>55</sup>

It was through her work with the Charity Organization Society that Jean Gordon became aware of the plight of child laborers. According to historian Rebecca S. Carrasco, Gordon met many unemployed adults, who because of the physically demanding labor that they experienced as a child working in a factory, were unable to work as adults and thus in need of financial assistance. These adults, had they not worked as children would have been physically able to provide for themselves. Therefore, Gordon began lobbying the state legislature to implement restrictions on child labor. She first approached the legislature in 1896 with findings from a study on child labor that she conducted; however, it took ten years for the Child Labor Act of 1906 to pass. One of the provisions of the bill allowed for women to serve as factory inspectors to make sure that industrialists were abiding by the new law. Therefore, in 1906, Governor Newton Blanchard appointed Gordon as the factory inspector for New Orleans.<sup>56</sup>

As an inspector, Gordon argued that underfunded and inadequate public education systems forced children into the factories. She insisted that “less intelligent” students and children with physical handicaps often “fell behind” their peers. Since teachers could not give these students “any personal attention or encouragement they became discouraged and wished to leave school.” The overworked and underpaid teachers “encourage[d] the little ones to leave,” because they were unable to help them. The teachers were not at fault for students leaving,

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<sup>55</sup> Carmen Lindig, *The Path from the Parlor: Louisiana Women, 1879-1920* (Lafayette: the Center for Louisiana Studies University of Southwestern Louisiana, 1986), 110, 112; “Women Win Acclaim,” *Times Picayune*, January 25, 1931.

<sup>56</sup> Lindig, *The Path from the Parlor*, 118; Rebecca S. Carrasco, “The Gift House, 310; Lindig, *The Path from the Parlor*, 118.

rather it was the inadequate funds for public education and “the lack of a true appreciation of the great value of education as demonstrated by our southern lawmakers.” In order to keep these students in school and provide them with practical skills, Gordon proposed compulsory industrial education. “The South must have compulsory industrial education and have it now, -- not ten years hence when the boy and girl of today have gotten away from us. If need be, stop every other improvement, such as paving and building magnificent court and jail houses.” State government should instead spend money on recruiting and paying highly qualified and well-trained teachers. “It is the teacher, who will make this America of ours what it should be,” Gordon insisted, “not the businessman or the politician.” By failing to provide industrial education child workers would grow up to become burdens on society, Gordon warned, because they would either become dependent on charity or become criminals. “As long as we sit passively, content with present conditions, our civilization will remain a travesty, our much vaunted prosperity a rebuke, and our Christianity a mockery.” A year later, Gordon reiterated her concern that without compulsory education laws, society was doomed. The lack of compulsory education laws, “endanger[ed] our civilization through the illiteracy which is bound to result from such negligence.”<sup>57</sup>

In addition to advocating for compulsory education laws, Gordon also promoted the placing out system or adoption over institutionalization for orphaned and abandoned children. Gordon “hope[d]” that “Society” would adopt the new model because “an injustice is done [to]

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<sup>57</sup> Jean M. Gordon, “Why Children are in the Factory,” *The Annals of the American Academy of Political and Social Science* 32, Supplement 22 (July 1908): 67, 68, 68, 71; Jean M. Gordon, “The Forward Step in Louisiana,” *The Annals of the American Academy of Political and Social Science* 33, Supplement: The Child Workers of the Nation (March 1909): 162.

the dependent child when he or she is herded with hundreds of other little personalities, all expected to conform to certain rules and regulations, with no recognition of the different effects of heredity and early environment of each child.” She believed that placing children in proper homes with a family structure would offer them the best opportunity to become productive members of society and prevent future poverty and crime. Conversely, “Our asylum system in Louisiana is the cause of much of our pauperism,” Gordon argued. She claimed, that it “failed to prepare the child for the battle against great odds.” Therefore, these formally institutionalized children would be more likely to participate in criminal activity “and we who know this,” Gordon cautioned, “become particeps [sic] criminals if we do not try to bring about change.” As a factory inspector, Gordon saw the value in providing education and a stable home environment for children. Not only did these two reforms improve the person, but also they benefited society as a whole because the children placed in a home and given an education would not go on to live in poverty and engage in crime as adults.<sup>58</sup>

An exception that Gordon had to the placing out system was for the feebleminded. According to Rebecca Carrasco, Gordon’s work as a factory inspector inspired her beliefs concerning the feebleminded. She met girls who lacked the necessary skills to maintain employment. In order to support themselves, Gordon believed these girls would eventually engage in prostitution. Because these young women were feebleminded, they were incapable of earning a living by any other means aside from prostitution. Convinced that the feebleminded were incapable of caring for themselves, Gordon believed that someone else must take responsibility for them. Gordon’s opportunity to care for the feebleminded and remove them

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<sup>58</sup> 1908 Annual Report, January 4, 1909, Alexander Milne Home for Destitute and Orphan girls (hereafter referred as AMHDOG), Box 1, Folder 1 Historic New Orleans Collection, New Orleans, Louisiana.

from society came through the Milne Home for Girls. In 1904, Governor Newton C. Blanchard appointed Gordon as president of the institution's board of directors. The Home did not actually open its doors until 1919 and in the intervening years, Gordon's attitude changed. National experts researching and writing on the problems associated with the feeble-minded and mental defectives also influenced Gordon's ideas on the problems associated with the feeble-minded or mental defectives. Moreover, they inspired Gordon's vision for what she wanted the Milne Home to become. In 1912, Gordon joined the newly formed Southern Sociological Congress (SSC). The SSC, according to Dewey W. Grantham, was founded to "study and discuss" social problems afflicting the south and to devise solutions to fix them. It was at the organization's first meeting in 1912 where Gordon became aware of the hopeless nature of the feeble-minded. In lectures delivered there, Hastings H. Hart and Alexander Johnson, they described the feeble-minded as both incurable and a threat.<sup>59</sup>

In his lecture entitled, "The Relative Value of the Institutional and Placing-Out Systems," Hastings H. Hart, of the Russell Sage Foundation and a prison reform expert, touted the benefits of "placing-out" most orphaned children into foster homes instead of institutionalizing them. Hart's only exception to the placing out practice was in regards to feeble-minded and defective children. "There are some classes of children for whom [the White House Conference] recognized the necessity of permanent institutional care," Hart proclaimed. He then went on to

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<sup>59</sup> Carrasco, "The Gift House," 311; 310-1; Edward Larson, "In the Finest, Most Womanly Way: Women in the Southern Eugenics Movement," *The American Journal of Legal History* 39, no. 2 (April 1995): 128; Dewey Grantham, *Southern Progressivism: The Reconciliation of Progress and Tradition*, (Knoxville: The University of Tennessee Press, 1983), 374.

target girls. “It is recognized that for the feeble-minded child institutional care is a necessity, and it is rapidly coming to be recognized that every feeble-minded girl should be taken before the age of puberty.” The reason why Hart favored institutionalizing girls labeled feebleminded “during the whole of the child bearing period,” was because he argued that it was “the most practical and effective method of preventing the multiplication of feeble-minded children, who may become delinquents, paupers, prostitutes or a burden upon the community in some way.” He estimated that twenty-five percent of juvenile offenders were defective or feebleminded. The children were hopeless cases. Experience, Hart contended, proved that they were unable to be reformed. “We have employed expert teachers, who have labored over them, prayed with them, punished them, and disciplined them, have tried every measure by education and development to reform these children. Now we recognize that a large number of those children are absolutely inaccessible to the reformatory methods which we customarily employ with the normal child.” The only way to care for feebleminded children was to institutionalize them. Feebleminded girls, Hart concluded, “[are] to be cared for and guarded and sheltered as defectives.”<sup>60</sup>

Alexander Johnson’s lecture, “The Care of the Degenerate,” discussed the type of care that the feebleminded required and the problems that they created when allowed to remain in society. Johnson, a nationally known expert on the feebleminded, argued that the feebleminded required institutionalization and “can be taught.” The feebleminded were capable of work and supporting themselves within the confines of an institution. An “imbecile laborer” can do “*one-third* of a full man’s work,” Johnson argued. By being able to do this amount of work, the

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<sup>60</sup> Hastings Hart, “The Relative Value of Institutional and Placing Out Systems,” in *The Call of the New South: Addresses Delivered at the Southern Sociological Congress Nashville, Tennessee May 7 to 10, 1912*, ed. James E. McCulloch (Nashville: Southern Sociological Congress, 1912) 52-3, 55.



feeble-minded person could be “self-supporting” because he was able to pay for his care and “supervision.” Allowing the feeble-minded to live outside the confines of an institution was problematic because “every other social trouble is complicated by feeble-mindedness.” Johnson insisted that the feeble-minded made up a significant portion of the poor, criminals, and prostitutes. Moreover, the population of feeble-minded continued to grow. “They are a large class and are becoming larger. Their decaying stock is constantly recruited by strong, if vicious, blood from outside.” To combat the increasing population of feeble-minded, Johnson offered this solution: “Let every state have schools for the children and colonies for the adults, not for a few, but for all. Train them, teach them, employ them, control them.” Placing feeble-minded adults in segregated institutions would help to reduce the “expense of crime, pauperism, petty vices, until after thirty years the numbers reduced by 75 per cent, the total expense becomes negligible.” Johnson’s plan, he argued, would benefit both the patient and the society. “The mother State must take them into her good mother arms and care for and control them as the best thing for her and by far the best thing for them.” He also offered this warning, “And if we, by what we do, or by what we fail to do, either as individuals or as a community, cause these ignorant, weak, grown-up children to fall into vice and degradation, to offend – how shall we escape this condemnation?”

The influence of these two national experts on Gordon was evident in 1916 when she addressed the problem of the feeble-minded in two opinion pieces that she wrote for the *Times-Picayune*. Four years after its inception, Gordon praised the Southern Sociological Congress for enlightening her to the threat that feeble-minded women posed. “It was at the formation of the Southern Sociological Conference that my attention was first called to the question of the feeble-minded woman as the gravest problem facing social workers today,” she wrote. At first, Hart’s

call to segregate feeble-minded women in institutions during their childbearing years offended Gordon, but he offered her a convincing explanation. According to Gordon, Hart explained, “men will have sexual relations with a feeble-minded woman, whereas it is only the very lowest woman who would consort with a feeble-minded man.” Not only did these women easily find willing sexual partners but also “feeble-mindedness [begot] feeble-mindedness,” it was incurable. Finally, feeble-minded women tended to have more children than “normal” women. The following week, Gordon published a second article commending Alexander Johnson’s work and explaining how she intended to model the Milne Home for Girls after it. Under Johnson’s direction, the home for Feeble-minded at Fort Wayne, Indiana, “became not only self-supporting itself, but contributed to all other state institutions sufficiently nearby to receive the milk, eggs, poultry and [vegetables] raised by the inmates.” Similar to Johnson’s work in Indiana, Gordon intended to make Milne Asylum a place “where the feeble-minded of all ages can be protected and made useful citizens.” In a speech delivered to the Gordon sisters’ ERA Club in 1916, Johnson reiterated his call for segregation. “If there were co-operation on every side,” Johnson declared, “and the problem was assailed as its seriousness demands, it would take probably thirty years to reduce the percentage of feeble-minded two-thirds, and that in forty years there would be an inconsiderable number of idiots. He pleaded for segregation as the cure of the evil.” Gordon heeded Johnson’s call. Not only would the Milne Home segregate feeble-minded women from the rest of the public but she would also use it as her base to promote coercive eugenic sterilization. After years of advancing initiatives such as child labor laws and compulsory education, Gordon discovered eugenics. She believed that environmental reforms were not going to cure those deemed feeble-minded. Instead, she insisted they were incurable. Therefore,

they were to be cared for and made sterile so that they would not pass their conditions to the next generation.<sup>61</sup>

Gordon's position provided her with the opportunity to teach others about the threat of those she deemed feeble-minded. In a 1923 report to the board of the Milne Home for Girls, Gordon warned of the dangers that they posed, "Friends, it is the biggest question today and unless grappled with seriously, means the destruction of our civilization." She further cautioned, "for no nation rises higher than the intelligence of its people and the late war shows 55% of our army did not have an intelligence higher than that of a boy seven years of age." Saving civilization drove Gordon's fight for sterilization. In pledging support for the 1924 bill, Gordon exclaimed, "If something of this sort is not done soon our Nordic civilization is gone." She fully subscribed to the belief that feeble-mindedness and mental defectiveness were hereditary and the only way to prevent those conditions from infecting the future was to sterilize. Moreover, Gordon did not believe that sterilization violated inalienable rights. Rather, she "believed," that "parenthood is a great privilege and a grave responsibility and that none but the mentally and physically fit should be allowed to assume the responsibility." She also argued for the inalienable rights of "the child" and "society." "The child" had the "inalienable right" insisted Gordon, "to be started in life with a healthy body and sound mind." Finally, Gordon argued that Louisiana lacked the finances to care for its' feeble-minded. "Unless the propagation of the feeble-minded is stopped now, no civilization can stand the cost of maintain the army of incompetents which is growing by geometrical proportions." It was impossible to

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<sup>61</sup> Jean Gordon, "Miss Gordon Writes of Social Problem," *Times Picayune*, October 29, 1916; Ibid; Jean Gordon, "Second Article on Feeble-Minded," *Times Picayune*, November 5, 1916; "Expert Discusses Social Problems," *Times Picayune*, November 12, 1916; Report, July 1925 AMHDOG, Box 1, Folder 9.

institutionalize the eight thousand feeble-minded persons that Gordon estimated were in Louisiana. Therefore, the only option was to sterilize.<sup>62</sup>

Gordon not only touted the benefits of sterilization, she ordered the sterilizations of some of the women housed at the Milne Home. According to Kate, Jean sterilized over one hundred women. Often times, Jean ordered the sterilization of women who were undergoing an operation for an unrelated condition. For instance, a young woman, under Gordon's care, required surgery to repair an appendectomy incision that had healed improperly. Gordon saw this as "an excellent opportunity to have her sterilized." After the surgery, Gordon reported that she had "end[ed] any feeble-minded progeny coming from" her ward. Therefore, the Milne Home served not only as a place to provide skills, vocational training and protection, but it was a place where Gordon ordered sterilizations. The legislature's unwillingness to act did not hinder Gordon.<sup>63</sup>

Jean Gordon dedicated her life's work to social reform and forcibly sterilizing those considered unfit was to be its crowning glory. Sterilization was the ultimate reform in her mind because it would eliminate the need for all others movements by eradicating poverty and improving the state by producing only high quality citizens. Gordon was not alone in her fight. However, many did heavily resist her.

Archbishop John W. Shaw, Head of the Roman Catholic Church in Louisiana, was a major opponent of compulsory sterilization and met Jean's Gordon's push to enact the procedure

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<sup>62</sup> 1922 Annual Report, January 2, 1923, AMHDOG, Box 8, folder 1; "Sterilization Bill O.K'D by House Group," *New Orleans Item*, July 2, 1924; "Proposed Asexualization Bill Opposed and Defended," *Times Picayune*, June 25, 1924; "Jean M. Gordon, "Miss Jean Gordon on Sterilization," *New Orleans Item*, June 19, 1928; Jean M. Gordon, "Doles or Sterilization," *Times Picayune*, November 23, 1929.

<sup>63</sup> Kemp, "Jean and Kate Gordon," 308; Report, July 1925, AMHDOG, Box 1, Folder 9.

head on. Like Gordon, Shaw was born in a southern city to immigrants. Born in Mobile, Alabama to Irish immigrants, Shaw became New Orleans' Archbishop in 1918. In addition to publically attacking sterilization, Shaw was active in other political issues of his day. He endorsed anti-Klu Klux Klan candidates and participated in Liberty Loan Drives during the First World War. In the eulogy delivered at his funeral, the Bishop of Natchez, "Told of [Archbishop Shaw's] saintly personal life, his faithfulness as a priest, his zeal for humanity, his work for the sick, the needy and the poor." Shaw's commitment to the sick and poor was evident in his condemnation of sterilization.<sup>64</sup>

Unlike clergy within the Catholic faith, none of the state's Protestant denominations fully opposed compulsory sterilization as it split pastors of Protestant faiths. In some cases, Protestants joined with their Catholic brethren in opposing the bills. This alliance frustrated Gordon who proclaimed, "I found Catholics and Baptists had at least found one measure upon which they could agree." One newspaper confirmed Gordon's observation when it reported, "Other ministers of other denominations have followed his example and have registered their protest along religious grounds. One minister who joined Archbishop Shaw in denouncing sterilization was Reverend Nicholas Rightor, rector of Mount Olivet Episcopal Church. Rightor pledged his support for Shaw's position against the 1924 bill by claiming that it was "high-handed and unjust legislation."<sup>65</sup>

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<sup>64</sup> "Archbishop Shaw Dies Here After Illness of Ten Days," *Times Picayune*, November 3, 1934; "Body of Archbishop Shaw Lowered into Cathedral Crypt with Predecessors," *Times Picayune*, November 7, 1934.

<sup>65</sup> Report, June 1930, AMHDOG, Box 1, Folder 12; "Opposition Hits the Gordon Bill," *New Orleans States*, June 27, 1924; "Proposed Asexualization Bill Opposed and Defended," *Times Picayune*, June 25, 1924.

However, most of the Protestant ministers who publically commented on compulsory sterilization spoke out in favor of it. The Reverend Paul M. Schroeder, Pastor of Salem Evangelical Church and John L. Williams, a former Methodist Minister and state Superintendent of the Louisiana Child Finding and Home Society, championed sterilization as a humane option in preventing feeble-mindedness and crime. Schroeder argued that the procedure would benefit the patient by alleviating suffering. However, he did not specify how forcibly sterilizing a person would do this. Not only did sterilization not “conflict” with “Christian principles,” according to Schroeder, but the fact that thirty-six states had adopted it and many researchers had “carefully studied” it gave the procedure “merit.” John Williams touted the eugenic benefits to society that sterilization would produce by eliminating crime and poverty. Moreover, by sterilizing and releasing patients, state hospitals could admit and treat more patients.<sup>66</sup>

Like John Williams, the Reverend W.W. Hamilton, Pastor of the St. Charles Avenue Baptist Church, defended compulsory eugenic sterilization as a crime prevention tool. He also argued that it was not a violation of personal liberty or the Christian faith. Hamilton, who would later go on to serve as the President of the Southern Baptist Convention, argued that if the legislature had enacted a sterilization law several years earlier the criminals of the day would not have existed to commit their offense. In defending the legality of the bill, Hamilton attacked the argument that compulsory sterilization violated personal liberty. The feeble-minded, he contended did not have the right to reproduce just as the criminal did not have the right to commit crime. Government had the right to make laws to protect society and sterilization fit within this right. Furthermore, Christianity did not teach, as the Catholic Church claimed, that every man had the right to marry and to children. Citing the Bible, Hamilton went on to

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<sup>66</sup> Ibid.

speculate that God had a purpose, aside from parenthood, for individuals unable to have children naturally or who were sterilized. These individuals, thus, had an obligation to society not to reproduce.<sup>67</sup>

Unitarian minister, J.B. Tegarden, was another outspoken proponent of eugenics and sterilization. In June of 1926, Tegarden delivered a sermon on Eugenics before his congregation at First Unitarian Church in New Orleans. He entered the sermon in nationwide contest sponsored by the American Eugenics Society. Tegarden devoted most of his sermon advocating for negative eugenic measures like sterilization. “Race purity, economic efficiency, the Christ like spirit, nature and the democratic principle demand that we must have today negative eugenics, the elimination of the unfit,” Tegarden exclaimed. The “unfit” were like “weeds” in a garden that must be pluck[ed] out” to “enable life to grow better and stronger.” The most effective way to get rid of the unfit was to sterilize. Sterilizing the unfit was the “only sure way of scientifically controlling defective germ plasma.” Tegarden also considered it an act of mercy because it prevented “defective” children from being conceived. Furthermore, since the “mentally defective” were incapable of making the decision to sterilize themselves, Christian action was required to make it for them. “Can we as followers of the master stand idly by while inherited bad traits are being handed onto children and not do our Christian duty in removing these stumbling blocks from children yet to be born.” Not only was sterilization merciful, but it was the Christian’s duty to demand compulsory sterilization.<sup>68</sup>

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<sup>67</sup> Ibid; “Baptist Leader Taken By Death,” *Times Picayune* November 20, 1960.

<sup>68</sup> J.B. Hollis Tegarden, “Unitarian Sermon on Eugenics,” June 20, 1926, Box 20, American Eugenics Society Records, American Philosophical Society, Philadelphia, PA. (Sermon Copy in Possession)

Tegarden went on to argue that eugenics united God and nature while simultaneously protecting democracy for future generations and eventually bringing about God's kingdom on earth. Natural law, according to Tegarden, dictated that the weak be "crushed against the wall of nature and those who were not able to provide for themselves would starve." However, God demanded that man care for the defectives in order to save them from their fate. Eugenics was the best tool that man had to care for the unfit. By not allowing them to be born, eugenics, "[made] God consistent with himself by its injecting love into the law of survival of the fittest." Similar to the way that W.W. Hamilton argued that not all men and women were to be parents. Tegarden claimed that stripping those people of the ability to have children was God's work. He also insisted that implementing eugenic principles, like sterilization, would not only protect democracy, but also expand it. "Eugenics proposes to let not one be born unless he can be well born, and that is the extensions of democracy to nature." Only children who were capable of participating in a democratic society would be born. Therefore, democracy would eventually become part of nature. Finally, by implementing a negative eugenics program, Tegarden believed that "we shall create a race of man who will make the kingdoms of this world become the kingdom of God and His Christ."<sup>69</sup>

These outspoken proponents came from a variety of denominations ranging from the Baptists to the Unitarians. Therefore, support for the controversial issue did not depend on an adherence to a set of doctrinal debates. Comments made by the three proponents, Schroeder, Hamilton and Tegarden, indicated that they saw sterilization as a way to perfect society. As evident by Tegarden's sermon, the Unitarian minister subscribed to the pre-millennial idea of the perfectibility of society and man that will usher in Christ's return. However, Schroeder and

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<sup>69</sup> Ibid.



Hamilton do not seem to subscribe to that notion. Therefore, Christian support for sterilization was not necessarily rooted in a pre-millennial outlook as Historian Christen Rosen argued.<sup>70</sup>

Louisiana's medical and legal professionals also did not agree on the issue. Early on in the public debate, most of the state's medical doctors and state health officials publically endorsed the procedure. They typically touted its promise to rid the world of feeblemindedness. A split emerged within this group later on in the debate. Physicians who opposed the procedure typically questioned the science behind eugenics and its guarantees. The legal community grappled with the legality of compulsory sterilization and debated if it would stand up under constitutional scrutiny.

Oscar K. Dowling was one of these physicians who publically supported compulsory sterilization. Dowling served as the president of the Louisiana Board of Health from 1910 until 1929 and was a nationally known figure. He was passionate about public health and disease prevention. Throughout the early twentieth century, Dowling traveled throughout the nation promoting hygiene and sanitation with his "clean up campaign" that focused on promoting personal hygiene practices aimed at preventing the transmission of communicable diseases and parasites. Dowling's action during the Spanish flu outbreak of 1918 saved lives in Louisiana. In order to control the spread of the deadly virus, Dowling ordered the closings of churches and theaters and banned "mass meetings."<sup>71</sup>

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<sup>70</sup> Christine Rosen, *Preaching Eugenics*.

<sup>71</sup> Alcee Fortier, *Louisiana*, vol. 3 (Century Historical Association, 1914), 756; "Body of Former Health Head Sent to Parent's Home," January 4, 1931.

Dowling's desire to fight communicable diseases led him to endorse legislation that would require that couples obtain health certificates in order to apply for marriage licenses. The diseases that Dowling intended to wipe out included tuberculosis and venereal diseases. He also mentioned, "In the asylums we find insanity traceable to alcoholism and syphilis and many with a heritage, apparently of moral as well as physical degeneracy." However, Dowling "purposely omitted mention of the vast army of the feeble-minded, though they too form a part of the problem" because of his focus on tuberculosis and venereal diseases. In addition to protecting individuals and the public, the health certificates would also "aid in the development of a social conscience on the single standard of morals, and it would be educational." It would also save the state money by limiting the number of people with the diseases. Dowling attacked critics of the bill who argued that it violated the natural order and could damage the "stability of family life." He argued, "The reply is written in our statue books on many other subjects. We have developed far beyond the animal of the lower order or the savage." Natural instinct no longer drove men. Rather, laws restricted his behavior and actions. Dowling would then go on to add, "The whole is greater than its parts. No man lives or dies unto himself. Whether we will or no, we are bound for a goal which means the sacrifice of the individual for the good of the whole – when necessary." Man was not to live only for himself. He was to improve society. Alternatively, as Dowling put it, "It would seem that through the individual, his development, and his sacrifice society is to become perfect. Then back through that there will come the perfection of the individual." In 1924, the Louisiana legislature overwhelmingly passed a bill that required men to undergo a physical examination and obtain a health certificate in order to apply for a marriage license.<sup>72</sup>

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<sup>72</sup> Oscar K. Dowling, "The Marriage Health Certificate," in *Democracy in Earnest*, ed. James E.

The arguments that Dowling made for the marriage certificate were similar to ones that he made for compulsory sterilization. Just as man was to make “sacrifices” to “perfect” society and therefore submit to a premarital medical examination, “sterilization of the unfit was one of the best means “to accomplish a gradual improvement of our social conditions.” Dowling also made the case for birth control and immigration restriction. Together sterilization, birth control, and immigration restriction would improve society by “restricting reproduction of the masses.” By allowing the masses to reproduce unchecked “the better classes will be crowded to the wall and they will be ruled by mediocrity.” Although Dowling did not specifically identify the lower class as his target for restricting reproduction, the term “masses” indicates the same group of people. “While history provides some examples of outstanding figures who have achieved success in life although coming from squalid surroundings,” Dowling conceded, “good stock has supplied the preponderance of history’s outstanding figures.” If man was to perfect society by improving himself, the lower class must be reduced because the lower class made up the masses that were born unable to improve themselves.<sup>73</sup>

One of the more outspoken supporters of sterilization was Dr. John N. Thomas. Thomas served as superintendent of the Central Louisiana Hospital in Pineville. In addition to writing articles in medical journals and newspapers explaining his support for the measure, Thomas worked closely with Jean Gordon in writing the 1926 bill. On several occasions, he lobbied the legislature to pass the measure. In the 1924 Biennial Report of the Central Louisiana Hospital for the Insane, Thomas argued that insanity and feeblemindedness were on the rise in Louisiana and the state was running out of money to support them in institutions. The only solution for this

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McCulloch (Washington D.C: Southern Sociological Congress, 1918), 111-3.

<sup>73</sup> “Sterilize the Unfit to Help Society, Urges Dowling,” *Times Picayune*, April 7, 1923.

growing problem would be sterilization. Implementing the policy would dramatically reduce their numbers and save the state from financial ruin. Like national experts, Thomas believed that “human experience” proved that certain conditions were hereditary and that the operations were painless and safe. Since sterilization eliminated the afflicted person’s ability to have children, the state could release the patient from custody. Segregating patients in institutions required decades if not a lifetime of incarceration. For this reason, Thomas insisted that sterilization did a better job of preserving patients’ personal liberty because he or she would be able to live outside of the institution. Eventually, sterilization would eliminate the need for state funded mental health hospitals. Like other proponents, Thomas viewed those who he wanted to sterilization as a burden. Their conditions somehow diminished their humanity. Therefore, throughout the debate, he and others would use language that demonstrated their disdain for their potential victims.<sup>74</sup>

Thomas remained a significant supporter of sterilization throughout the early debate. He published articles in both newspapers and medical journals touting the necessity and benefits of sterilization. As head of the Central Louisiana Hospital, Thomas typically focused on the increasing numbers of patients admitted into his facility over his tenure. In one instance, he blamed “heredity” for the dramatic increase in the number of admissions over a fifteen-year period from 1909 to 1926. Pointing out that it would be too expensive and unfeasible to segregate women throughout their childbearing years Thomas insisted that the only option was to implement a compulsory sterilization program.<sup>75</sup>

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<sup>74</sup> Report, July 1926, AMHDOG, Box1, Folder 9; Central Louisiana State Hospital, “Report of the Board of Administrators, 1924,” (Alexandria, La), 15-6, 16-7, 17-8.

<sup>75</sup> John N. Thomas, “Increasing Insanity in this Country and What Should be Done About it,” *New Orleans Medical and Surgical Journal*, 79, November 1926, 330, 330, 331.

Robert M. Carruth was a New Roads, Louisiana, based physician who actively promoted anti-miscegenation, eugenic marriage, and compulsory sterilization laws. Like Thomas, Carruth participated in professional and public debates concerning the law. Deeply committed to eugenics, Carruth criticized a 1924 marriage law, supported by other eugenicists, enacted to prevent the spread of communicable diseases. The law required men to undergo a physical and obtain a clean bill of health before the state would give him a marriage license. The law, Carruth argued, was “impossible to enforce, since it made no provision for any official head or board to who doctors making these examinations could be held responsible,” Appointing “parish examiners” and “barring the marriage of the unfit,” would remedy the issues that Carruth had with the law. A 1928 bill, supported by Carruth that would have set up a state eugenic marriage board and provided a sterilization clause for couples deemed unfit failed to pass the state senate. Undeterred, Carruth continued to fight for eugenic based legislation, especially compulsory sterilization. His support for these marriage laws not only shows Carruth’s support for eugenics, but also his desire to control personal behavior. Proponents of compulsory sterilization view governmental oversight of individual choices as necessary. In order to protect society and ultimately improve it, individual choices must be restricted. These marriage laws affected every Louisiana couple wishing to marry. Therefore, Carruth was not seeking to simply control those deemed feebleminded, but he was looking to control everyone.<sup>76</sup>

Other well-respected Louisiana physicians voiced their support for sterilization early on in the debate. According to Jean Gordon, S.D.M. Clark, Jeff Miller, Rudolph Matas, Henry

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<sup>76</sup> “Eugenic Marriage Law is Criticized,” *Times Picayune*, May 4, 1925; Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, 1924; “Eugenic Marriage Law is Criticized;” Robert M. Carruth, “Discussion,” *New Orleans Medical and Surgical Journal* 82, 1929: 356.

Daspit, Henry Dickson Bruns, and C.V. Unsworth all pledged their support for the procedure to her in telegrams. Most of the public support from these physicians was fairly tempered. They typically expressed their support and touted the benefits to society of the procedure.<sup>77</sup>

However, not all of Louisiana's physicians supported compulsory sterilization. Physicians who rejected compulsory sterilization often challenged the science behind the procedure. They also attacked the societal implications of the procedure. Physicians such as Clarence Pierson and Walter Otis charged that sterilization was a dangerous scheme. Implementing the policy would unfairly target the poor and powerless. Moreover, it could possibly lead to further abuses by the state. Therefore, the debate among these professionals reveals that the drive for compulsory sterilization in Louisiana was not a plot devised by the elite to limit the lower class. Rather, the issue divided them.

One of the state's prominent opponents to sterilization was Clarence Pierson. Pierson established the Central Louisiana Hospital in 1904 and served as its superintendent from 1905 to 1921. After a stint as the head of the East Louisiana Hospital, Pierson returned to the Central Louisiana Hospital in 1928, replacing John N. Thomas. Pierson also served as president of the Louisiana State Medical Society. Early on in the debate over sterilization, Pierson had pledged his support. However, by 1928 had reversed course and publically spoke out against it. A life-long Methodist, Pierson's change of heart was not a result of embracing the Catholic faith. Rather, Pierson developed doubts concerning the heredity of the conditions that sterilization advocates argued that parents passed to their children. New research debunking claims that insanity was inherited and therefore incurable, forced Pierson to question his stance on

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<sup>77</sup> "N.O. Physicians Support Bill for Asexualization," *New Orleans Item*, July 2, 1924.

sterilization. He eventually concluded that sterilization was unnecessary because a condition that proponents argued was innate was actually curable.<sup>78</sup>

By 1929, Pierson had become one of the major opponents to sterilization in Louisiana. Growing from his realization that insanity was a curable condition, he rejected the claims of feeble-mindedness' hereditability. Eugenics as a science was dubious at best. Sterilization proponents ignored the possible other causes of feeble-mindedness. Allowing for the sterilization of one group was dangerous. Sterilization's intent, according to Pierson, was not to cure disease or provide therapeutic relief; rather its intent was to rid the state of undesirables. All that a sterilization order needed was an arbitrary governing body determining that a condition was undesirable and that it was hereditary to allow for the sterilization of a group of people. By establishing such a small threshold to meet, everyone, theoretically, could be subject to sterilization.<sup>79</sup>

Another Louisiana physician who publically spoke out against sterilization was Walter J. Oits. Oits was a neuropsychiatrist who had served on the staffs of Sara Mayo's hospital; Hotel Dieu, a private Catholic Hospital; Charity and Mercy Hospitals. A practicing Roman Catholic, who worked closely with the Federation of Catholic Societies of Louisiana, Oits lobbied against the bills at the capitol. Like Pierson, Oits challenged the scientific claims made by advocates. Moreover, sterilization did not cure a patient, therefore it was illogical to sterilize a patient and then release him or her. If these people were truly a menace to society, then they should remain

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<sup>78</sup> "Dr. Pierson Dies," *Times Picayune*, December 28, 1934; Henry E. Chambers, *History of Louisiana*, vol. 3 (Chicago: The American Historical Society), 16; "Sterilization Bill Approved by Committee," *Daily Town Talk*, June 15, 1928.

<sup>79</sup> Clarence Pierson, "Are We Sufficiently Progressed Scientifically for the Legal Sexual Sterilization of Inmates of State Institutions in Certain Cases," *New Orleans Medical and Surgical Journal* 82, 1929: 350-1, 353.

institutionalized. Otis insisted that sterilization would lead to “promiscuity,” since the procedure removed the possibility of pregnancy. Otis also attacked sterilization because it unduly burdened poorer people. Poor families were unable to provide their mentally or physically challenged members and therefore they had to place them in state funded institutions where they would be subject to sterilization. Wealthier families, on the other hand, had the financial means to care for their ill members privately. Therefore, whether or not the state sterilized a person had less to do with a mental condition and more to do with his or her wealth.<sup>80</sup>

Maud Loeber, one of the state’s first woman physicians, also lobbied against sterilization. While Loeber did not make any public pronouncements against sterilization like Pierson or Otis, she quietly worked behind the scenes. According to Jean Gordon, Loeber worked alongside a Catholic priest to convince Catholic physicians to “publically oppose the measure.” It is unclear how effective Loeber’s efforts were. What was most intriguing about Loeber, was the fact that she believed that heredity was one of the causes of insanity. In 1914, Loeber, addressing the Southern Sociological Congress argued, “Statistics again show us that [heredity] is one of the most important of all causes.” Loeber went on to argue, “It is a known fact that when two imbeciles marry all their progeny will be imbeciles, and when a normal person marries an imbecile over one-half of their progeny will be imbeciles.” However, Loeber conceded that environmental factors played a role in determining whether the condition would express itself. Moreover, people born without a “neurotic temperament,” might develop one over time if they are in a hostile environment. Unlike Pierson or Otis, Loeber was willing to accept the

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<sup>80</sup> Federation of Catholic Societies of Louisiana, *Silver Jubilee Souvenir Book of the Federation of Catholic Societies of Louisiana, 1903-1928* (New Orleans: Montgomery-Andree Printing Co., 1929); Walter J. Otis, “Discussion,” *New Orleans Medical and Surgical Journal*, 82, 1929: 354.



heredity of mental conditions. However, it was not enough for her to demand sterilization.<sup>81</sup>

Like the rest of the medical community in Louisiana, members of the state house and senate who were physicians disagreed over sterilization. Senators Benjamin Ducros of St. Bernard Parish and C.A. Gardiner of St. Landry Parish were two medically trained Roman Catholics who introduced the 1930 and 1932 bills, respectively. In the House, physicians Harrison Jordan of Richland Parish and D. E. Brown spoke favorably for the bills. Conversely, state representative and retired physician, George Drouin voted against the proposed legislation. Of all of the known doctors in the legislature who took a stand on sterilization, Harrison Jordan was the most vocal. He argued for both eugenics and the necessity to limit the number of feebleminded. The Senate sponsor for the 1932 bill was also a Catholic medical doctor. However, C.A. Gardiner's commitment to sterilization is questionable. He voted against similar legislation and pulled the 1932 bill from committee consideration.<sup>82</sup>

Just as the medical community in Louisiana failed to reach a consensus on compulsory sterilization, so did Louisiana's legal community. Legal opponents typically challenged the policy's legitimacy arguing that state governments did not have the power sterilize one of their citizens against their wills. Many of these lawyers also did not believe in eugenics. Conversely,

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<sup>81</sup> Report, July 13, 1926 AMHDOG, Box 1, Folder 9; Maud Loeber, "Mental Hygiene," *The New Chivalry-Health: Southern Sociological Congress Houston Texas May 8-11, 1914*, ed. James E. McCulloch (Nashville: Southern Sociological Congress, 1915), 244, 245, 246.

<sup>82</sup> "Senators ask for Weak-Minded be Sterilized," *New Orleans Item*, May 20, 1926; "Sterilization Bill is Killed," *Times Picayune*, June 30, 1926; Report, July 19, 1932, AMHDOG, Box 2, Folder 1.

supporters of the policy argued that sterilization would solve many of the problems facing the state because it would prevent the people who caused the problems from being born.

Chief Justice of Louisiana's state Supreme Court, Charles A. O'Niell came out forcefully against the sterilization bill in 1924. The son of immigrants, O'Niell was the state's longest serving chief justice and at one point considered by President Herbert Hoover for a position on the United States Supreme Court. The Catholic jurist's objection to the bill was that it "arbitrarily discriminated" against institutionalized people. If officials wanted to prevent patients in state hospitals from having children, separating male patients from female patients was adequate in accomplishing this goal. State institutions had been segregated based on sex since 1919 and therefore, according to O'Niell, sterilization was unnecessary. O'Niell also expressed serious "doubt" that the state had any greater authority over inmates of an institution than citizens at large.<sup>83</sup>

Two other prominent attorneys, St. Clair Adams and John J. Robira, disagreed with the judge and actively supported sterilization's cause. Adams was the former District Attorney for New Orleans and the president of the New Orleans Bar association during the debate over sterilization. Although Adams did not publicly support the procedure in 1926, he did assist Jean Gordon by reviewing sterilization laws in other states in order to write the bill for that session. Robira was more vocal in his support for the legislation. Robira served as the District Attorney for Louisiana's 14<sup>th</sup> District which encompassed the southwestern parishes of Calcasieu, Cameron, Beauregard, Jefferson Davis and Allen. In 1924, the other District Attorney's elected Robira to serve as the first president of the recently formed Louisiana District Attorney

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<sup>83</sup> "Justice O'Niell Expires in a Coma," *Times Picayune*, March 10, 1952; "O'Niell Opposes Eugenics Bill," *Times Picayune*, June 25, 1924.

Association. He would hold that post until 1936. In his 1928 presidential address before the group, Robira, encouraged his colleagues to back eugenic sterilization in Louisiana because legal precedent for the procedure had been set by other states. “Some states have provided for the proper sterilization of the mentally defected and the criminal class. We should use our effort to pass a similar law in Louisiana.” Neither Adams nor Robira gave a legal justification for supporting sterilization.<sup>84</sup>

Four members of the state legislature who publically spoke on the bills were practicing attorneys. The sterilization question divided them, too. In 1924, J.Y. Sanders, Jr., son of the former governor, was one of the first public officials to speak out against sterilization. Iberville Parish attorney, Representative Jules Carville shared Sanders’ conviction. During the 1926 debate on the bill in the House of Representatives, Carville argued that the bill gave too much authority to state officials. He also questioned eugenics. Senator Pike Hall, Jr., a Shreveport attorney, voted against every bill except for the one introduced in 1930. Although Hall did not give a reason for his vote in 1930, he did explain why he voted against the 1924 bill. He believed that the threshold needed to institutionalize a person was too low. “There were not enough safeguards thrown around placing people in feeble minded institutions,” Hall proclaimed. Theoretically, a person could be erroneously hospitalized and under a sterilization statute subject to the surgery. Senator Coleman Lindsey of Webster Parish was the lone attorney in the Senate to make public comments endorsing the bill. As chairman of the Health and Quarantine Committee, Lindsey was instrumental in moving the 1924 and 1926 bills through the

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<sup>84</sup> “St. Clair Adams, Lawyer, is Dead,” *Times Picayune*, March 26, 1945; Report, March 9, 1926, AMHDOG, Box 1, Folder 9;” John J. Robira Taken by Death,” *Times Picayune*, January 18, 1945; “Insanity Pleas Must be Curbed, Robira Declares,” January 10, 1928.

committee process. Lindsey attacked his colleagues' criticism that the bills did not provide protections to patients scheduled for sterilization. In 1926, Lindsey stressed the bills "safeguards" that provided for a hearing and an appeals process that allowed patients to challenge a sterilization order. Lindsey also challenged the notion that the bill would only apply to currently institutionalized patients. State hospitals were limited in the number of patients that they could house. Therefore, releasing sterilized patients would allow hospitals to admit new patients without having to expand their facilities. Since Lindsey believed that the feebleminded were a greater threat to future generations than they were to the present, sterilizing them and releasing them from state custody would eliminate the danger that they posed. Moreover, this practice would theoretically subject every person deemed feebleminded in the state to sterilization, not only the institutionalized patients. The purpose of the bill according to Lindsey was "to reach them all."<sup>85</sup>

Although members of Louisiana's progressive and professional elite pushed for compulsory eugenic sterilization, the procedure lacked consensus among this group. It divided religious leaders as well as members of the medical and legal professions. Some agreed with Jean Gordon that sterilization was necessary to improve the state's moral and economic situation by improving the quality of its residents. Opponents questioned the effectiveness of sterilization by challenging eugenics' promises. Other opponents argued that the state did not have the right

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<sup>85</sup> "Committee Votes for Sterilization," *New Orleans Item*, June 18, 1924; "Steril Bill Put to Sleep in the House," *New Orleans States*, June 30, 1926; "Sterilization Bill is Killed," *Times Picayune*, June 30, 1926; "Bill Sterilizing Feebleminded Passes Senate," *Times Picayune*, June 21, 1924; "Bill Sterilizing Feeble Minded Passes Senate," *New Orleans Item*, June 15, 1926; "Senate Passes Sterilization in Hot Fight," *State Times*, June 15, 1926; *Ibid.*

to remove a person's ability to reproduce. Moreover, what the disagreement reveals about the debate in Louisiana is that external distinctions such as class, religion, or profession did not determine how a person viewed sterilization. Questions concerning eugenics and the power of the state to protect society versus the right of the individual transcended the external division of the debate's participants and provided the basis for the debate among professionals. External divisions also proved irrelevant for members of the legislature who considered five compulsory sterilization bills from 1924 to 1932.

## CHAPTER 4

### 1924 -- 1926

From 1924 to 1932, Louisiana's lawmakers considered five compulsory eugenic sterilization bills. All of the bills, similarly worded, allowed certain officials to order the sterilization of patients diagnosed with conditions such as feeble-mindedness or insanity at state hospitals and select private facilities. Only three of the proposals passed in the state senate and none of them passed the in State House of Representatives. The 1924 and 1926 bills came the closest to enactment. Both passed the Senate, but the House voted them down by seven and two votes, respectively. These two bills were also unique for the amount of press coverage that they received. Beginning with the 1924 bill's move to the House, newspapers across the state published reports detailing the arguments from both the procedure's defenders and critics.

In general and like the national debate, the public debate surrounding the procedure and the bills focused on the notion of individual liberties versus the authority that the state possessed to infringe on them in order to protect the common good. Proponents, led by Jean Gordon, argued that the feeble-minded and unfit posed a serious threat to the future of society. Their heritable condition was a major source of social ills including crime, poverty, and prostitution. Sterilizing the feeble-minded would prevent their condition from entering the next generation and, over time, feeble-mindedness and the problems that it caused would disappear. Therefore, society's interest supplanted any right that a person, deemed genetically unfit to reproduce, had to maintain his or her reproductive ability. Conversely, opponents blasted proponents'

suggestion that eugenics proved the heritability of these conditions and that as a result, the state did not have the authority to strip a person of his or her ability to have children.<sup>86</sup>

In addition to state lawmakers considering compulsory sterilization, they voted on other legislation that dealt with eugenics and individual rights that provide insight into their motives. Before tackling the issue of compulsory eugenic sterilization, they signed off on eugenics based legislation and agreed that the state played a role in regulating public health. In 1918, lawmakers approved a eugenics law segregating state mental hospitals based on sex. Throughout the early twentieth century, other states passed similar laws in an attempt to eliminate crime and so-called feeble-mindedness. Establishing separate quarters, the law intended to prevent institutionalized men and women from reproducing. Designed to limit the continuation of crime and feeble-mindedness attributed to genetic traits, Louisiana's bill received overwhelming legislative support. Later on, lawmakers signed off on a requirement for men to submit to a physical exam and provide the state proof that they did not carry a communicable disease, like tuberculosis, in order to receive a marriage license. Although the 1924 marriage bill only applied to communicable diseases and not eugenics, its passage revealed that Louisiana state representatives and senators had no problem restricting personal liberty for the public good. Therefore, in 1924 when the first compulsory eugenic sterilization bill was introduced, Louisiana's lawmakers expressed both a willingness to accept eugenic principles and place limits on individuals – all for the common good. During the 1926 session, they considered a ban on teaching evolution in public schools and universities. The controversial measure passed the

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<sup>86</sup> The only evidence of the legislative debate that exists is what state newspapers reported on. Aside from the occasional passing comments registered in the Official Journals of the House and Senate, there are no official records of committee hearings or transcripts of the statements made on the floor of the State Senate or House of Representatives.

House but failed in the Senate. Although the ban would have prevented public school teachers and college professors from teaching evolution, the theory that eugenics grew out of, many of its supporters also backed the compulsory sterilization measure. This contradictory vote reveals that the willingness to sterilize did not necessarily require a complete trust in Darwin's Theory. This contradicts Richard Hofstadter's argument that eugenics required a belief in evolutionary science. Louisiana lawmakers who voted for both selected which parts of Darwin's theory that fit their agendas. Therefore, the ban bill vote helps to support the argument that at the heart of the sterilization debate was a debate over individual rights versus state authority. Those who voted for both demonstrated a desire for the state to control reproduction and knowledge. This discrepancy also indicates that the role that professional experts and social elites played in advancing eugenics and compulsory sterilization legislation may not have been as significant as some have argued.<sup>87</sup>

The bills introduced in 1924 and 1926 gave the state the authority to sterilize patients in state hospitals and some private institutions. What the debates over them will show is that those participating in the debate over compulsory eugenic sterilization argued over whether the state had the authority to strip a person of his or her ability to reproduce for the sake of society, or if a person's ability to maintain bodily integrity was an individual right protected from government interference. Within this context, they argued over the legitimacy of eugenics as well as the usefulness and morality of such a law. At the end of the 1926 legislative session, proponents appeared to be on the cusp of enacting a compulsory sterilization law in Louisiana, yet they were wrong. The following chart outlines the outcome all of the bills mentioned. It includes the

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<sup>87</sup> Larson, *Sex, Race, and Science*, 23, 81.



sterilization bills as well as the bills that offer insight into the legislative mentality during the debate over the controversial procedure.

### Outcome of Legislation Discussed

Subject of the Legislation	Year Considered	Outcome
Segregate patients based on sex in state hospitals	1918	Became Law
Health certificate for marriage license	1924	Became Law
Compulsory Sterilization	1924	Passed Senate; Failed House
Compulsory Sterilization	1926	Passed Senate; Failed House
Ban on Teaching Darwin's Theory of Evolution	1926	Passed House; Failed Senate
Compulsory Sterilization	1928	Failed Senate
Marriage Bill with Sterilization Clause	1928	Passed Senate; Failed House
Compulsory Sterilization	1930	Passed Senate; Pulled from Consideration in House
Compulsory Sterilization	1932	Pulled from Consideration in Senate
Sterilization with Parental Consent	1932	Failed Senate

Rooted in other successful eugenics based legislation, like the 1918 segregation law, Louisiana's eight-year long struggle with compulsory eugenic sterilization began in 1924, but its

roots go back to the 1910's. In 1916, Gordon made the case for the segregation of feeble-minded girls in order to prevent them from having children. In establishing the Milne Home for Orphan Girls, Gordon made it her mission to prevent as many of those she considered unfit from reproducing by confining them. The state seemed to agree with Gordon; it enacted a law that required separate housing facilities for men and women in the state's hospitals. Commenting on the law, Edward J. Larson called it the "'first step' to a comprehensive eugenics reform program." Yet, segregation did not go far enough for proponents like Gordon. She was determined to eliminate feeble-mindedness, and the only way to do this was through forcible sterilization. Explaining the "menace of the feeble-minded" and demanding action from lawmakers became her life's work. In June of 1924, Gordon readied her bill and recruited Senator Jules Fisher of Jefferson Parish to sponsor it.<sup>88</sup>

Fisher's compulsory sterilization bill provided a general guideline for determining who was eligible for sterilization. It allowed the sterilization of "all persons committed to any public or private institution for the care of the feeble-minded, insane, or epileptic by the courts or legal guardians." The 1924 bill granted a great deal of power to the "head of the institution." After receiving "co-operation, advice and assistance of the [parish] coroner ... the chief medical officer of the institution, and a recognized psychologist," the superintendent, alone, made the decision whether to sterilize a patient. The 1924 bill did not provide a hearing where the patient could offer evidence as to why he or she should not endure the procedure nor did it make provisions for a patient to file an appeal. Future legislation would add these clauses.<sup>89</sup>

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<sup>88</sup> "Miss Gordon Writes of Social Problem," *Times Picayune*, October 29, 1916; Larson "Women in the Eugenics Movement," 129.

<sup>89</sup> "Opposition Hits Gordon Bill," *New Orleans States*, May 20, 1926.

As for the public debate or reports on the debate in the Senate, only a handful of newspaper articles briefly mentioned that it received a favorable report from the Senate's Health and Quarantine Committee. They listed Gordon and John N. Thomas as its supporters. The only person to have publically spoken out against it, according to the scarce coverage, was Baton Rouge Attorney and son of a former governor, J.Y. Sanders, Jr. Although not a state senator, Sanders argued that the bill "placed too much power in the hands of human beings." Coverage of the debate in the Senate was also limited. Reports characterized the opposition as concerned over the lack of "safeguards" preventing healthy men and women from being wrongly institutionalized. There was no mention of how senators in favor of the bill defended it.<sup>90</sup>

The bill comfortably passed the full Senate, by a vote of twenty-two to eleven, with little fanfare. It appeared to enjoy statewide support; it received votes from senators representing both North and South Louisiana. For instance, a majority of senators from each of the four regions that made up the South Louisiana delegation voted for the bill. A majority of senators from Orleans, the Greater New Orleans area, Acadiana, and the Florida parishes voted for the bill. A super majority of the senators from North Louisiana cast the remaining yes votes.<sup>91</sup>

The vote in the senate seems to have undermined the commonly accepted idea that the religious differences that divided North Louisiana from South Louisiana produced opposing political views. South Louisiana consists of the geographical regions including Acadiana, the Greater New Orleans area, and the Florida Parishes.

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<sup>90</sup> "Committee Votes for Sterilization," *New Orleans Item*, June 18, 1924; "Bill Sterilizing Feebleminded Passes Senate," *Times Picayune*, June 21, 1924.

<sup>91</sup> Official Journal of the Proceedings of the Senate of the State of Louisiana, Baton Rouge, LA, June 20, 1924.

### 1924 Compulsory Sterilization Bill Result in the State Senate\*

Region	Yes/No Votes	% of Yes Vote	% of No Vote
South LA	13/8	59%	73%
Orleans	3/2	14%	18%
Greater N.O.	2/1	9%	9%
Acadiana	6/4	27%	36%
Florida Parishes	2/1	9%	9%
North LA	9/3	41%	27%

\*Does not include Senators who voted absent

### Breakdown by Region of 1924 Vote in State Senate

Region	Total Number Voting	% Yes	% No
South LA	21	62%	38%
Orleans	5	60%	40%
Greater Orleans	3	67%	33%
Acadiana	10	60%	40%
Florida Parishes	3	67%	33%
North LA	12	75%	25%

For the most part, the residents of the region are Roman Catholics, with the Florida Parishes being an exception. Although there are sizable Catholic communities in some of the Parishes that make up the Florida Parishes, such as East Baton Rouge Parish, residents of the region are majority Protestant. Yet, its geographical proximity to the other three southern regions makes

the Florida Parishes a better fit in the South than in the North. Furthermore, the vote coming out of the Florida Parishes is quite similar to the votes coming out of the other South Louisiana regions. South Louisiana was also more urban than North Louisiana. In 1930, it was home to over seventy percent of the state's urban population, with most of Louisiana's urban residents living in the city of New Orleans. On the other hand, North Louisiana, which is made up of parishes located in the central and northern parts of the state was mostly Protestant and rural. Although there are a few places, such as Alexandria, Natchitoches and Shreveport with measurable Catholic populations, membership in Protestant churches dominated the region. The region is also more rural than the south; it only contained about thirty percent of the state's urban population in 1930. Likely due to South Louisiana's larger population, a majority of the state's senators and representatives came from that region. Of the thirty-nine state senators, twenty-five of them came from the south and fourteen represented North Louisiana. In the House, there were ninety-nine members. Sixty-five of them represented southern districts while the remaining thirty-four came from North Louisiana. Therefore, South Louisiana had a two-thirds majority in both houses. Had sterilization been a regional issue, it would have been easily defeated. Yet, that was not the case.<sup>92</sup>

The compulsory sterilization bill's unnoticed, almost stealth advancement that it enjoyed in the Senate ended when the bill arrived in the House. Reformers, medical doctors, state officials, charity organizers, legal professionals and clergy members all came out to either support or condemn the proposed law. Archbishop John W. Shaw's letter to state representatives

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<sup>92</sup> U.S. Bureau of the Census, "Louisiana: Composition of the Population of Cities of 10,000 or more," 1930,"(Washington D.C., U.S.G.P.O), 990; T.F. Murphy, *Religious Bodies, 1936: Selected Statistics for the United States by Denominations and Geographic Divisions*, "Members in Selected Denominations, By Counties, 1936 Louisiana" (Washington, D.C., U.S.G.P.O., 1941): 763-4.

asking them to reject the bill set off a debate about the procedure that revealed the struggle over competing notions concerning the extent of individual rights, the power of the state, and the individual's responsibility in society.

In his letter, sent to House members and published by several newspapers across the state, Shaw attacked the bill and its supporters. Asking state representatives to "show more regard for the inalienable rights," he claimed that compulsory sterilization offered false promises to fix social problems. For instance, the poor were not poor because of an inherited defect; their poverty was a result of factors beyond their control, like insufficient wages. Although society as a whole was more important than the individuals who comprised it, the state did not have the right or authority to "deprive its innocent members of their natural inalienable right to their integrity as human beings." In his plea, he argued that the ability to reproduce was a natural right that all men and women possessed. Shaw also fervently attacked women, like Gordon, who he argued were doing harm to the family by advocating such a law.<sup>93</sup>

Proponents quickly responded to Shaw's attacks by insisting that the notion that all men and women enjoyed universal individual rights was wrong. The nature and scope of an individual's rights depended on that person's worth to society and the potential contribution that he or she could make to the future. Since proponents deemed feeble-mindedness to be heritable and the root of many social problems, the feeble-minded forfeited the right to be able to reproduce. The feeble-minded did not have the inalienable right to destroy the future. Responding directly to Shaw, Gordon wrote, "Personally, I do not consider the feeble-minded have inalienable rights to reproduce their feeble-minded kind: for let it be well impressed upon

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<sup>93</sup> "Prelate Assails Sterilization Act," *New Orleans States*, June 23, 1924.

our people that...the offspring of the feeble-minded will be feeble-minded.” Therefore, to convince the public and sway the legislature, proponents cited what they considered scientific proof that feeble-mindedness was heritable. In eliminating feeble-mindedness, they would save the future from contemporary problems and save the state money. However, in order to do this, the public and the legislature would have to accept the idea that individual rights were conditional.<sup>94</sup>

The feeble-minded were the root of all of society’s problems, proponents of the bill claimed, and in order to prevent the problems that they embodied from entering into the future, they must not be a part of it. The Reverend W.W. Hamilton, pastor of St. Charles Avenue Baptist Church, claimed that sterilization would lead to fewer rapists and consequently fewer lynchings. He surmised that had the state enacted a law sterilizing men guilty of rape years earlier, “we should have long ago have prevented most of the mob-violence which has cursed our country.” Just as Gordon argued that prostitutes produced prostitutes, Hamilton contended that rapists produced rapists. His comments may also be one of the few instances where race played a role in the debate. Most victims of horrific lynchings in Louisiana were black men falsely accused of rape. Using a disturbing rationale, Hamilton justified sterilizing black men in order to prevent future rapists. Therefore, without rapists, there would be no need for brutal mob violence. Hence, Hamilton was arguing that compulsory eugenic sterilization was a civilizing, progressive measure because it would eliminate the need for lynch mobs. Similarly, in a statement supporting the measure, New Orleans obstetrician and professor, Ernest M. Lewis stated, “The science of eugenics and the study of criminal anthropology expose the menace to

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<sup>94</sup> “Miss Gordon, Archbishop Shaw Disagree on Bill to Sterilize Feeble Minded,” *New Orleans Item*, June 23, 1924.

society in permitting the criminal by instinct, the feeble-minded and subjects of moral imbecility to perpetuate their kind.” Criminals and prostitutes were not simply poor decision makers or even victims of their circumstances, they were helpless beings controlled by an inherited nature to break the law. The only way to usher in a crime free future was to sterilize present day criminals.<sup>95</sup>

Arguing that the feeble-minded were a threat to society’s future, proponents insisted that segregating them in institutions was not a feasible option. The sheer, overwhelming number of Louisiana’s feeble-minded prevented housing them all and the cost to the state would be excessive. Immediately enacting a compulsory sterilization law was necessary because the “breeding of incurable feeble-minded has become so rapid the asylums are being overloaded and the tax burden becoming increasingly heavy because of it,” proclaimed a *Times Picayune* article describing the need for the bill. Both Jean Gordon and John N. Thomas offered an exact number of the feeble-minded population of Louisiana. Thomas cited four thousand while Gordon doubled his number to eight thousand feeble-minded Louisianans. Moreover, Thomas claimed that to house, segregate, and care for these four thousand potential patients, it would cost the state over a million dollars annually. At the time of his report, the Central Louisiana Hospital housed only a few hundred patients. Gordon cited four women at the Milne Home that had twenty children among them as evidence of the uncontrollable, rapid reproduction of those she considered feeble-minded.<sup>96</sup>

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<sup>95</sup> “Sterilization O.K.D by House Group” *New Orleans Item*, July 2, 1924; “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924; “N.O. Physicians Support bill for Asexualization,” *New Orleans Item*, July 2, 1924.

<sup>96</sup> “Bill Sterilizing Feeble-minded Passes Senate,” *Times Picayune*, June 21, 1924; Central Louisiana State Hospital; “Report of the Board of Administrators,” 1924; “Proposed Asexualization Bill Opposed and Defended,”



Most of the patients at these state hospitals did not have the financial means to provide for their care. Records from both the Central Louisiana Hospital and the East Louisiana Hospital reveal that during the years that the legislature debated sterilization, the state provided ninety-seven to ninety-eight percent of the funds. Paying patients only accounted for two percent at the most during the same time-period. Moreover, the economic classification for most first time patients admitted between 1924 and 1932 was either “marginal” or “dependent.” Although definitions for the distinctions are not provided, the terms used to describe their status indicates that they were most likely not wealthy or even financially secure. In 1928, ninety-six percent, of the new wards admitted to the East Louisiana Hospital were labeled economically “dependent.” In a striking contrast, only three percent received the distinction of being economically, “comfortable.” If enacted, the compulsory sterilization law would have disproportionately affected the poor. They lacked both political and economic power. Proponents blamed them for their poverty and therefore identified them as a threat to the state.<sup>97</sup>

To prove their assertions, proponents cited eugenic principles. Parents passed down their intelligence, they argued, in much the same way that they passed down their eye color; or, as Gordon plainly put it, “the offspring of the feeble-minded will be feeble-minded.” In describing the bill, a *Times Picayune* article claimed that it was “designed to stop the rapid propagation of the feebleminded for which there is no cure.” By proclaiming that feeblemindedness was incurable, proponents attempted to justify their stance that the only way to treat the condition effectively is to prevent it from occurring. John N. Thomas, Superintendent of the Central

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*Times Picayune*, June 25, 1924; Central Louisiana State Hospital, “Report of the Board of Administrators,” 1924; “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924.

<sup>97</sup> Central Louisiana Hospital, “Report of the Board of Administrators,” 1924-1932; East Louisiana State Hospital, “Report,” (Baton Rouge, LA), 1924-1932.

Louisiana Hospital wrote in his annual report for 1924, “The one and only remedy to solve this problem and solve it right is sterilization.” After enacting a state sterilization program, Thomas “believ[ed] that in three generations, not only will feeble-mindedness but insanity [will] be reduced fifty percent, and perhaps more.” John L. Williams, State Superintendent of the Louisiana Child Finding and Home Society, added to Thomas’s claims. He insisted, “Passage of the asexualization bill beyond doubt would eliminate more than [fifty] percent of our crime and destitution.”<sup>98</sup>

Although, advocates were sure of sterilization’s potential effectiveness, the evidence that they employed was flimsy at best. To make their case, they used family studies like the Jukes and the Kalikas as well as anecdotal evidence. Similar to the way that Gordon observed young women she deemed feeble-minded moving from factory job to factory job eventually falling into prostitution, Thomas cited “experience” as proof that feeble-mindedness was inherited. “Human experience,” Thomas insisted, “has demonstrated that heredity play[s] an important part in the transmission of insanity, idiocy, imbecility, epilepsy, and crime.” Relying on experience and simple observation to prove a scientific theory served sterilization advocates in two ways. First, they meant to appeal to the untrained by arguing that the evidence is so obvious that even they can see it. Second, it prevented proponents from having to conduct controlled experiments to prove their assertions. Advocates were not really trying to prove a scientific theory; they were

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<sup>98</sup> “Miss Gordon, Archbishop Shaw Disagree on Bill to Sterilize Feeble-Minded,” *New Orleans Item*, June 23, 1924; “Bill Sterilizing Feeble-minded Passes Senate,” *Times Picayune*, June 21, 1924; Central Louisiana State Hospital, “Report of the Board of Administrators, 1924; “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924.

attempting to provoke action. The best way that they saw to do this was to simplify the evidence and to dismiss opposition as a rejection of common sense.<sup>99</sup>

More important than arguing that the procedure would work were the proponents' claims that it was justifiable. They attempted to do so by claiming that individuals who would most certainly produce defective children did not have an inalienable right to reproduce, and the state did have the right to protect society's future by preventing the procreation of the feeble-minded. The fact that several other states had already adopted similar sterilization laws bolstered their case. Finally, the most troubling argument that proponents employed was to dehumanize the groups that they wanted to sterilize by vilifying them. Intending to strip the so called feeble-minded of their humanity and extinguish sympathy, advocates used disparaging language to describe them.

Compulsory sterilization advocates quickly rejected the notion that inalienable rights extended to reproduction. Jean Gordon bluntly stated that the "Feeble-minded don't have inalienable rights to reproduce their feeble-minded kind." She would later go on to insist that "parenthood" was a "privilege" and, "none but the mentally and physically fit should be allowed to assume the responsibility." The Reverend W.W. Hamilton, pastor of the St. Charles Avenue Baptist Church, compared allowing the so-called feeble-minded to reproduce to allowing criminal behavior to go on. Arguing for the inalienable rights of the feeble-minded to have children was similar to arguing for the inalienable rights of "the race-track gambler, the bootlegger and the red-light dealers," Hamilton insisted. In an example of twisted logic, proponents arguing for

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<sup>99</sup> Rebecca S. Carrasco, "The Gift House," 311; Central Louisiana State Hospital, "Report of the Board of Administrators," 1924.

sterilization claimed that it was better at providing for inalienable rights than was institutionalization. Institutionalization and segregation meant denying patients their freedom. Sterilizing these patients eliminated the perceived threat that they posed and therefore officials could discharge them. This seemingly contradictory argument concerning individual rights is understandable considering how the proponents viewed them. A person's right to do anything was predicated on its potential impact on society or its future. In arguing that feeble-minded people did not have the right to reproduce but did have the right to live outside the institution, proponents argued that allowing future feeble-minded to be born was a greater threat to the social order's future than was a sterilized feeble-minded person living among those deemed normal.<sup>100</sup>

Some proponents considered eugenics and forced sterilization as an opportunity for the social and professional elites to manage society. Instead of individuals deciding whether they would have children, compulsory sterilization advocates insisted that learned professionals make the decision for them. As in her 1916 call for placing institutionalized children in foster homes where "cultured, attractive, well-educated men and women" would care for them, Gordon claimed that the state should only allow citizens it considered fit enough to procreate. In his 1924 report of the Central Louisiana Hospital, Superintendent John N. Thomas reprinted a poem written by Dr. J.S. DeJarnette, head of Virginia's Western Hospital for the Insane. The poem, entitled, "Mendel's Law: A Plea for a Better Race of Men," DeJarnette described how farmers and villagers used science and eugenics to produce "thoroughbred" animals and "fine" produce, but that their children were "foolish bred." The solution that he offered was for "wise men take

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<sup>100</sup> "Miss Gordon, Archbishop Shaw Disagree on Bill to Sterilize Feeble-minded," *New Orleans Item*, June 23, 1924; "Proposed Asexualization Bill Opposed and Defended," *Times Picayune*, June 25, 1924; Central Louisiana State Hospital, "Report of the Board of Administrators," 1924

up the burden, and make this your loudest creed, sterilize the misfits promptly – all not fit to breed.” Harry S. Ginsbury, Assistant Superintendent of the Jewish Orphans Home, argued that allowing the feeble-minded to continue to reproduce would be to “leave everything to chance and to refrain from using our God-given intelligence.” Coupled with the belief that reproduction was not a right, but rather a privilege, proponents insisted that state authorities and medical professionals had not only the right but also the duty, through their standing and training, to determine who should reproduce. Driving their reasoning was their core belief that the perpetuation of the social order was more important than the people who made it up.<sup>101</sup>

For proponents of compulsory sterilization, an individual’s contribution to society determined his or her worth. They judged people’s worthiness by how they could improve society for future generations. Since they considered the feeble-minded a threat and a burden and deemed their condition as inherited, proponents insisted that they offered nothing to advance the state’s future. Therefore, it was their responsibility to the future not to reproduce. In arguing for sterilization, W.W. Hamilton, compared the feeble-minded to eunuchs found in the Bible. According to Hamilton, “Jesus said that there were people in His day who were made eunuchs by men and were disqualified for marriage by Human action possible for some of the same reasons as are now under consideration in Louisiana.” He went on to argue:

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<sup>101</sup> Jean Gordon, “Second Article on Feeble-Minded” *Times Picayune*, November 5, 1916; “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924; Central Louisiana State Hospital, “Report of the Board of Administrators,” 1924; “Christian Spirit Urged Against Enactment of Feeble-Minded Bill by O’Niell,” *New Orleans Item*, June 25, 1924.

Surely if there are good men and women who are willing to become eunuchs for the sake of others and for the greater service to God and mankind, it is not too much for society to welfare of the state, and to the prevention of anguish and suffering and crime in the future generations.

Since the compulsory sterilization advocates insisted the feebleminded mentally incapable of agreeing to sterilization, the decision must be made for them. The “wise men” DeJarnette cited were the ones to make the decision. As a result of their training and superior intellect, the social and professional elite possessed the ability to determine a person’s worth to the future. Leaving the future up to chance by allowing everyone the equal opportunity to reproduce was unacceptable. Therefore, supporters of compulsory sterilization campaigned to sacrifice individual rights for a scientifically managed society. The effectiveness of this argument, as with the other aspects of the proponents’ case would meet resistance in the state house.<sup>102</sup>

Attempting to bolster their case, advocates claimed that other states were enacting similar sterilization measures proved that not only did Louisiana have the authority to pass such a law but also that it was a sound piece of legislation. Describing their position, a *New Orleans States* article contended, “Its supporters say that 36 states have enacted similar legislation, and that Louisiana should not lag behind in the march for human progress.” The Reverend Paul M. Schroeder, Pastor of Salem Evangelical Church in New Orleans cited, the thirty-six states with sterilization laws as proof of “merit in the proposed act” in Louisiana. Justifying compulsory sterilization this way was an attempt to downplay the radical nature of the procedure. Louisiana

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<sup>102</sup> “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924.

was not enacting a harsh and possibly unconstitutional law. Rather, proponents argued, the state was simply joining the rest of the nation in protecting the future.<sup>103</sup>

The final argument employed by proponents intended to limit sympathy and encourage outright hostility for persons they wished to sterilize. Proponents wanted the public and lawmakers to see those they deemed feeble-minded and defective the same way that they did. Having already identified the feeble-minded as a threat, sterilization advocates went on to strip them of their humanity. For instance, the use of the term “breeding” defined as “the sexual propagation of plants or animals,” dehumanizes the so-called feeble-minded. Sterilizing the feeble-minded without their consent is justifiable because they do not have children, like normal men and women, but rather they breed like animals. The term breeding also advanced the narrative that the feeble-minded somehow reproduced at a faster rate than average. A *Times Picayune* report on the 1924 bill highlights this tactic when it stated, “Breeding of incurable feeble-minded has become so rapid the asylums are being overloaded and the tax burden becoming increasingly heavy because of it.” A second popular term used by proponents to describe the feeble-minded is “kind.” In defending the legislation, Gordon stated, “I do not consider the feeble-minded have inalienable rights to reproduce their feeble-minded kind: for let it be well impressed upon our people that ... the offspring of the feeble-minded will be feeble-minded.” By using the word “kind” and the phrase “our people,” Gordon relegated the feeble-minded to a subhuman position. The feeble-minded were not like the rest of humanity or “our people” as Gordon put it, they were their own “kind.” Dr. Ernest M. Lewis also used the

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<sup>103</sup> “Prelate Assails Sterilization Act,” *New Orleans States*, June 23, 1924; “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924.

term “kind” to advocate for the procedure. “The science of eugenics and the study of Criminal anthropology expose the menace to society in permitting the criminal by instinct, the feebleminded and subjects of moral imbecility to perpetuate their kind.” This type of discourse produced an “us versus them” mentality that supporters employed in order to elicit support for compulsory sterilization.<sup>104</sup>

Some attacks launched by proponents made dehumanizing terms like “breeding” and “kind” seem benign. In J.S. DeJarnette’s poem that Thomas reprinted in the Central Louisiana Hospital’s 1924 report, DeJarnette gave animal attributes to the children he wished to sterilize. He proclaimed that although the farmers produced fine, “thoroughbred horses,” among other animals, his children were, “low browed with the monkey jaw, ape handed, and silly...” Attributing animalistic or monstrous qualities to individuals deemed feebleminded made them villains who threatened humanity. By creating images like this, proponents hoped to squash any misgivings about sterilization.<sup>105</sup>

The imagery also provides insight into the attitudes of the sterilization advocates who used it. Take Jean Gordon, for example. She easily categorized the feebleminded as a separate “kind” who by simply having children threatened “our people.” Her claim was not a simple rhetorical tool meant to shock; she truly believed it. In testimony given before the House Health and Quarantine Committee, Gordon argued for the bill by relaying the grave situation of a young woman she deemed feebleminded. The young woman was hospitalized after undergoing an

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<sup>104</sup> Merriam Webster’s Deluxe Dictionary 10<sup>th</sup> Collegiate ed., s.v. “Breed;” “Bill Sterilizing Feebleminded Passes Senate,” *Times Picayune*, June 21, 1924; “Miss Gordon, Archbishop Shaw Disagree on Bill to Sterilize Feebleminded,” *New Orleans Item*, June 23, 1924; “N.O. Physicians Support Bill for Asexualization,” *New Orleans Item*, July 2, 1924.

<sup>105</sup> Central Louisiana State Hospital, “Report of the Board of Administrators,” 1924.



illegal abortion. Instead of offering sympathy, Gordon cruelly proclaimed that she “hope[ed]” that the young woman was “dying as the result of a criminal operation which is the only reason there is not a third generation of feeble-minded persons.” Gordon’s contempt for the people that she wanted to sterilize ran deep. She did not possess sympathy or concern for those considered feebleminded. To Gordon, they were a separate kind of people who threatened humanity. Although Gordon did not advocate for euthanasia, she did not care if the woman survived the traumatic operation. If the woman did die, the threat that Gordon claimed that she posed by becoming a mother would end – an outcome that Gordon approved of. Interestingly, Gordon’s comments allude to hostility toward abortion. Apparently, her desire to control some women’s fertility included not allowing them to terminate their pregnancies.<sup>106</sup>

Vicious remarks like Gordon’s and degrading rhetoric used to describe those who proponents wanted to sterilize served two purposes. First, they were intended to foster hostility toward those threatened with sterilization. It is easier to support operating on someone against his or her will if he or she is the enemy. Second, likening the unfit to worthless animals made it easier to support stripping them of their personal rights. Proponents not only had to prove that compulsory sterilization was the answer to several social problems, but they had to make the case that rights were conditional. An animal’s existence depends on its worthiness to man. If an animal is difficult or a threat, it has no worth and therefore should no longer exist. Although, compulsory sterilization proponents did not advocate euthanasia, they did view some men and women as worthless. They were a drag on society and their children would do the same in the

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<sup>106</sup> “Sterilization Bill O.K.D by House Group,” *New Orleans Item*, July 2, 1924.

future. Since individual rights depended on worthiness, those deemed unworthy did not possess them and therefore the state could forcibly sterilize them without their consent.

Compulsory sterilization's opponents eagerly attacked the 1924 bill once it was introduced in the House. They utterly rejected the notion that arbitrarily subscribed determinants dictated one's entitlement to individual liberty. They did this by condemning eugenics and the notion that feeble-mindedness was such a pressing threat that it called for drastic measures. By successfully framing compulsory eugenics as a scheme that threatened, the poor and helpless, opponents not only created doubt about its effectiveness, but portrayed it as a major violation of individual liberty.

Since proponents used eugenics to justify their demands to strip some men and women of their ability to reproduce, opponents swiftly attacked the pseudo-sciences promises. In his public condemnation of the 1924 bill, Archbishop Shaw wrote that its supporters "believe[d] that such a law will bring about a reduction of taxes and the practical elimination in time of the feeble-minded. And then we shall have the millennium of supermen and superwomen as perfect specimen of the human animal breed and reared according to eugenic rules." Shaw mocked the impossible promises that the bill made. There was no proof that sterilizing those deemed feeble-minded would produce the results that its proponents claimed that it would. Similarly, a report on the debate in Louisiana's state house quoted Iberia Parish representative Jules Dreyfus as saying, "nature has her own ways of eliminating those unfit to carry on the race." He then went on to argue that the "recent collapse of the German empire" after its defeat in the Great War proved the faultiness of eugenics. According to Dreyfus, "this same German empire has for years made and boasted of the fact that it tried by every possible means to breed a race of super

men and super women.” If eugenics worked, Dreyfus contended, the Germans should have been victorious. By insisting that eugenics was a fraud, opponents were not simply discrediting the science. Instead, they were laying the groundwork for their most important argument in 1924.<sup>107</sup>

Not only was compulsory sterilization built on a lie but it was a dangerous scheme. It gave the state too much power. Echoing the concerns raised by J.Y. Sanders, Jr. and state senator Pike Hall during the senate debate over the bill, Shaw’s plea also made the point that compulsory sterilization was an abuse of state power that violated individual rights. “It is true that the private good must yield to the common good,” Shaw proclaimed, “but this plea does not justify society in depriving its innocent members of their natural inalienable right to their integrity as human beings.” Interestingly, Shaw acknowledged one of sterilization proponents’ major reasons for enacting the bill – the common good was more important than the individual’s interest. However, he was unwilling to violate individual rights for the common good. Moreover, he argued not for a right to reproduce, but rather a person’s right to an unaltered physical body with all of its functions intact. Shaw also insisted that sterilizing the feebleminded would lead to other abuses. Following proponents logic that the feebleminded were a threat to the state’s future health, Shaw argued that they could also make the case for euthanizing citizens infected with communicable diseases because, “they are as much, if not more of a menace than the feeble-minded.” For Shaw, it was not a matter of if the compulsory sterilization law would lead to further abuses but rather what the abuses would be. “I will refrain,” Shaw concluded, “From dwelling on the more intolerable evils that will ensue to plague society of the heartless injustice of asexualization will be practiced upon the feeble-minded.” Compulsory sterilization

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<sup>107</sup> “Prelate Assails Sterilization Act,” *New Orleans States*, June 23, 1924; NOI “Sterilization Bill O.K.’D by House Group,” *New Orleans Item*, July 2, 1924.

was an abuse of power that violated individual rights and would potentially lead to further, more egregious acts.<sup>108</sup>

In addition to attacking the message, Archbishop Shaw attacked the messenger. He particularly went after women, like Jean Gordon, who actively campaigned for compulsory sterilization in Louisiana. He claimed that their political activism brought about by the Progressive movement ruined their natural femininity and innate sympathies, thus making them susceptible to supporting compulsory sterilization:

The progressiveness of the modern woman who is fast unsexing herself, is disabusing us of this illusion, which has meant so much for the relief of suffering humanity. But what can we expect of women who have abandoned the sanctuary of the home, and who are fast becoming the arch home wreckers, unlike their gentle sisters of other and happier days, who were noble home makers.

Shaw's comments condemned both politically active women and the Progressive movement. Progressive reformers, like Gordon, insisted that she was working to improve both the lives of the poor and society. Her early work as a child labor and compulsory education advocate would indicate her commitment to improving the situations of the underprivileged. However, as Shaw pointed out, Gordon's effort to enact a compulsory sterilization law revealed her true intentions. He contended that she never desired to improve the situation for the poor and helpless. Her reform work was simply an "illusion" or a trick in order to convince the public to buy into a dangerous sterilization scheme that instead of improving lives or society would instead destroy them.<sup>109</sup>

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<sup>108</sup> "Committee Votes for Sterilization," *New Orleans Item*, June 18, 1924; "Bill Sterilizing Feebleminded Passes Senate," *Times Picayune*, June 21, 1924; "Prelate Assails Sterilization Act," *New Orleans States*, June 23, 1924; "Feeble-Minded are Defended by Archbishop," *State Times*, June 23, 1924.

<sup>109</sup> Ibid.

Opponents also attacked the proposed legislation because it unfairly targeted the poor and discriminated against patients confined within institutions. In a statement attacking the bill, the Reverend Nicholas Rightor, Rector of Mount Oivet Episcopal Church in New Orleans, called compulsory sterilization “high-handed and unjust.” He also reiterated Shaw’s argument that it violated natural rights but added that it discriminated against the “helpless.” Similarly, Chief Justice of the Louisiana State Supreme Court, Charles A. O’Niell argued that the proposed law discriminated against institutionalized people since the only people eligible for sterilization were those housed in state facilities. It did not include so called feebleminded people living at home or in most private hospitals. According to O’Niell, it was hard to make the case to sterilize an inmate because he “is a menace to himself our society, without admitting that...every person of the same mental condition on the outside of institutions...is also a menace...and should be sterilized.” Moreover, most patients confined to state supported institutions came from poorer families who lacked the financial means to place ill relatives into privately run hospitals or to care for them at home. Therefore, under the statute as written, only the poor would undergo the procedure. Although proponents viewed poverty as a symptom of feeblemindedness, Shaw saw it as discriminatory and offered another solution to fight poverty. He argued that instead of trying to keep the poor from having children, the legislature should pass laws ensuring that the wealthy pay their proper share of the tax “burden,” that laborers were paid well, and that the government controlled prices on goods. By enacting these policies, Shaw claimed, “we would not hear so much talk about the feeble-minded becoming a menace to society.” By ensuring that working class incomes sufficiently provided for working class families, their need for state aid

would drop significantly. Therefore, Shaw insisted, lessening the financial burden to the state that proponents of sterilization claimed that they created.<sup>110</sup>

Poor people did not commit all of the crimes either, according to Shaw. “The real menace of the state is the ever increasing number of criminals who are far from being feeble-minded,” he exclaimed. Sterilizing the poor would not end crime because the poor did not perpetrate crime. Instead, criminals tended to be very smart and use legal loopholes to avoid prosecution. Therefore, to reduce crime Shaw argued, legislators should close up legal loopholes. He also maintained that the “poor or lowly” did not engage in “illicit relations” but rather the “rich and leaders of society” engaged in them. Therefore, sterilizing the lower class to stop prostitution was nonsensical, because upper class men were the ones who sought out prostitutes.<sup>111</sup>

The final aspect of the opponents’ argument was to elicit sympathy for sterilization’s potential victims by affirming their humanity. As proponents, like Gordon, used terms like kind to distinguish those individuals she wished to sterilize from the rest of the population, opponents like Shaw referred to them as human beings. Specifically, Shaw argued that sterilization, “depriv[ed] its innocent members of their natural inalienable right to their integrity as human beings.” Enacting the sterilization law meant that the state would strip the poorest, most vulnerable men and women of their ability to reproduce. They were not monsters or a disease. Rather, they were men and women, who through no fault of their own, deemed by some as to be

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<sup>110</sup> “Proposed Asexualization Bill Opposed and Defended,” *Times Picayune*, June 25, 1924; “O’Niell Against Sterilization,” *New Orleans States*, June 24, 1924; “Feeble-Minded are Defended by Archbishop,” *State Times*, June 23, 1924.

<sup>111</sup> “Prelate Assails Sterilization Act,” *New Orleans States*, June 23, 1924; “Feeble-Minded are Defended by Archbishop,” *State Times*, June 23, 1924.

unworthy to reproduce. Shaw went on to insist that sterilization was “an unnatural mutilation,” that “no legislature can arrogate itself the right to inflict upon helpless human...” By using terms like “helpless” and “mutilation,” Shaw furthered his advocacy of sterilization’s potential victims by creating sympathy for them. They are Louisiana’s most vulnerable and their lack of political influence makes them powerless. They deserve protection, not sterilization. He implored state representatives to “show better judgment and more regard for the inalienable rights of the poor victims of this radical legislation than the Senate.” Shaw’s statements were part of a powerful argument that he was making. He realized that lawmakers and the general-public could accept compulsory sterilization if those facing the procedure were somehow less human than they were and a threat to their children’s future. By constantly using the term “human beings” in addition to terms like “helpless” Shaw reminded anyone who would listen that the state would sterilize men and women who enjoyed the same rights as his audience. Acknowledging the humanity of those targeted by the legislation was the first step in creating sympathy for them. Sympathy was not a logical appeal, but an emotional one. However, it was an intricate part of Shaw’s defense of those subjected to sterilization by the bill.<sup>112</sup>

Opponents’ spirited defense of those threatened with sterilization intended to recognize the humanity of the poor and their rights as citizens. As earlier noted, Louisiana’s poor were the group at greatest risk of being forcibly sterilized because they were more likely to be institutionalized in state run facilities than wealthier patients.. Instead of regarding the poor as a threat or hindrance to the state’s future, opponents saw them as potential victims of a dangerous

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<sup>112</sup> Prelate Assails Sterilization Act” *New Orleans States*, June 23, 1924; “Feeble-minded are Defended by Archbishop,” *State Times*, June 23, 1924.

scheme. Since opponents came from the same upper and middle class backgrounds as the proponents, their defense of the poor was not rooted in a shared experience with the lower class. It rather came from a desire to protect their rights. Class identity was not always the determining factor in establishing a worldview. Evident by the objections to sterilization and its defeat in the state house, some elected officials and community leaders were able to look beyond class biases.

Although men and women from a variety of professional and religious backgrounds weighed in on the merits of compulsory sterilization, ninety men decided its fate. As the spirited debate raged in the public form, the bill made its way through the House Health and Quarantine Committee. After receiving a favorable report from the committee, it arrived on the house floor where that body's highly organized opponents swiftly tabled it.

Representatives voted to postpone the bill by a vote of forty-eight to forty-one, and the House never reconsidered it. Since there is no roll call vote on the 1924 bill in the House, it is impossible to determine who supported the bill and who voted against it. The close vote does reveal that some South Louisiana representatives voted for the bill. Even though most south Louisiana representatives likely voted against the bill, if the vote had been on regional lines with southern legislators voting against sterilization in masse, the vote to postpone would have been much greater than it was. Therefore, some legislators representing majority Catholic districts were able to disregard religious objections and consent to the proponents' views limiting individual rights and increasing state power for the good of society.<sup>113</sup>

Even those lawmakers who subscribed to the notion that individual rights were not conditional did acknowledge that the state could place regulations on exercising them when the

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<sup>113</sup> Louisiana House of Representatives, "Official Journal of the Proceedings of the House of Representatives of the State of Louisiana," July 2, 1924.



issue of public health was at stake. The same year the first eugenics bill failed, the house passed the 1924 Ducros marriage bill, which indicated that both northern and southern lawmakers willingly imposed some restrictions on private citizens. Under the threat of penalty of law, the Ducros marriage bill required men seeking a marriage license to first undergo a physical exam and obtain a clean bill of health. The new law sought to prevent men with contagious diseases like tuberculosis and venereal diseases from marrying and transmitting their illnesses to their wives. It did not include a provision that required a mental health, intelligence test or any other eugenics based assessment. The bill, sponsored by the future sponsor of the 1928 compulsory sterilization bill, Benjamin Ducros, passed the House by a comfortable margin and by an even bigger margin in the state senate. Since there is no record of 1924 sterilization vote in the House, it is impossible to compare it to the marriage bill vote. However, examining the 1926 sterilization votes reveals some interesting trends. Nearly half of the representatives who cast a vote for the 1924 marriage bill voted against the 1926 compulsory sterilization bill. Representatives uncomfortable with stripping away the reproductive ability from institutionalized citizens were willing to force all Louisiana men to undergo a physical exam in order to marry in the state. In agreeing to the physical exam, representatives acknowledged the role that the state played in protecting citizens' future health. Moreover, the Ducros Marriage bill applied to every Louisiana man regardless of race or class. This helps to support the notion that class biases did not play a significant role in how the legislature considered measures that affected individual rights. Clearly, Louisiana lawmakers did not have a problem with placing restrictions on marriage that applied to all men – rich and poor. Furthermore, as evident by the

bill's easy passage in both houses, lawmakers who subscribed to unconditional individual rights were not opposed to individuals giving up some privileges for the common good.<sup>114</sup>

Segregating patients at state institutions was an acceptable use of state power as was requiring health certificates, but compulsory sterilization was not. All three bills aimed to protect public health and improve the quality of society for future generations, but only one called for an invasive operation that destroyed a person's ability to reproduce. Although the senate agreed, in general with the proponents' argument that sterilization was a warranted use of state power, the House rejected it. Instead, it sided with opponents who deemed the procedure an abuse of power and a violation of individual rights. The close vote in that body proves that it did not fail because of divisions along strict religious or regional lines. Nevertheless, proponents only had to pick up seven votes in the House and had reason to be optimistic for the legislative session two years away.

Likely encouraged by the closeness of their defeat, proponents recycled many of their arguments from the 1924 debate to make their case for the 1926 bill. Their reasons for sterilization remained the same, that those deemed feeble-minded were a threat and a burden to the state. They continued to justify the procedure by arguing for eugenics and that other states had successfully implemented the practice. Moreover, while dehumanizing those they wanted to sterilize, proponents reiterated their claim that sterilization improved the lives of those who

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<sup>114</sup> Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, June 19, 1924; Ibid.; Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, June 23, 1926; Official Journal of the Senate, July 8, 1924.

would undergo the procedure. However, their justification for the procedure changed slightly from two years earlier.

As he did in 1924, Senator Jules Fisher introduced the 1926 bill. Although, the *Times Picayune* described the 1926 bill as “virtually the same bill” as the one introduced in 1924 Fisher included more specific language and greater safeguards than the 1924 bill had. Possibly in response to opponent attacks, the author of the 1926 measure stipulated that eugenics be the only reason for sterilization. It read, “All degenerate or defective persons capable of producing such children shall be deprived of the power of pro-creating.” It furthered this point by insisting that seemingly cured patients had the ability to “produce deformed or idiotic children.” Therefore, sterilizing institutionalized patients was not for their benefit or as a punishment, but rather it was to prevent them from having children. The bill also attempted to thwart suggestions that it unfairly targeted the poor. Patients were subject to the procedure, the measure insisted, “regardless of the amount of their worldly fortunes and possessions, their sex, age, race, personality or marital condition.” Although, the number of poor Louisianans facing sterilization under this law would likely dwarf eligible patients with great “worldly fortunes and possessions,” the bill was simply reiterating the eugenic purpose of the procedure. Finally, the 1926 bill allowed patients to receive a hearing before the institution’s board of directors. The Superintendent would still make the decision, but the patient had an opportunity to appeal.<sup>115</sup>

The slight alterations made to the 1926 bill clearly came from Virginia’s law and its template, Harry Laughlin’s “Model Eugenic Law.” The changes were thanks in part to Jean Gordon, who not only studied Virginia’s bill, but also distributed it to lawmakers before the start of the legislative session. Language from both the Virginia statute and Laughlin’s sample law,

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<sup>115</sup> “Sterilization Bill Gets Favorable Action,” *Times Picayune*, May 28, 1926.

like Louisiana's 1926 version, specified that eugenics would be the sole reason for performing sterilizations. The stated intent of the Virginia law was to stop "many defective persons who if now discharged or paroled would likely become by the propagation of their kind a menace to society." Similarly, Laughlin argued, "All persons in the state who, because of degenerate or defective hereditary qualities are potential parents of socially inadequate offspring," faced sterilization. Other factors such as material wealth or race should not play a role in the decision. In language that Louisiana's law obviously borrowed, Laughlin insisted that if a person's offspring were a threat then he or she should be sterilized, "regardless...of the personality, sex, age, marital condition, or race or possessions of such persons." By insisting that eugenics be the sole reason for sterilization, Laughlin attempted to prevent attacks that the procedure unjustly burdened some classes. Yet, Laughlin immediately contradicted his point when he listed the groups eligible for sterilization. In it, he included the "dependent (including orphans, ne'er-do-wells, the homeless, tramps and paupers)." Moreover, as discussed in chapter one, the term feeble-minded or mental defective included conditions ranging from intellectual challenges to poverty. Even though economic status alone was not a reason to sterilize a person, poverty remained an indicator of feeble-mindedness. Although Laughlin insisted that sterilization laws not be discriminatory, they were and Louisiana's 1926 measure was no exception. Finally, Virginia's law included a process for hearings and appeals that found its way into Louisiana's bill.<sup>116</sup>

In addition to the subtle changes between the two bills, the 1926 attempt also differed from that in 1924 because a media firestorm followed its introduction. Two years earlier, the

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<sup>116</sup> Report, March 9, 1926, AMHDOG, Box 1, Folder 9; Virginia Sterilization Act of 3/20/1924; Harry Laughlin, *Eugenical Sterilization in the United States*, 446; Virginia Sterilization Act.

bill's journey through the Senate received only brief mentions in the press. It was only after the bill made its way to the House that the public debate surrounding it garnered extensive media coverage. In 1926, newspapers published detailed reports about the debate in both chambers. The increased interest may have been because of the controversial bill's nearly becoming law two years earlier and the very open discussion among civic, professional, and religious leaders over it.

Even though the coverage increased exponentially, the arguments remained much the same. Favorable lawmakers embraced the idea that the feeble-minded posed a threat; that they produced poverty and crime; they were a financial burden to the state; not only did other states have similar laws, but that they successfully implemented them; and the state has the legal authority to forcibly sterilize some of its citizens. Finally, proponents attempted to counter Shaw's 1924 attacks by highlighting their contention that compulsory sterilization benefited the patient because it was an act of mercy.

The alleged threat that those deemed feeble-minded posed seemed to have struck a chord among supporters at the state house. In a hearing before the House committee on Health and Quarantine, Jean Gordon insisted, "more than half the citizens of America today have the minds of [nine] year old children." Since she and other proponents claimed that intelligence and mentality were heritable traits, these adults with the minds of children could only produce offspring who would inherit their deficiencies. In an impassioned plea, Senator Coleman Lindsey similarly claimed, before his senate colleagues, that eight thousand feeble-minded individuals resided in Louisiana and that state institutions could only house four hundred. "For this reason," Lindsey proclaimed, "the remainder must wander at large over the state, scattering the seeds of feeble-mindedness for the future generations. Although they may be self-

supporting, that [four hundred] are retained in confinement because their release would be a menace to the intellect of the unborn children.” Sterilization could easily correct this problem, according to Lindsey, because many patients would not require further institutionalization after sterilization. Since they would be incapable of producing children, they would no longer be a threat to the future. Moreover, the state would not have to increase the size of its institutions because as the hospitals released sterilized patients they could admit new patients and repeat the process until they sterilized all of the so called feebleminded. The cycle would continue until the state sterilized all of those deemed feebleminded. High school principal and state senator from Union Parish, T.W Shields lent his support to the bill because “one family had sent [twelve] children to school under his charge, and not one of them could advance beyond the third grade because of their hereditary defects.” These two senators were convinced that the only way to save the future from feeblemindedness was prevent the feebleminded from being born.<sup>117</sup>

The lofty and improvable promise that sterilization would end crime and poverty swayed some lawmakers. Lindsey incorporated this aspect of the pro-sterilization argument into his plea. He claimed, “One feeble-minded man now living in Louisiana has been found to have over [one hundred] feeble-minded descendents and most of them have criminal tendencies. Without injustice or injury to anyone, these might have been eliminated by the operation of this bill a few years ago.” Not only did Lindsey’s example highlight proponents’ beliefs concerning the heritability of crime, they stressed the proponents’ sense of urgency. The feebleminded

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<sup>117</sup> “Americans Insane in 500 Years at Present Rate Says Dr. Thomas,” *Daily Town Talk*, May 26, 1926;

“Senate Passes Sterilization in Hot Fight,” *State Times*, June 15, 1926.

produced criminals quickly and at a higher rate than the average person. Therefore, to eradicate this problem – the state must act quickly.<sup>118</sup>

Proponents also resurrected the argument that the feebleminded were a financial burden to the state and consequently to its taxpayers. In testimony before the House Health and Quarantine Committee, T.J Perkins, Superintendent of the East Louisiana Hospital claimed, “Nine families alone had cost one Louisiana institution for the insane more than \$150,000.00 dollars.” Had the state sterilized, “a few families,” it would have prevented “much misery and expense.” Perkins claims must have convinced state representative T. Sambola Jones, a Democrat from Baton Rouge. In making his case for the bill on the House floor, Jones insisted that not having a compulsory sterilization statute was an “economic waste to the state.”<sup>119</sup>

Another key justification for Louisiana adopting a sterilization law that proponents at the state capital embraced was that other states had a similar law. Before the 1926 legislative session began, Jean Gordon distributed to state lawmakers copies of other states’ sterilization laws. A favorite example for many pro-sterilization Louisianans was California. In making the case for the 1926 bill that he introduced, Jefferson Parish senator Jules Fisher held up the state as an example for Louisiana. “In California, where such a law already is on the statutes, more than 6,000 patients have been sterilized. The law has been found to be eminently satisfactory in that state.” Although Fisher’s numbers were inaccurate, California as an example was important for two reasons. First, authorities there frequently carried out the order to sterilize, while many other

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<sup>118</sup> “Local Women Favor Birth Control, But Hit Civil Service,” *Times Picayune* April 2, 1925; Senate Passes Sterilization in Hot Fight,” *State Times*, June 15, 1926.

<sup>119</sup> “Americans Insane in 500 Years at Present Rate Says Dr. Thomas,” *Daily Town Talk*, May 26, 1926; Sterilization Bill is Killed,” *Times Picayune*. June 30, 1926.

states with compulsory sterilization laws rarely employed them. California officials also boasted that there were few deaths or other serious complications associated with the surgery. As part of his testimony before the Senate Health and Quarantine Committee, Superintendent Thomas read a letter he received from Fletcher Bowron, Executive Secretary of the Governor of California. In the letter, Bowron wrote that California had sterilized “approximately forty-seven hundred” patients “without one fatality resulting.” Again, the accuracy of these statements was irrelevant to supporters of the bill. The fact that California had a law and forcibly sterilized its citizens was all that Louisiana’s proponents of the law needed to prove that it was successful. Representative T. Sambola Jones, in his remarks in favor of the bill echoed Bowron when he cited the surgery’s safety. Supporters sought to shut down opponents who insisted that it was deadly. Virginia’s law was another law that supporters pointed to as a model for Louisiana. In his testimony, Thomas was also quick to point out Virginia law’s constitutionality as determined by the state court. Safety, effectiveness and legality were the major points that proponents attempted to prove by offering these examples.<sup>120</sup>

By bringing in and referencing national experts on eugenics and sterilization, Louisiana’s proponents hoped to add legitimacy to their cause. In April of 1926, shortly before the legislative debate, Jean Gordon invited Chicago Municipal Court Judge Harry Olson to deliver a lecture on the “crime situation” before the ERA Club. In a lecture delivered in 1924, Olson had argued that crime was the result of a hereditary brain defect. John Thomas insisted that the sterilization bill “has the approval of the best medical authorities in the country.” However, he

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<sup>120</sup>“Report,” March 9, 1926, AMHDOG, Box 1 Folder 9, “Senator Asks Weak Minded be Sterilized,” *New Orleans Item*, May 20, 1926; “Sterilization Law Operative in California,” *State Times*, June 18, 1926; “Ibid; “Sterilization Bill is Killed,” *Times Picayune*, June 30, 1926; “4,700 Sterilization Operations Performed in California Performed, No Deaths,” *Daily Town Talk*, June 18, 1926.



failed to mention who those authorities were. The fact that Thomas cited national experts revealed a slight change in tactics from 1924. During the debate two years earlier, Gordon incorporated support from New Orleans physicians into her argument for sterilization. In 1926, these same physicians remained silent. It is unknown why they did not offer the same public support that they had during the last debate. Yet, by bringing in national experts, citing their support in their testimony and providing other states as examples for Louisiana proponents were most certainly trying to reassure lawmakers that the procedure was acceptable.<sup>121</sup>

Not only was the procedure legally sound and sanctioned by nationally recognized experts and considered safe, but the state had a right and a responsibility to sterilize, according to sterilization's supporters in a repeat of an earlier justification. In his sermon on eugenics, New Orleans Unitarian Minister Reverend J.B. Hollis Tegarden, argued that the "mentally defective" could not "be held responsible for the passing on of the bad heredity." Therefore, it was the responsibility of the state to prevent them from reproducing. Richland Parish representative Harrison Jordan agreed with Tegarden's sentiments when he stated, "this state can no longer willfully permit deformed and mentally defective children to be born within its boundaries." Jordan clearly believed that ultimate authority rested with the state. A person reproduced at the state's pleasure and the state had knowingly allowed those deemed feeble-minded to reproduce. Therefore, the state possessed the right to stop them. Jordan's colleague in the House Mason Spencer elaborated on his comments by insisting that a "vast injustice ... was being done by permitting thousands and thousands of feeble-minded children to be born in Louisiana simply through the failure of the state to take proper precautions to see that the feeble-minded do not

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<sup>121</sup> "Report," April 13, 1926, AMHDOG, Box 1, Folder 9; "Judge, Doctor Point Out Way of Ending Crime," *Times Picayune*, July 20, 1924.

reproduce.” For these proponents, it was not a question as to whether or not the state had the authority to sterilize but when was it going to begin.<sup>122</sup>

In an attempt to counter some of the callous depictions offered in 1924, proponents argued in 1926 that the procedure provided patients benefits and protections that they otherwise would not be able to enjoy. Tegarden touted the benefits sterilization offered as one of his main points. It did not interfere with “personal liberty” and it was less painful than “giving birth to one defective child.” Sterilization was also a merciful act. “What harm is done to the child who comes in to our world thus crippled!” the minister exclaimed. “It were better that we all were drowned in the depth of the sea than that we should allow little children to continue to come upon our earth not well.” For Tegarden, a person deemed unfit or feebleminded was better off never being born at all. He also argued that sterilization was part of God’s plan because it “makes God consistent with Himself by its injecting love into the law of survival of the fittest.” Sterilization was a humane act because it prevented anyone from being born who was not equipped to survive. It also was “the extension of democracy to nature” because negative eugenic programs like sterilization “propose[d] no one be born unless he can be well born.” Democracy would be safe because only those capable of carrying it out would exist.<sup>123</sup>

According to these news reports of the debate, proponents fully embraced the notion that compulsory eugenic sterilization was perfectly acceptable because there were a group of people who threatened Louisiana’s present-day financial stability as well as its continued existence.

Those that they deemed feebleminded or unfit did not have the right to maintain their

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<sup>122</sup>Tegarden, “Eugenics;”; “Senator Asks Weak Minded be Sterilized,” *New Orleans Item*, May 20, 1926; “Sterilization Bill is Killed,” *Times Picayune*, June 30, 1926.

<sup>123</sup> Tegarden, “Eugenics”.

reproductive abilities because they could not be trusted. Proponents fully embraced the notion that the state had the right to determine which citizens had the ability to reproduce. This acceptance was due in part to the fact that Louisiana would merely be following in the footsteps of other states that had enacted sterilization laws. It also appealed to lawmakers who believed that rights were not universal, but rather that they were conditional. The state should only recognize full and unconditional rights for those citizens considered assets to society. According to one representative, allowing the feebleminded to reproduce was “vast injustice” to the state. Another claimed that sterilization “only deprived [the patient] of the right the right to reproduce.” Proponents’ new found sympathy for those that they wanted to sterilize was a result of the way that they viewed rights. Men and women incapable of properly exercising rights were not entitled to them therefore forcibly sterilizing them was in their best interest.<sup>124</sup>

Opponents once again countered proponents’ arguments by challenging eugenics, pleading for caution, and insisting that the procedure was dangerous, illegal, a violation of individual liberties, and that it unfairly targeted the poor. They also persisted in creating sympathy for those subject to sterilization in spite of proponents’ attempts to argue that sterilization benefited the patients.

Although the rhetoric remained the same, there were two distinct differences in the public debate. The first was that Archbishop Shaw entered into the 1926 debate earlier than he had during the 1924 contest. Instead of waiting until after the bill passed the Senate, Shaw publically protested the bill soon after its introduction. Newspapers also covered lawmakers’ arguments against it more thoroughly in 1926 than they had in 1924. These reports reveal that

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<sup>124</sup> “Sterilization Bill is Killed,” *Times Picayune*, June 30, 1926.

questions surrounding eugenics and the safety of the procedure were effective among suspicious lawmakers. However, opponents in both houses tended to focus on the lack of authority by the state to enact such a complete violation of individual rights. Arguments that the procedure unfairly targeted the poor, that it would lead to further, more egregious abuses by the state, and that its potential victims desired sympathy not scorn were particularly convincing.

Both Shaw and lawmakers began the 1926 contest by casting doubt on eugenics. In his open letter sent to legislators and published throughout the state by various newspapers, Archbishop John W. Shaw “urg[ed] caution until science [had] developed greater knowledge concerning the feeble-minded.” Citing an article, “Changing Concepts of Feeble-mindedness” from *The Mental Hygiene Bulletin*, Shaw insisted that feeble-mindedness did not necessarily pass from one generation to the next. Moreover, simply because a person was feeble-minded did not make him a “menace.” There was simply no way to tell if a person would transmit the gene, or how the gene would express itself in the child. Highlighting the debate in the scientific community certainly helped Shaw’s case. In 1924, he had questioned the science of eugenics, but without scientific evidence for his opinion. Therefore, it appeared he was offering his opinion based on religious sentiment and not scientific evidence. With the scholarly journal article questioning contemporary ideas concerning the feeble-minded, Shaw linked his earlier objections with mental health professionals who also questioned policies like sterilization. Bolstered by the mental health community’s division, an editorial by the *New Orleans Item* echoed Shaw’s call when it declared, “It seems to us in the present state of knowledge, that it [the compulsory sterilization bill] is a good bill to beat.” Representative Jules Carville even went as far to say that the bill would “mak[e] experimental white rats or guinea pigs out of the unfortunate feeble-minded.” Carville’s statement was similar to one that Shaw made earlier and

it is clear that Shaw's objection influenced the legislator. In speaking out against the bill in the Senate, Grundy Cooper of Alexandria plainly stated, "I don't believe in this theory of hereditary insanity." He then went on to cite the Leopold-Loeb murder case that had enthralled the nation that summer. Nathan Leopold and Richard Loeb were two highly intelligent, wealthy, university students charged with murdering a young boy. They both came from prominent, law-abiding Chicago families. Therefore, if crime was an inherited trait, these two young men should not have committed such a heinous act.<sup>125</sup>

Lawmakers also expressed doubt over the safety of the procedure, another hallmark of their attacks on the bill in 1926. They challenged the claim that sterilization surgeries had a fatality rate of zero. Cooper lamented that the operation was both dangerous and painful. He insisted that in California, one hundred and twenty patients died undergoing sterilization surgery. Proponents denied his claim, but Cooper's attacks may have forced a deeper consideration of the bill. Forcing individuals to undergo surgery was in itself a dangerous proposition that might have given state lawmakers pause. As in questioning the science, opponents attempted to create enough doubt to kill the bill.

The cornerstone of the legislative arguments against the 1926 bill was their challenging the state's authority to enact and carry out the proposed law and that it violated individual rights. The state "has no right to perform it [sterilization] on individuals without his consent," Cooper plainly stated. He then went on to mention that state supreme courts in several states had ruled

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<sup>125</sup> "Shaw Opposes Sterilization," *New Orleans Item*, May 30, 1926; "Archbishop is opposed to Bill," *New Orleans States*, May 30, 1926; "The Sterilization Bill," *New Orleans Item*, June 16, 1926; "Sterilization Bill is Killed," *Times Picayune*, June 30, 1926; "Bill to Sterilize Feeble Minded Passes Senate," *New Orleans Item*, June 15, 1926.

forcible sterilization laws unconstitutional. Cooper was undoubtedly contesting proponents' contention that since Virginia's Supreme Court ruled its law constitutional then the procedure was legally sound. He challenged the constitutionality of the legislation similar to the way that others challenged the science, by highlighting contradictory opinions and thus creating doubt. Cooper went on to reject the state playing any role in the reproductive matters of its citizens. "I have not one iota of patience in the doctrine of birth control by the state." Representative Jules Carville shared Cooper's sentiment when he charged that compulsory eugenic sterilization, "originated in the minds of some people who have nothing to do but attend to other people's business." Whether the objection was serious or tongue in check, opponents made it clear that the state lacked the authority to sterilize its citizens.<sup>126</sup>

The state lacked the authority to sterilize because it violated the individual liberties of the patients. In Shaw's letter to the members of the legislature, he asked them to consider "What man in Louisiana would want to feel [the] guilt of having recklessly and wantonly voted in favor of a law that cruelly mutilated a citizen and thus robbed him of his God given right?" As he argued in 1924 Shaw considered the ability to reproduce an inalienable right given to each person by his or her creator. M.K. Smith, a representative from Shreveport agreed that the law would be a violation of individual rights when he called it, "a most dangerous piece of legislation. It is morally and fundamentally wrong." Reproduction was a right that the state could not impede.<sup>127</sup>

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<sup>126</sup> "Senate Passes Sterilization in Hot Fight," *State Times*, June 15, 1926; *Ibid.*; "Bill to Sterilize Feeble Minded Passes Senate," *New Orleans Item*, June 15, 1926; "Steril Bill Put to Sleep in House," *New Orleans States* June 30, 1926.

<sup>127</sup> "Archbishop is Opposed to Bill," *New Orleans States*, May 30, 1926; "Steril Bill Put to Sleep in House," *New Orleans States*, June 30, 1926.

An assertion that the bill unfairly targeted the poor was another important part of the opponents' argument embraced by suspicious lawmakers. Although the claim changed slightly from 1924 to 1926, it remained essential to proponents' overall case. In 1924, Chief Justice Charles A. O'Neill argued that a law that allowed the state to sterilize institutionalized patients violated the equal protection clause of the Fourteenth Amendment, and Shaw urged lawmakers to correct the social and economic problems that created poverty and crime not sterilize its victims. Two years later, Senator Grundy Cooper altered their arguments by claiming that the law would unfairly target the lower class. "If we set the so-called mental standard even reasonably high and enforce this bill," Cooper opined, "there would not be another cotton picker born in this state – virtually all of our laborers are moron[s], or they would not be laborers." Cooper's comments were in no way sympathetic and in many respects, derogatory. Yet, he recognized that the law unfairly targeted Louisianans unable to obtain expensive, private treatment for mental or intellectual handicaps. Cooper did not innately possess a deep sympathy or even respect for those most threatened by compulsory sterilization – it was unnecessary. Moreover, Cooper's sentiments concerning the working class were similar to those expressed by proponents. However, his class biases did not compel him to support sterilization. In Cooper's case, they actually had the opposite effect. Therefore, his objections were rooted in his belief that the state could not infringe on the right to be able to reproduce, regardless of a person's economic status.<sup>128</sup>

Since the bill's constitutionality was dubious at best, it violated individual liberties and it unfairly targeted the poor, opponents argued that if enacted, it would lead to additional dangerous legislation. Therefore, lawmakers embraced the slippery slope argument from 1924.

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<sup>128</sup> "Senate Passes Sterilization in Hot Fight," *State Times*, June 15, 1926.

One senator feared that the law could be “abused by a radical doctor” and therefore refused to support it. The fact that the state of California had sterilized six thousand people also concerned him. He “feared the consequences of such a law in Louisiana would be too far reaching.” After calling compulsory sterilization, “the most dangerous piece of legislation,” M.K Spencer went on to warn his colleagues, “Who know but what this very bill might become a Frankenstein monster which would return to take its toll from its creator.” Sterilizing the feebleminded would likely lead to the sterilization of another group considered undesirable and so on. The future ramifications of the bill were too risky to chance.<sup>129</sup>

In 1924, opponents referred to the individuals that the sterilization bill would threaten in terms that aroused sympathy for them. Shaw and likeminded lawmakers repeated these assertions in 1926. Shaw referred to the feebleminded as “unfortunate citizens.” The feebleminded were not to be feared or denigrated; rather they were “citizens” deserving of the same rights and respect afforded to all citizens. Moreover, they were “unfortunate.” They did not choose their fate or condition. They were born that way and the state should not “experiment” on them. Rather, they deserved the same dignity and respect afforded to them as citizens. Senator Grundy Cooper also called those who would be eligible for sterilization “unfortunate people.” In arguing that women faced the greatest risk undergoing surgery, Grundy attempted to elicit images of innocent women dying as the result of invasive operations. His concern for women was a stark contrast from Gordon’s 1924 appeal for the sterilization bill where she told legislators that she hoped that a young woman she deemed to be feebleminded was dying from an abortion. Opponents’ countered proponents’ attempts to vilify the people that they wanted to sterilize by rhetorically stripping them of their humanity by recognizing it.

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<sup>129</sup> “Work During Past Few Days in State Senate Reviewed,” *Daily Town Talk*, May 22, 1926.



Morgan City representative Julius P. Hebert, pleaded with his colleagues to consider their dignity, “God created these poor unfortunates just as he did legislators.” Cooper made a similar plea in the Senate when he argued that it was the state’s responsibility to care for the feeble-minded because they were incapable of caring for themselves. For Cooper, caring for these individuals meant providing for them in institutions -- not stripping them of their ability to reproduce and then releasing them.<sup>130</sup>

Was the ability to reproduce a right guaranteed for everyone or was it a privilege reserved for only those deemed fit? This question lay at the heart of the debate in 1926. As they did in 1924, proponents argued that maintaining the ability to have a child was a privilege and conditional upon a person’s likelihood that he or she would produce children intellectually capable of improving society. Through eugenics they could determine who was fit enough to reproduce. Opponents staunchly disagreed. Too many questions surrounded the validity of eugenics to use it to sterilize a person against his or her will. Even if eugenics proved to be sound science, the state did not have the authority to enact such a policy. The right to maintain reproductive function was an absolute right.

Evident by the votes on the 1926 bill in both the Senate and the House, the belief that the right to maintain the capability to reproduce depended on a person’s ability to produce sound offspring grew between 1924 and 1926. Unlike the 1924 vote, state senators were aware of Shaw’s fervent objections to the procedure, however, the bill passed the Senate that year by a final tally of twenty-five to eleven -- a larger margin of victory than the 1924 measure. Even

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<sup>130</sup> “Archbishop is Opposed to Bill,” *New Orleans States*, May 30, 1926; “Steril Bill Put to Sleep in House,” *New Orleans States*, June 30, 1926; “Senate Passes Sterilization in Hot Fight,” *State Times*, June 15, 1926.

more surprisingly, support among south Louisiana senators increased from eleven members voting yes in 1924 to fourteen senators voting yes in 1926. Moreover, a majority of the southern delegations' affirmative votes came from the heavily Catholic Acadiana region. The northern delegation's support also increased. Although a majority of the opposition came from the remaining south Louisiana senators, Shaw's campaign against the bill seemed to have had only a marginal impact on it in the Senate.<sup>131</sup>

Catholic opposition seemed to continue to have a greater impact in the House than it did in the Senate, yet it was far from unanimous. As in 1924, state representatives voted to postpone the compulsory sterilization bill in 1926. The vote, however, was much closer in 1926 than it was in 1924. Anti-sterilization forces in the House won by a narrow two-vote margin, forty-eight votes to postpone to forty-six votes not to postpone. The vast majority of the vote to postpone came from representatives from southern districts. One-third of the southern delegation, however, voted against postponement. Conversely, most of the bill's support came from North Louisiana representatives. According to Jean Gordon, she found evidence of the Catholic Church's influence on the House of Representatives when a St. Landry Parish representative "changed his vote" due to "pressure from the local Knights of Columbus" chapter. Coupled with the voting record, this anecdotal evidence seems to support the argument that the Catholic Church's opposition played a larger role in defeating the bill in House or at the very least, it meant that House members were more responsive to their constituents than their colleagues in the Senate. Yet, it is unwise to dismiss the number of southern representatives who voted for sterilization. The bill nearly passed the House because of their support. Catholic

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<sup>131</sup> Official Journal of the Louisiana Senate, June 14, 1926.

opposition to sterilization most certainly aided in the bill's demise; however, staunch resistance from Catholic majority areas of the state would have most likely resulted in a greater defeat. Sterilization's five-vote pick up in the House in 1926 seems to indicate that some representatives embraced the idea that rights were conditional.<sup>132</sup>

Another important and observable component to the 1926 bill's defeat is the role that the economic status of a House or Senate district played in support or opposition for the bill. In eight Senate districts that completely encompass or include at least a portion of one of the state's poorest parishes, based on the number of income tax returns filed in 1924, eight senators voted for sterilization in 1926. Only one senator who represented an economically depressed parish voted against the bill. Meanwhile, only five out of the twelve senators who represented districts composed of the state's wealthiest parishes voted for compulsory sterilization. The remaining seven senators voted against it. In the House, the results differed slightly. There, exactly half of the eight members who came from the poorest districts voted for the bill in 1926, and the other half voted against it. Of the thirty representatives who hailed from wealthier parishes, twelve voted for compulsory sterilization and eighteen against it. In summary, lawmakers from poorer districts were more likely to vote for compulsory sterilization than their colleagues who represented wealthier districts.<sup>133</sup>

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<sup>132</sup> Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, 1926; Report, June 1926, AMHOG, Box 1 Folder 9.

<sup>133</sup> United States Internal Revenue, "Individual Returns by States and Territories – Number of Returns Distributed by Counties and by Income Classes, Calendar Year 1924," 290, *Statistics of Income from Returns of Net Income for 1924* (Washington, D.C: Government Printing Office, 1926).

### 1926 Compulsory Sterilization Bill Results in the State Senate\*

Region	Yes/No Votes	% of Yes Vote	% of No Vote
South LA	14/8	56%	73%
Orleans	3/4	12%	36%
Greater N.O.	2/1	8%	9%
Acadiana	6/2	24%	18%
Florida Parishes	3/1	12%	9%
North La	11/3	44%	27%

\*Does not include Senators who voted absent

### Breakdown by Region of 1926 State Senate Vote

Region	Total Number Voting	% Yes	% No
South LA	22	64%	36%
Orleans	7	43%	57%
Greater N.O.	3	67%	33%
Acadiana	8	75%	25%
Florida Parishes	4	75%	25%
North LA	14	79%	21%

### 1926 Compulsory Sterilization Bill Results in the State House of Representatives\*

Region	Yes/No	% of Yes Vote	% of No Vote
South LA	19/41	41%	85%
Orleans	4/14	9%	29%
Greater N.O.	4/4	9%	8%
Acadiana	7/18	15%	38%
Florida Parishes	4/5	8%	10%
North La	27/7	59%	15%

\*Does not include Representatives who voted absent

### Breakdown by Region of 1926 State House of Representatives Vote

Region	Total Number Voting	% Yes	% No
South LA	60	32%	68%
Orleans	18	22%	77%
Greater N.O.	8	50%	50%
Acadiana	25	28%	72%
Florida Parishes	9	44%	56%
North LA	34	79%	21%

The fact that senators from poorer districts would overwhelmingly support a bill forcibly sterilizing patients at state hospitals, many of whom were of meager means, appears illogical. Although there was mixed reaction from state representatives from poor districts, it would make sense that lawmakers would have opposed a bill that would have potentially had a

disproportionately negative impact on their constituents. The answer may be simple. These lawmakers may have bought into the argument that sterilization would eventually end poverty. They could improve the quality of life in their districts by improving their constituents. These lawmakers may have also agreed with sterilization proponents' position on the conditional nature of rights. Promises to end poverty coupled with the notion that rights were conditional and in order to be able to reproduce one must prove his or her fitness may have been very attractive to them.

Furthermore, the significant opposition to the bill from lawmakers representing wealthier districts also points to class distinctions not being a major factor in support for the bill. Although proponents may have pushed a class narrative, in particular in the way that they demeaned those who they wanted to sterilize, lawmakers did not necessarily agree with it. If that were the case, state senators and representatives from wealthier districts would have most likely voted for compulsory sterilization. Yet the opposite was true.

During the 1926 session lawmakers also debated a bill to ban teaching evolution in Louisiana's public schools, universities and colleges. The way that the lawmakers approached the anti-evolution bill helps reveal two important aspects of the overall mentality that played a significant role in how they considered compulsory sterilization. First, it shows that lawmakers were not particularly enamored with experts. State representatives and senators who voted for sterilization and for banning the teaching of evolution did not necessarily accept the science that eugenicists used to bolster their case. Second, the ability of some to vote for both tends to add credibility to Edward Larson's notion that for supporters majority rule was more important than

minority rights. Even though the bills contradicted each other scientifically, they both supplanted individual rights for what was considered to be in the best interest of society.

Similar to the 1926 compulsory sterilization ban, the bill banning evolution received a mixed reaction. As written, the bill would have prevented publically supported science teachers and professors from teaching their students Darwin's theory of evolution. Teachers, instead, were to continue to teach the Biblical story behind man's creation as scientific fact. Although it comfortably passed the House by a vote of fifty-two for to forty-three against, it would later die in the Senate. Of the fifty-two legislators who voted for the ban, twenty-seven of them came from South Louisiana and the remaining twenty-five represented North Louisiana districts. However, most southern representatives voted against it while most of the northern delegation voted for the bill. At first glance, banning evolution seemed to be a North Louisiana versus South Louisiana issue. Yet comparing the evolution ban vote to the compulsory sterilization vote yields some interesting results. A majority of the legislators who voted to ban the teaching of evolution voted for sterilization. Over sixty percent of the representatives who voted against the ban also voted against sterilization. In theory, agreeing to implement a compulsory sterilization program required a belief in eugenics; since eugenics was loosely based in the science of evolution, one would assume that it would require an acceptance of evolution. A majority of the representatives supported initiating a state program that would forcibly sterilize some of its citizen based on the scientific theory that they wanted to ban in public schools, colleges and universities. A simple rejection of science, therefore, does not explain this conflicting vote. Vocal advocate of the bill ban, Charles Hudson was one of those legislators who also voted for compulsory sterilization. In explaining why he wanted to ban teaching evolution, Hudson insisted that animals could "breed up" but they could not become another type

of animal. A descendent of “a mustang pony,” Hudson argued, could one day become a “thoroughbred horse”; however, “he is still a horse. He ain’t no monkey and he ain’t no man.” Hudson did not need to believe that Darwin’s theory applied to man in order to accept eugenics. Although, he did not fully accept evolutionary science, Hudson’s bill was not an anti-science measure so much as it was a bill intended to control science education in Louisiana.<sup>134</sup>

In the senate, the ban bill failed by a vote of seventeen to fifteen. A newspaper report described the opposition as against the religious implications of the measure or that it threatened to impede academic exploration into the sciences. For example, some senators voted against the bill because “they believed the bill to be a thinly disguised religious measure.” On the other hand, “Others were of the opinion the passage of the bill would seriously impair the teaching of subjects in various state schools and colleges including biology and geology.” Yet, as with the vote in the House, thirteen of the fifteen senators who voted to ban the teaching of evolution in public schools also voted for sterilization. Some of the senators who voted for both bills may have shared Hudson’s views on evolution and eugenics. What is evident is that the vote on the ban bill was more complicated than simply one that pitted science against religion.<sup>135</sup>

The inconsistent voting pattern also seems to indicate that lawmakers rejected the idea that social and professional elites should use science to manage society. One of the major arguments that proponents, like Jean Gordon, used was that experts should dictate which citizens should become parents. As evident by Hudson’s comments on the bill, lawmakers, who voted

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<sup>134</sup> Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, June 22, 1926; “Religious Beliefs must be Guarded, Hudson Declares,” *Times Picayune*, May 13, 1926.

<sup>135</sup> Official Journal of the Senate, June 23, 1926; “Evolution Bill and Luxury Tax Die in Test Vote,” *Times Picayune*, June 24, 1926.



for compulsory sterilization and for the ban on teaching evolution, were able to select the elements of evolution that they believed in. Man's intelligence, capabilities, and worthiness derived from his genetic make-up, but he was not the product of natural selection. Expertise only went so far among these senators and representatives. These men did not share the same mindset as the professional and cultural elites who backed compulsory sterilization in part because it was justified by the tenets of evolution.

They did not base their support for the ban solely on religious objections, either. Historian Edward Larson has written extensively about eugenic sterilization and the Scopes trial. His conclusions concerning the Scopes trial point to majority rule versus minority rights to be at the heart of that controversy. According to Larson, William Jennings Bryan, although motivated by his religious convictions to attack Darwin's theory, argued that the state should not allow teachers to teach the theory of evolution if a majority of citizens did not want it taught in public schools. Science teachers should be constrained by public sentiment regardless of their personal convictions or their desire to explore new concepts. Evidence of this majority rule mentality is present in the comments made by state representative R.L. Williams. According to Williams, the bill banning the teaching of evolution was not an attempt to push a religious-based education. He conceded that Christianity should not be part of a public school curriculum, however, "the teaching of any theories which would tend to undermine the religious faith of the young attending the schools should likewise be banned." Williams, who also voted for the sterilization measure that same legislative session, assumed that since most Louisianans held the Judeo-Christian belief that God created man in his image; the state should prevent students from learning theories that contradicted that narrative. Similarly, Bryan argued, "Teachers in public schools must teach what the taxpayers [want] taught." In general, proponents of the ban seem to

agree that supported schools should only introduce concepts that conform to the majority of citizens' pre-existing beliefs. Introducing a contradictory concept, like Darwin's theory, undermined the majority's right to determine what their children learn. Therefore, if they believed that it was in the state's best interest to ban a controversial idea, proponents were willing to deny teachers their right to free thought. Meanwhile, opponents to the measure argue for the teacher's right to free thought and his ability to exercise it.<sup>136</sup>

Applying Larson's notion of majority rights versus minority rights provides insight into the teaching ban and compulsory sterilization. Commenting on the *Buck v Bell* decision, Larson insists that it "represented Progressive Era lawmaking with a vengeance – a subjugation of individual liberty to the interests of the community as guided by modern scientific thinking." Just as the ban on teaching evolution protects the majority's right to determine what their children learn, compulsory sterilization allegedly protects society from the reproduction of undesirable citizens. For some Louisiana lawmakers, limiting the reproduction of certain groups was in society's best interest as was banning the teaching of evolution. However, the conflicting votes in the House and the Senate seem to complicate this theory. In general, the Senate was willing to enact compulsory sterilization but rejected the teaching ban. On the other hand, the House supported the ban and never approved sterilization.

The fact that there was a group present in both the House and the Senate willing to deny a right to reproduce and the right to academic freedom indicates that the belief that rights were

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<sup>136</sup> Edward J. Larson, *Summer for the Gods: The Scopes Trial and America's Continuing Debate over Science and Religion*, (New York; Basic Books, 1997) 44-59; Edward J. Larson, "The Scopes Trial and the Evolving Concept of Freedom," *Virginia Law Review* 85, no. 3 (April 1999): 510-11; "Solons Predict Evolution Bill be Passed," *State Times*, May 29, 1926; William Jennings Bryan as Quoted in Larson, "The Scopes Trial and the Evolving Concept of Freedom," 510.

conditional had many supporters in the state capital. Most of the state representatives who voted for compulsory sterilization in 1926 also voted for the ban. There were thirty-four legislators who voted for both sterilization and the ban on teaching evolution. Conversely, a majority of the House members who opposed sterilization also voted against the ban. As in the House, a large majority of senators who approved of the compulsory sterilization supported the teaching ban. Although the reason for restricting rights differed, they were both rooted in the same mentality. Proponents of compulsory sterilization argued that the state could eliminate the reproductive capabilities of citizens it deemed would produce children who would threaten society's future. Proponents of the ban to teach evolution in public schools insisted that the state had the power to prohibit teachers from discussing theories that they believed would endanger the widely held beliefs of their constituents. In both instances, these lawmakers willingly sacrificed individual rights for what they considered to be in the best interest of society. Though this group represented a considerable part of both houses, they were and would never constitute a majority.<sup>137</sup>

What all of these legislative votes indicate is that compulsory eugenic sterilization is more complicated than simply a South Louisiana Catholic versus North Louisiana Protestant issue. The Catholic Church certainly played a role in the measure's defeat, but it was not the exclusive reason. In both 1924 and 1926, Shaw penned letters to lawmakers pleading with them to reject the compulsory bills. Newspapers across the state published them. He made a compelling argument, adopted by others, that challenged the veracity of eugenics, as well as the constitutionality and the morality of the legislation. There is evidence that his objections

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<sup>137</sup> Larson, "The Scopes Trial and the Evolving Concept of Freedom," 506-7.

appealed to Louisiana's Catholic population and helped to sway some legislators from Catholic-rich regions from voting for the bill. Yet, despite his protests, legislative support for sterilization increased from 1924 to 1926 among State Senators representing Catholic regions. After the bill nearly passed the House in 1926, Shaw's public activism inexplicably ended. What this proves is that Shaw's attacks played a role in defeating the bills in 1924 and 1926, but they were not the sole reason for the bills' defeat, especially after 1926.

Instead of a religious debate, the debate in Louisiana primarily focused on a discussion of individual rights and the power that the government had to disregard those rights for the benefit of the common good. Louisiana in the 1920's was a strange place to have such a debate. The state was not a bastion for egalitarian views. For instance, the Louisiana's voter registration laws stripped black citizens of political rights because of their race. There was no discussion among Louisiana's leaders objecting to these laws because they violated the Fifteenth amendment to the U.S. Constitution. Nevertheless, compulsory sterilization opponents argued that the procedure violated the individual rights of those subject to the surgery. They do not offer an explanation as to why they would argue that the state should respect individual rights in this case and not for other issues. Race may have played a role. Voter registration laws were designed to prevent blacks from voting but whites would have been subject to the sterilization law. Obviously, their use of the argument indicated that they thought that it was convincing.

Although the overall debate centered on the nature of rights versus the power of the government to disregard them when necessary, class and gender prejudices were part of the proponents' argument. For proponents of compulsory eugenic sterilization, the procedure would end poverty by eventually eliminating the poor. Poverty was not the result of systemic socio-economic issues or inadequate educational opportunities. Rather, they insisted that the poor

were inherently incapable of living any other way. This reasoning clearly constituted an attack on the lower class. Proponents also targeted girls and women they identified as troublesome. The state's most fervent supporters of compulsory sterilization, Gordon, founded the Milne Home for Orphan and Feebleminded Girls in order to contain the threat that she believed these women posed. Gordon and others saw sterilization as the only way to prevent these women from producing future sex workers. However, it is important to note that all of the laws considered by the state's lawmakers would have allowed for the sterilization of both men and women. Although proponents may have singled out women in the debate, feeble-minded men would also be eligible for the procedure.

Conspicuously absent from the debate, in a state where Jim Crow laws defined the racial order, was race. One reason for this absence was the fact that black men and women were admitted to the state's mental hospitals, assigned to separate quarters, of course. Therefore, if the compulsory sterilization became law then black patients would also be subject to the surgery.

Another reason for the absence of race in the debate was that Jean Gordon expressed concern for the white race only. The procedure's most vocal opponent feared that the feeble-minded and genetically unfit whites threatened the superior Nordic race and therefore the state's main concern should be eliminating unfit whites. However, Gordon was certainly no racial egalitarian. She infamously rejected an invitation to the White House in 1909 to participate in a discussion on the subject of alternatives to institutions for children, a subject dear to her, because Booker T. Washington was also attending. "I refused to attend any function where I would be placed on equal terms with negroes," Gordon declared when declining the invitation. Moreover, Gordon only accepted white girls and young women into the Milne Home. Her sister Kate, the prominent suffragist, opposed a national amendment to the U.S. Constitution

granting women the right to vote because such an amendment would include black women. Instead, she insisted that each state amend its own constitutions to expand suffrage. Therefore, only “educated, intelligent white women of the South,” would be able to vote and black women would continue to be disfranchised. Gordon’s concern for the perpetuation of what she deemed the superior the white race coupled with her derogatory views of black people shaped how she approached compulsory sterilization. Like other eugenicists, Gordon may have believed that black people were genetically inferior and destined for extinction. White people she deemed feebleminded and genetically weak, however, could easily reproduce with those deemed superior white people producing in damaged offspring. Overtime, the superior stock, as many eugenicists referred to it, would disappear. Once this superior stock disappeared, eugenicists argued, so to would advanced civilization.<sup>138</sup>

The impact of these arguments on lawmakers is questionable. There is some evidence that class and gender did influence the legislative debate. For instance, in their remarks defending the bills, friendly senators and representatives touted sterilization’s promise to end poverty or crime. However, less receptive lawmakers attacked the bill because it discriminated against the poor and balked at its promise to end crime and prostitution. There is even less evidence that misogynistic appeals made by proponents had any effect on the legislative vote. Although the prospect of ending prostitution by sterilizing prostitutes appealed to some lawmakers, Gordon’s bigoted pleas seemed to have been ineffectual. The greatest evidence of prejudicial attitudes toward women came from Shaw when he questioned the femininity of women who supported compulsory eugenic sterilization. Nevertheless, class and gender, aside

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<sup>138</sup> 1908 Annual Report, January 4, 1909, AMHDOG, Box 1 Folder 1; Kate Gordon as quoted in Kemp, “Jean and Kate Gordon,” 392.

from the role that women in general played in pushing for compulsory sterilization, rarely come up in scholarship on Louisiana's flirtation with it. On the other hand, the active role that the Catholic Church had in lobbying against it consistently comes up.

Beginning in 1928, two developments would affect how Louisiana's lawmakers considered compulsory eugenic sterilization. The first development was the election of Huey Long as governor. The second was a division among the state's medical officials on the effectiveness of sterilization to prevent conditions with dubious hereditary links. Although the debate does not change in regards to what was said, these two developments helped to ensure the final defeat of sterilization in Louisiana.

## CHAPTER 5

### 1928 -- 1932

Jean Gordon and other compulsory sterilization advocates walked away from the 1926 session hopeful, unaware that they had just missed their best opportunity to get the legislation passed. They saw the gains that they made in the votes in both chambers as an indication that in the 1928 legislative session they would finally prove victorious. They may have very well been right; however, by that time, political forces in Louisiana had undergone a major realignment. Although Huey Long never came out in favor of or in opposition to compulsory eugenic sterilization, his campaign and election as governor signaled a new era in Louisiana that would affect the bills considered during his reign. For a variety of reasons, including the major turnover that both the House and the Senate experienced in 1928, the Long era, the State Senate passed only one of the four sterilization bills that it considered. The lone bill that the Senate did pass never made it to the House. More important than Long's impact was the changing opinion of the state's medical community. In 1928, prominent local physicians began questioning the procedure's effectiveness. Therefore, the debate over eugenic sterilization in Louisiana continued to center on individual rights versus state power and authority, but newly expressed doubts surrounding its ability to eliminate psychological and intellectual disabilities created an insurmountable challenge for proponents.

The new skepticism coming from the state's medical community replaced Shaw as the major opponent to compulsory sterilization in Louisiana. Archbishop Shaw's public attacks against the procedure ended in 1926, only to be replaced by concerns from some within the state's medical community. Although opposition from these physicians was new to the debate in 1928, their objections to the procedure were quite similar to the ones made in 1924 and 1926.



Clarence Pierson, a respected psychiatrist, future superintendent of the Central Louisiana Hospital, and former sterilization advocate began to challenge eugenics. In testimony before a Senate hearing in 1928 and in an article in the 1929 *New Orleans Medical and Surgical Journal* he offered evidence that psychological disorders and intellectual disabilities were often times not inherited. Sterilizing patients with these conditions would, therefore not necessarily prevent them from occurring in future generations. Unable to rebuff Pierson's claims with solid scientific proof proponents defended their position with conjecture based on anecdotal evidence. This new medical doubt over the effectiveness of sterilization was not the only new development in 1928.<sup>139</sup>

In 1928, most of the newly elected lawmakers considered compulsory sterilization for the first time. They found it difficult to approve the bills introduced in 1928 and after. The Senate approved only the 1930 measure but the House never considered it. Since newspaper reports of the legislative debate were scarce and rapidly declined from 1928 to 1932, legislative votes are the only way to gauge support for the bill. North Louisiana lawmakers, whose constituents were mostly Protestant, began voting like their South Louisiana colleagues. Evident by the near unanimous support this group gave the 1924 and 1926 bills it appeared as though compulsory sterilization was popular in North Louisiana. However, the new crop of lawmaker from this region did not share their predecessors' enthusiasm.

During his second gubernatorial campaign, Huey Long canvassed the state with a message denouncing special interests and shady government deals. In brash but folksy speeches Long demanded that the state work for the people. Increased severance taxes and cutting wasteful government spending should go to fund new roads, schools, hospitals and services that

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<sup>139</sup> It is unclear as to why Shaw did not publically speak out against any of the compulsory sterilization bills after 1926. A close examination of his papers revealed public silence on the matter and no explanation as to why he did not comment.

would benefit all Louisianans. The hallmark of his platform, according to T. Harry Williams, was providing free textbooks to all schoolchildren. Long attacked the system where parents were responsible for buying their children's books every year. Often times, Long insisted, the new textbooks were no different from older editions. Yet, the state required that parents purchase the new books anyway. This costly practice intended to line the pockets of state officials and textbook publishers, Long charged, prevented poor Louisianans from sending their children to school.<sup>140</sup>

In his famous Evangeline Oak speech, Long promised that if elected, he would change the nature of state government by making it responsive to the needs of the people. "Where are the schools that you have waited for your children to have, that have never come....Where are the institutions to care for the sick and the disabled," Long solemnly asked. He then steadfastly declared, "Your tears in this country, around this oak, have lasted for generations. Give me the chance to dry the tears of those who still weep here!" Long's campaign justifiably characterized by his sometimes bizarre behavior, including physical altercations with political opponents, was built on a message that clearly resonated with voters. He promised to be their champion and make government work for them. Even though Long never voiced supported or condemned compulsory eugenic sterilization publicly, his popular message may have had an effect on the 1928 bill's failure to pass the Senate. His outreach to common men and women did not seem to work well with the arguments that sterilization proponents made. For instance, Long rejected the proponents' assertion that poverty was a reflection on a person's character; rather, he believed that poverty resulted from corrupt government and business practices that ignored the needs of

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<sup>140</sup> T. Harry Williams, *Huey Long*, (New York: Alfred A. Knopf, 1969), 273.

Louisianans. Nevertheless, overall trends within the voting record seem to indicate that the controversial governor had little effect on the bills' outcomes.<sup>141</sup>

For unknown reasons, St. Mary planter and freshman Senator John M. Caffery replaced Jules Fisher as the bill's sponsor in the Senate in 1928. Even though the sponsoring senator changed, the bill's language remained much the same as it did in 1926. The only major difference in the 1928 bill was the appointment process for a board charged with hearing appeals. The 1928 bill gave the governor the power to appoint the five-member board. It would consist of four physicians and one "layman." The 1926 bill had stated that an institution's board of directors would handle the hearing process and any appeals. Although the decision remained with the superintendent, this specially appointed board would affirm his or her decision. Moreover, by separating the board from the superintendent, these bills intended to create a greater sense of fairness that appeared to honor a patient's right to due process.<sup>142</sup>

There was less newspaper coverage on the third bill's Senate journey compared to the 1926 attempt. Proponents made the same arguments, provided similar evidence and justifications, as they had done in their two previous attempts at passing the legislation. With their near victory in 1926, proponents must have believed that they did not need to change their message. Hence, the debate in 1928 mimicked those in 1924 and 1926. Yet, the bill would be the first one to fail in the senate.

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<sup>141</sup> Ibid., 274-5.

<sup>142</sup> "Sterilization is Approved 7-2," *State Times*, June 15, 1928; Laughlin, *Eugenical Sterilization in the United States*, 446.

As before, proponents began making their case by arguing for the need for sterilization. They cited the threat and the problems caused by the feebleminded. John N. Thomas, Louisiana's perennial pro-sterilization medical expert began the 1928 debate shortly after the 1926 bill failed. As evidence of the need to implement a compulsory sterilization program, he cited a nearly two hundred percent increase in the number of patients admitted to the Central Louisiana Hospital from 1909 to 1926. Without passage of the bill, the nation would eventually become insane. Attempting to institutionalize and segregate the estimated eight thousand feebleminded Louisianans would cost the state one million dollars annually, Thomas claimed. The state nor its future could afford not to implement a compulsory sterilization program.<sup>143</sup>

Furthermore, proponents maintained their claims that the feebleminded were the cause of all of society's problems, everything from work injuries to crime and the inability to participate in a democratic society. In order to "prevent the development of more subnormal workers," Jean Gordon proposed, "sterilizing all feebleminded." These comments made at a national labor conference reveal that Gordon, the former factory inspector, remained committed to her belief that work related injuries resulted from incompetent workers and not dangerous conditions. In a speech on what he saw as the troubling increase in the use of insanity defenses in criminal trials, John J. Robira, President of the District Attorneys' Association of Louisiana, reaffirmed proponents' assertion that criminals were born to commit crime and called for the sterilization of the "mentally defected and the criminal class." Central Louisiana Hospital physician, R.H. Bryant expounded on the threat that the feebleminded posed. He insisted that they were, "intellectually incapable of training to the extent that they become useful citizens." Not only

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<sup>143</sup> John N. Thomas, "Increasing Insanity in this Country and What Should be Done to Prevent it," *New Orleans Medical and Surgical Journal* 79 (November 1926): 330, 331, 334, 331.

were they a danger to themselves and others, but their defect jeopardized the state. Expanding on the threat to democracy that those deemed unfit posed, celebrated eugenicist, Albert Wiggam, argued in a speech delivered before Sophie B. Wright High School's Lyceum Association, "The mental ability of the average American, as determined by intelligence testing with soldiers during the world war and with thousands of students since, show that a very small percent of the population is capable of thinking independently." He estimated that less than three hundred thousand Americans "thought and acted independently and constructively." At that time, the population of the U.S. was over one hundred twenty million residents. Therefore, Wiggam's approximation meant that less than one percent of the nation was capable of thinking and acting "independently." Wiggam likely intended to frighten his audience with his shocking claim.<sup>144</sup>

Supporters also resurrected their argument that caring for the feebleminded and unfit was an unsustainable financial burden to the state. In a letter published by the *Times Picayune* Thomas asked Governor O.H. Simpson for the state to increase funds to support the Central Louisiana Hospital. Claiming that the population would most likely reach eighteen hundred by the 1928 legislative session, Thomas made his predictable pitch for sterilization as a means to reduce the hospitals population and as a result save the state money. The state nor its future could afford not to implement a compulsory sterilization program. Once sterilized, Gordon

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<sup>144</sup> "Employment of Subnormal Workers," *Times Picayune*, May 23, 1928; "Insanity Pleas must be Curbed, Robira Declares," *Times Picayune*, January 10, 1928. (NOMSJ R.H. Bryant, "Some Observations Which May Help in a Better Understanding of the Problem of Our Mentally Ill," *New Orleans Medical and Surgical Journal* 80 (1927): 162; "World in 'Muddle' says Albert Wiggam," *Times Picayune*, Jan. 13, 1928; Ibid; "Resident Population – Estimates by Age, Sex, and Race: July 1928," United States Census Bureau, [www.census.gov/history/pdf/pe-11-1928.pdf](http://www.census.gov/history/pdf/pe-11-1928.pdf)

reiterated, the state could release “non-violent patients” who would then go on to care for themselves without threatening the state’s future.<sup>145</sup>

The evidence that proponents used to prove sterilization’s effectiveness was also the same as in earlier debates with some slight changes to it. They once again relied heavily on anecdotal evidence to confirm the heritability of feeble-mindedness, insanity, and other mental illnesses. One marked difference from the previous debates was that proponents did not use nationally known family studies like the Jukes or the Kallikaks. In 1928, they relied on state studies and observations from Louisiana institutions. For instance, Thomas cited surveys that he argued proved Louisiana institutions housed multiple members of the same families. Proponents in Louisiana must have believed that local evidence would be more convincing. Moreover, their shift may have been in response to the increasing debate among national and international experts brought up during the 1926 debate. Although there was not a major turn against compulsory sterilization in the mid-1920’s, Shaw did bring up a British organization’s misgivings on the necessity of the procedure in 1926. Simple observations, therefore, were the only substantial evidence that proponents had. However, Bryant justified the lack of empirical evidence supporting the heritability of feeble-mindedness by arguing that it was not necessary. “Laboratory methods” were unnecessary because the proof, according to Bryant was plainly evident. The lack of dependable scientific studies forced proponents to double down on their

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<sup>145</sup> Thomas, “Increasing Insanity in this Country and What Should be Done to Prevent it,” 331; “Increased Funds for Insane Haven,” *Times Picayune*, June 11, 1928; NOI Jean M. Gordon “Miss Jean Gordon on Sterilization,” *New Orleans Item*, June 19, 1928.

unsubstantiated observations and unreliable surveys that they could not possibly reproduce in a lab.<sup>146</sup>

Although proponents did not incorporate nationally known family studies into the 1928 debate, they did cite experts and referred to the successful implementation of sterilization in other states as further proof of its soundness, as they had in earlier debates. In addition to citing evidence from state institutions, Thomas provided evidence from national authorities like Harry Olson and Horatio M. Polluck, Director of the Statistical Bureau of the State Hospital Commission of New York. Proponents once again held up California's program and the implementation of the program in other states as examples for Louisiana. As she had done in the debates in 1924 and 1926, Gordon offered Virginia's compulsory sterilization law as a model for Louisiana. Finally, a South Mississippi newspaper editorial reprinted in the sterilization friendly *Times Picayune* highlighted the benefits of sterilization, its need, and its legality. The failure of the state to allow "idiots" to "become parents" was "criminal" and costly. The children of "mental defectives," the editorial maintained would be "a menace to society and the recent Supreme Court decision affirming the constitutionality of compulsory sterilization meant that it did not violate individual liberties. Highlighting Mississippi proponents' mentality in Louisiana intended to spur Louisiana's supporters to action by confirming their beliefs.<sup>147</sup>

The justifications for sterilization that proponents utilized in 1928 were nearly the same ones that they offered in 1924 and 1926. Thomas repeated his strongly held stance that the state

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<sup>146</sup> Thomas, "Increasing Insanity in this Country and What Should be Done to Prevent it," 331, 332; Bryant, "Some Observations Which May Help in a Better Understanding of the Problem of Our Mentally Ill," 161.

<sup>147</sup> Thomas, "Increasing Insanity in this Country and What Should be Done to Prevent it," 333 - 4; Jean M. Gordon, "Miss Jean Gordon on Sterilization," *New Orleans Item*, June 19, 1928; "What Our Neighbors are Saying," *Times Picayune*, Dec. 4, 1927.

had both the right and the authority to prevent people from having children deemed defective. It was the state's responsibility to make sure that children not be "robbed of the impelling force that drives to perfect mental and physical development" because they were born with defective genes. Individuals, Gordon argued in 1928, did not have the right to "live as prostitutes" and have children that the state and charitable organization would care for. Just as the state can prevent individuals from certain lifestyle and occupational choices, it can prevent some people from reproducing. Both Gordon and Thomas justified the procedure by arguing that it was safe. The only addition that Thomas made to the proponents justification for sterilization in the 1928 debate was that the state would equally apply it to both rich and poor families. Citing the Hapsburgs of Austria, Thomas argued that sterilizing the emperor would have spared the world from the Great War. Insanity did not discriminate between rich and poor families and therefore, both the rich and the poor should be eligible for sterilization. Thomas's addition was clearly in response to the opponents' earlier attacks that the procedure unfairly targeted the poor and possibly Long's successful campaign rhetoric.<sup>148</sup>

Belittling and vilifying their potential victims also remained a favorite argument among proponents. As she had done throughout the debate, Gordon attacked the feeble-minded as being "hyper-sexual." Thomas referred to the feeble-minded as a separate species. Arguing that the surgery was safe, he claimed that it only made it an "impossibility to procreate the species." He also referred to feeble-mindedness as an "evil" that should be "eradicated." As during the 1924 and 1926 debates, proponents continued to consider those deemed feeble-minded or somehow

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<sup>148</sup> Thomas, "Increasing Insanity in this Country and What Should be Done to Prevent it," 334; Jean M. Gordon "Miss Jean Gordon on Sterilization," *New Orleans Item*, June 19, 1928; 331; Thomas, "Increasing Insanity in this Country and What Should be Done to Prevent it," 332.



defective subhuman. In spite of the opponents defending the humanity of those deemed unfit, proponents maintained their claims. Although they did not use the demeaning language as much in 1928 as in 1924 and 1926, their persistence indicates that they either believed their own vicious rhetoric or that they continued to assume that it would make it easier for lawmakers and lay men alike to support the procedure. Regardless of their continued, all be it limited, use of derogatory language, it played a major role in the eight year long debate over sterilization in Louisiana.<sup>149</sup>

Although their margin of victory eroded between 1924 and 1926, opponents approached the 1928 debate using the same arguments that they had in 1926. In order to establish doubt, and fight for individual rights and interests as they had done during the past debates, opponents labeled eugenics as a phony science that provided a false sense of security and attacked sterilization as an illegal and immoral scheme that unfairly targeted the poor. They also persisted in their challenge to the proponents' disparaging characterization of the potential victims.

The opponents' message remained much the same, the messengers, however, did not. Archbishop Shaw who led the charge against the 1924 and 1926 bills remained publically silent in 1928. It is unclear as to why he did not publish an open letter, as he had done earlier, but Shaw would never again speak out against the procedure. In Shaw's absence, an unexpected challenger emerged. Clarence Pierson respected psychiatrist, future head of the Central

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<sup>149</sup> "Miss Jean Gordon on Sterilization," *New Orleans Item*, June 19, 1928; "Increased Funds for Insane Haven Urged by Leader," *Times Picayune*, June 11, 1927.

Louisiana Hospital, and former advocate for sterilization came out publically against sterilization and testified against the hereditary nature of insanity.

During the Senate committee hearing on the bill, Pierson poked holes in the science of eugenics. He reportedly testified, “From thirty-five to forty percent of those afflicted with insanity were cured if treatment was started soon enough.” Pierson making an argument similar to one that Shaw made in 1926, countered the wildly held belief by proponents that not only was insanity inherited it was also incurable. Although Shaw also cited a study published by a reputable mental hygiene publication, Pierson’s claims had the potential to carry more weight because of his professional status. Moreover, since he was a local official, lawmakers may have considered him more trustworthy when it came to the situation in Louisiana.<sup>150</sup>

For those who may have placed a greater value on the opinions of national experts, opponents highlighted the fact that they did not agree on the causes of intellectual and psychological conditions. Walter J. Otis, Acting President of the Louisiana State Society for Mental Hygiene, mentioned that Walter E. Fernald, the one time advocate for sterilization had come to oppose it. He also cited the Central Association for Mental Welfare, the Royal Society for Mental Hygiene of England, and the National Committee for Mental Hygiene as organizations that disagreed with compulsory sterilization laws. Naming specific organizations challenged proponents’ earlier assertions that there was agreement among mental health experts. Otis also reasserted the popular notion among opponents that the procedure would give a false sense of security.<sup>151</sup>

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<sup>150</sup> Sterilization is approved by 7-2 by Senate Committee,” *State Times*, June 15, 1928.

<sup>151</sup> “Letters from Readers,” *Time Picayune* June 9, 1928.

The 1928 debate was also the first time that opponents attacked the proponents' use of the California example. California, according to the Otis, "has never proven that sterilization has accomplished its end but apparently received their enthusiasm through the act of sterilization itself." In the 1926 debate, proponents cited California's numerous sterilizations as evidence of the law working. The simple fact that California sterilized thousands of its citizens did not prove that sterilization work. It only proved that the state implemented its law at a higher rate.<sup>152</sup>

Pierson and Otis's 1928 critiques represented a division within Louisiana's medical community. In 1924 and 1926, it appeared as though most of the state's officials agreed with the principle and effectiveness behind compulsory sterilization. All of the physicians who spoke out during the earlier debates supported the procedure. By 1928, this apparent unified front had disappeared. The fracture would make passing compulsory sterilization in Louisiana more difficult.

Opponents maintained their challenges to the constitutionality of the procedure by continuing their claims that it was immoral, a violation of individual rights, and would lead to further abuses by the state. Even after the United States Supreme Court sanctioned compulsory eugenic sterilization with its 1927 decision in the *Buck v Bell* case, opponents like Otis continued to make the argument that state supreme courts had struck down similar laws. They maintained that the state did not have the authority to sterilize a citizen without his or her consent. Senator Charles Holcombe of Baton Rouge reportedly stated that he "did not think that the state had the right to decide what shall or shall not be done to the human body." In addition to the state not having the authority to sterilize, it was also immoral.<sup>153</sup>

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<sup>152</sup> Ibid.

<sup>153</sup> "Sterilization is Killed in Senate by Vote of 19-18," *State Times*, June 19, 1928.

In a letter to the editor, J.E. Toups wrote that it was citizens' "moral obligation to keep a sterilization law off the statute books of Louisiana." Toups argument was interesting because it shed light on an aspect of the opponents' argument that persisted over the eight years of the debate and it showed how an ordinary Louisianan understood the debate. Although little is known about Toups, his occupation, religious affiliation, or socio-economic classification, his letter does shed light on the arguments that affected an average Louisianan. His letter was also the first one published by a major newspaper on the issue of sterilization not written by a medical doctor, legal expert, religious leader or Jean Gordon. According to Toups, sterilization was a moral issue that could lead to other problems. He rhetorically asked why not, "adopt the very practical policy of the survival of the fittest, there by ridding society of all undesirables and ending forever the sufferings and misery of all the afflicted and weaklings?" Obviously, the slippery slope aspect of the opponents' argument appealed to Toups. His mocking reference to experts' use of scientific principles to fix human problems directly challenged the idea that they had the answers or that the state had the authority to act.<sup>154</sup>

Toups did not give his occupation or his reasons for following the debate over the compulsory sterilization. Yet, the arguments that he used to counter the proponents' arguments clearly convinced him that compulsory sterilization was a sham. It would be imprudent to say that Toups represented the opinion of all Louisianans who opposed sterilization. However, the arguments that he found the most compelling does shed light on how the debate shaped one man's analysis on the issue.

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<sup>154</sup> "Letters from Readers," *Times Picayune*, June 9, 1928.

The concern that the law would unfairly target the poor also made it into the debate in 1928. Although John N. Thomas insisted that both the rich and the poor should be sterilized if they had conditions that warranted it, opponents continued to raise doubt about proponents' sincerity in matters concerning class. One of the biggest reasons for the opponents' skepticism was that the 1928 bill, like the other two, only applied to patients in state hospitals and there were very few, if any, wealthy patients institutionalized in state funded facilities. In his critique of the 1928 bill, Holcombe mentioned the discrepancy. "It will mean the sterilization of inmates of the state institutions but will not touch the thousands who never become inmates. It will hit the poor people who have no money to keep their feeble-minded at home while the most fortunate will go scot free." Thomas's intention to sterilize all of the unfit regardless of their class standing or wealth did not fit with the way that any of the bills were written. Thomas may have wanted to retroactively sterilize the emperor of the Austro-Hungarian Empire, but as Holcombe pointed out in order for anyone to be sterilized under the law, he or she would have to be institutionalized. Since most of the patients in the state facilities were unable to provide for their care and relied on public funds they would be the ones threatened by the new law. Furthermore, no emperor had ever been a patient at a Louisiana state hospital.<sup>155</sup>

Just as sterilization's proponents persistently aimed to strip those they wanted to sterilize of their dignity, opponents to the bill repeatedly sought to restore it. To rebuff language like "menace" and "evil" used by proponents, Holcombe referred to those threatened by the proposed law as "poor people." Otis described them as "male" and "female" and he labeled sterilization as "mutilation." Although, the defense of the potential victims' humanity was not as extensive as it was in 1928 as it was in 1924 and 1926, the fact that opponents continued to use

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<sup>155</sup> "Sterilization is Killed in Senate by Vote of 19-18," *State Times*, June 19, 1928.

specific language to counter proponents' attacks reveals that they believed that it was an important part of their attack on compulsory sterilization.<sup>156</sup>

Although the public discussion in 1928 closely resembled those in 1924 and 1926, in the senate, the bill still failed by one vote to reach the required twenty-vote threshold. South Louisiana support for the bill remained consistent – meaning that the bill received about the same amount of support from Southern senators as the two previous bills had. However, in stark contrast to the 1924 and 1926 senate vote, a greater percentage of the northern delegation voted against the bill than supported it. Of the thirteen senators who represented North Louisiana districts and cast a vote, six voted for compulsory sterilization and seven voted against it. The fact that all but one of the affirmative votes came from re-elected senators is note worthy. Six of the northern senators who voted against sterilization were new to the office. Of the seventeen freshmen senators representing southern districts who cast a vote on the bill, ten of them voted for it and the remaining seven voted against it. Therefore, the 1928 measure was somewhat more popular among first-time senators from the south than among first-time senators from the north.<sup>157</sup>

A disappointed Gordon blamed the sponsor's inexperience and the numerous new lawmakers as the reasons why the bill failed. She cited Caffery's unfamiliarity with Senate rules that would have allowed him to postpone the vote for the bill falling one vote short. Even if the freshman senator had been more aware of the rules and managed to push the bill through the senate, Gordon doubted that she would have been able to convince the House to pass the bill.

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<sup>156</sup> Ibid; "Letters from Readers," *Times Picayune*, June 19, 1928.

<sup>157</sup> Official Journal of the Louisiana Senate, June 19, 1928

### 1928 Compulsory Sterilization Bill Results in the Senate\*

Region	Yes/No	% of Yes Vote	% of No Vote
South LA	13/11	68%	61%
Orleans	3/5	16%	28%
Greater N.O.	3/0	16%	0%
Acadiana	4/5	21%	28%
Florida Parishes	3/1	16%	5%
North La	6/7	32%	39%

\*Does not include Senators who voted absent

### Breakdown by Region of 1928 Senate Vote

Region	Total Number Voting	% Yes	%No
South LA	24	54%	46%
Orleans	8	38%	63%
Greater N.O	3	100%	0%
Acadiana	9	44%	56%
Florida Parishes	4	75%	25%
North LA	13	46%	53%

Although not as dramatic a turnover as in the Senate, the House returned less than half of its members from 1926. Conceding that “educating” the new members on a subject such as

sterilization would have been a “herculean task,” Gordon resolved to work on gaining their support during the next two years. The biggest hurdle that Gordon faced was from those she called “the countrymen.” They too easily believed charges made by her opponents that sterilization was castration. Although the vasectomy replaced castration as the preferred method to sterilize men by the early 1900’s, the claim that the procedure was mutilation persisted among its opponents. It was a charge that Gordon had trouble dispelling, especially with such a large group of freshman lawmakers considering the issue for the first time.<sup>158</sup>

Gordon admitted that Otis’s attacks against the bill before the Senate committee were effective in convincing “countrymen” that the procedure was “radical,” but she believed that she would be able to change their minds in time for the next session. Unsubstantiated and peculiar claims made by Otis, according to Gordon, hurt his case. Apparently, Otis was unable to cite specific studies where he found the high number of fatalities he associated with the operation. He also made the claim that sterilization had produced menopausal symptoms in a teenage girl to such a degree that it gave her the appearance of an “old woman of forty-eight.” Gordon seemed to have taken delight in the fact that over “one hundred persons” heard Otis’s claims. She believed that reasonable people would ignore the doctor and therefore would encourage support for the procedure in the future. In time for the 1930 legislative session, Gordon must have thought that she would be able to sway the “countrymen” by insisting that the procedure was safe, non-disfiguring and necessary.

The “countrymen” that Gordon spoke of clearly came out of North Louisiana senate districts won by Huey Long. In his primary victory, Long won ten of the eleven northern state senate districts. Thirteen senators represented those eleven districts. In 1926, these senators

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<sup>158</sup> Report, June 1928, AMHDOG, Box 1 Folder 10.



voted overwhelmingly for sterilization with ten voting for the procedure and only three voting against it. In the 1928 election, only five of the thirteen senators won re-election. Had this group voted the way that they had in 1926, the bill would have passed with votes to spare. By winning these districts, Long's campaign message likely resonated with voters and it may have had an impact on why these new senators chose to oppose sterilization in 1928.

As earlier noted, Long never spoke out against compulsory sterilization – either as a candidate or while in office; yet, his gubernatorial campaign's message seemed to be incompatible with the proposal. Long crusaded against the current political system. Constructed to protect the interests of business and the politically connected, the system was the problem. According to Long, corrupt politicians sacrificed the interests of ordinary Louisianans in order to line their pockets and enrich their friends. Long promised to end this and fashioned himself as a defender of the common man. State officials conspiring with textbook publishers, construction companies would no longer be able to make money off struggling families. Textbooks and roads would be free. Long's view that the system was to blame for poverty, illiteracy and other issues contradicted the beliefs of eugenic sterilization's proponents who argued that it was unfit and feebleminded people who were at fault and that the professional and social elite should be in charge of managing society.

On the other hand, Long's message did not seem to have an effect on the eleven southern senators elected from districts that Long won. Of the ten southern senate districts that Long won, eight senators voted for sterilization and three voted against it. Six of the eight senators who voted were new to the senate, as were two out of the three who opposed the bill. In 1926, senators from these districts voted seven to three for sterilization. Therefore, in spite of Long's victory, the support for sterilization remained constant from this group.

There was also no clear distinction among Long's political allies and rivals in either in the Senate or House on the question of compulsory sterilization. One year after the compulsory sterilization bill failed to pass the Senate, the House voted to impeach Long on a variety of charges by a vote of fifty-nine to thirty-nine. Thirty-six representatives voted on both the 1926 sterilization bill and in the impeachment proposal. Of those representatives who voted for sterilization, just over sixty percent voted to impeach while the remaining thirty percent voted against indicting the governor. As for the representatives who voted against sterilization, sixty-five percent voted to impeach Long and thirty-five percent voted not to impeach. What these numbers prove is that support for Long and his program, had little to do with support for or opposition to sterilization. Long's opponents in the House were nearly equally split in on the issue of compulsory sterilization. Of the twenty-three legislators who voted for the charges, ten members voted for sterilization in 1926 and thirteen of them voted against it. The numbers concerning Long's supporters were much closer. Of the thirteen representatives who voted against impeachment, six voted for sterilization and seven voted against it. In the House, support for Long did not indicate opposition to sterilization or vice versa. Two examples of anecdotal evidence demonstrate the situation in the House. A prominent House conservative, J.Y. Sanders, Jr., publically issued one of the first public statements against sterilization in 1924. In addition to vehemently attacking Long and his programs, Sanders' hostility toward Long went beyond the political. In one of Long's bizarre antics during the campaign, he physically attacked Sanders' father, the former governor J.Y. Sanders, Sr., in the lobby of a New Orleans hotel. Conversely, Allen Ellender, described as a "top Long leader in the House," voted against sterilization in 1926. These two representatives had different stances toward Long, but both opposed

sterilization. Therefore, it is reasonable to say that their opposition to the procedure was not rooted in their opinion of Long.<sup>159</sup>

A similar coalition developed in the Senate in that body's decision not to proceed with the trial. Long's ability to avoid prosecution resulted in part from the promises he received from fifteen senators who affirmed their pledge to vote for acquittal by signing the infamous round robin agreement. With fifteen of the thirty-nine senators refusing to consider convicting the governor, the necessary two-thirds majority needed for conviction would be impossible to attain. Of the round robins' fifteen signers, five had at one time voted for compulsory sterilization and ten had voted against it. Although these numbers do indicate that sterilization was much less popular among Long's Senate allies, some of the Round Robin's signers were some of compulsory sterilization's biggest advocates. For instance, Jules Fisher was one of Long's most fervent supporters and the sponsor of two sterilization bills. Williams described him as champion for both the governor and "much of his program." Although Fisher did not sponsor the other three bills, he did vote for the 1928 and 1930 bills. Senator Benjamin Ducros was another signer of the round robin who had sponsored a sterilization bill. On the other hand, several of the round robin signers voted against sterilization. This group included P.H. Gilbert. Gilbert was president of the senate at the time of impeachment. He was responsible for writing the amendment to the impeachment bill that nullified the charges that the round robin signers agreed to endorse.<sup>160</sup>

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<sup>159</sup> "House Ends Work, Voting Incompetency Charge, 59 to 39," *Times Picayune*, April 27, 1929; T. Harry Williams, *Huey Long* (New York: Alfred A. Knopf, 1969), 298, 449; Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, 1926; Williams, *Huey Long*, 298.

Evident by the impeachment vote in the House and the developments in the Senate, compulsory sterilization transcended the political order established by Long because the dueling mentalities that framed the debate over sterilization was unaffected by Long. T. Harry Williams typically described Long's foes as conservative. Yet, some of these politically conservative figures, like Sanders, voted against sterilization. Just as the traditional north versus south and Catholic versus Protestant, narrative in Louisiana cannot fully explain the support for or opposition to compulsory sterilization, neither can the Long versus anti-Long dichotomy.<sup>161</sup>

At the very least, Long's arrival at the state capital served as a distraction. According to Gordon, the scene in the House was rowdy. "Fist fights," broke out between rival lawmakers over legislation, police officers were brought in to keep the peace, and the governor apparently, "went around with two prize-fighters, one on either side [of him]," as he made his way through the House. Appalled by what she saw, Gordon exclaimed, "If this is Democracy, then give me Russian autocracy to the Nth degree!" Long was a distraction and his message, in general, was incompatible with compulsory sterilization, yet Long's influence on the bill was more complicated.<sup>162</sup>

The ambiguity of Long's effect on the 1928 Senate vote proves that attempting to pigeonhole support for or resistance to compulsory sterilization, based on purely on political, religious or class allegiances is nearly impossible. His winning campaign seemed to have flipped the unwavering support from several northern senate districts but had no impact on the southern districts that he won. A lawmaker in Long's camp just as easily supported compulsory

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<sup>160</sup> Ibid, 361, 388, 393-4.

<sup>161</sup> Ibid, 298.

<sup>162</sup> Report, June 1928, AMHDOG, Box 1 Folder 10.

sterilization as did a member of the resistance faction. Opponents of the procedure were a similar mixture of Long and anti-Long representatives and senators. Long did have an impact, but just as the Catholic Church's effect, it was the sole reason for its demise in 1928.

Conflicting views over the nature of rights was at the heart of the debate over compulsory eugenic sterilization. Long's message blaming a corrupt political system for the state's inadequacies certainly appealed to opponents' sentiments concerning those who facing sterilization under the proposed legislation. It fit in with their view of those threatened with sterilization as victims, not perpetrators because structural inequities caused poverty, not personal failures. However, supporters of Long's programs could easily reconcile their position on sterilization with his proposals. Free textbooks and paved roads would improve the situation for the genetically fit in the state. The unfit, would not benefit because they were inherently incapable of benefiting. Therefore, combining Long's program to break up the old political order to make the state more responsive to the people along with the forcible sterilization of the unfit, would work together to improve Louisiana. Long's fight was one that both groups could unite behind because it did not deal with rights. Long did not comment on whether or not individual rights were conditional. Therefore, his program was acceptable by both sides.

The divided medical community's opinion on sterilization had mixed results, as well. Pierson's testimony before the senate committee was the first time a medical doctor spoke against the procedure to that body. Moreover, ill-informed senator's remarks concerning castration that Gordon lamented, may also point to questions concerning the safety of the procedure. Yet, there is no specific evidence pointing to the medical community's break directly causing the bill's failure in 1928. It is suspicious that the first time a bill failed in the senate was

the first time that physicians spoke out against it. However, without remarks from lawmakers as to why they voted against the bill the timing can only be described as purely coincidental.

Further adding to the ambiguity that the division in the state's medical community may have had on the sterilization vote was the success of Benjamin Ducros' eugenic marriage bill in the Senate. The bill intended to "prohibit the marriage of all persons insane, feeble-minded, or infected with syphilis." The bill required all engaged couples, regardless of race or class, to seek approval before a state approved hygienic marriage to obtain a marriage license. If the board denied a couple a marriage license based on a genetic defect, the couple could still marry so long as they agreed to sterilization. Fashioned after the 1924 act that required men to prove that they were free of communicable diseases in order to marry, this bill corrected what many supporters of eugenics saw as its major flaw. By including a eugenic provision, its supporters claimed, this act would ensure that feeble-mindedness and other genetic conditions would not enter the future. Although the bill seems to contradict the new attitude, senators could rationalize their vote because this bill excluded the compulsory component. Under this act, sterilization would be a choice. It also applied to everyone. Unlike the compulsory sterilization bills, where class biases could have played a role in how proponents argued for them, the marriage bill did not. The fact that everyone would have received the same examination may have swayed some senators who were concerned with compulsory sterilization limited scope.<sup>163</sup>

In the same session where the compulsory sterilization bill failed to reach the twenty-vote threshold, the hygienic marriage bill passed the Senate by a vote of twenty-two to fifteen. Fifteen senators voted for both the 1928 sterilization measure and the marriage bill. The eight remaining senators who voted for the eugenic marriage bill voted against sterilization. Most of

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<sup>163</sup> Official Journal of the Senate, July 4, 1928

the bill's support came from southern senators. Northern senators, who for the first time rejected compulsory sterilization in 1928, generally supported this bill. In the House, the hygienic marriage bill suffered a greater defeat than any sterilization bill that it considered. Two-thirds of the House voted to indefinitely postpone the bill while only around thirty percent cast votes to allow it to continue.<sup>164</sup>

Under Ducros' proposal, every Louisianan couple seeking a marriage license would technically be eligible for sterilization and in a session that rejected compulsory sterilization that seems irrational. How could eight senators who voted against forcible sterilization agree to make most Louisianans subject to the procedure? There was no public debate over the Ducros Bill, so there is no way to provide insight into why lawmakers voted the way that they did. The significant differences between the compulsory bill and the hygienic marriage bill, do however, offer an explanation why one failed in the senate and the other did not. The first major difference was that the compulsory bill forced the procedure on patients deemed feebleminded or otherwise unfit. In the hygienic marriage bill, sterilization was presented as a choice. A person deemed unfit to marry could elect to undergo the operation in order to wed, or he or she could refuse and simply not marry. Although sterilization would have technically been a choice, the couple would be making the choice to undergo the operation under great duress. Another feature of the bill was that it did not stipulate that couples who were married in other states would have to undergo an examination for the state of Louisiana to recognize their nuptials. Therefore, couples could take advantage of the law's loophole. On the other hand, when a patient received a sterilization order under any of the proposed compulsory bills, he or she was limited in their

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<sup>164</sup> Ibid; Official Journal of the Proceedings of the House of Representatives of the State of Louisiana, July 11, 1928.

ability to fight it. The hygienic marriage bill made it more difficult for a couple to marry, but its language did not explicitly allow the state to forcibly strip them of their reproductive ability; rather, it gave the appearance that those the board deemed unfit to marry had a choice in the matter. This nuanced approach to sterilization may have been acceptable to the Senate only because, the House levied a devastating blow against the hygienic marriage bill. Sterilization under any circumstance appeared to be unacceptable to a majority of state representatives by 1928.

Nevertheless, Gordon was determined to change legislative minds by 1930. In hopes of convincing the new lawmakers, she began lobbying for the 1930 bill in the fall of 1929. Gordon's efforts, however, would meet staunch resistance. First, Long and his antics would continue to serve as a distraction, proving it nearly impossible for Gordon to instruct lawmakers on what she believed were the benefits of sterilization. Second, and most important, the division among the state's medical community over compulsory sterilization would grow even deeper. As in 1928, this division would serve to confirm lawmakers' suspicions concerning the experts advocating for sterilization.

With the October 1929 Stock Market Crash, Gordon saw an opportunity to sway both public and legislative opinion. She quickly penned an editorial, entitled, "Doles or Sterilization." In it, she argued for a compulsory sterilization law in Louisiana by focusing her attack on public assistance. Arguing that public assistance was "calculated to sap and destroy that independent spirit which built up the British race," Gordon called for sterilization to correct the problems of the present as well as to save the future. She attacked, excessive sentimentality concerning, "motherhood, childhood and the home." Gordon instead insisted that individuals only be able to



reproduce after “intelligent investigations” indicate that they can afford to have children. The state’s failure to reduce the number of those on public assistance, Gordon warned, would eventually lead to socialism. She called public assistance “ignorant generosity” and cautioned, “No civilization can stand the cost of maintaining the army of incompetents which is grown by geometrical proportions.” Therefore, society would have to make a choice, “‘doles’ or sterilization.” Although the devastating effects of the Great Depression were in the future. The stock market crash was a detrimental blow to the nation’s economy. As more families sought assistance, Gordon realized that sterilization could fix the problems of the present. In her estimation, not only would sterilization prevent future paupers, but it would prevent present day ones as well. Preventing present day people dependent on public assistance from having children would have helped to alleviate the demands on the system. Therefore, sterilization would not only prevent future calamity as Gordon had argued for the better part of a decade, it would save America’s present-day capitalistic system. The future of the state, as she had been arguing for over a decade, was more important than the rights of the individual.<sup>165</sup>

Gordon’s frightening prediction did not make much of an impression on J.E. Toups. In a letter responding to Gordon, the prolific yet mysterious opponent of sterilization attacked the procedure as being unproven, immoral and ineffective. Alluding to the recent disagreement initiated by Pierson, Toups reasoned that if scientists and medical experts do not agree on the procedure’s ability to improve the human race, then legislators should not make laws implementing it. He went on to cite the “number of citizens who consider the practice morally wrong” and argued that sterilization may be constitutional but it will “not meet with any better success than our prohibition law, which also happens to be constitutional but not effective.”

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<sup>165</sup> Jean M. Gordon, “Doles or Sterilization” *Times Picayune*, Nov. 23, 1929.

Finally, in response to Gordon's warning that without compulsory sterilization the nation would embrace socialism, Toups attacked compulsory sterilization as a scheme that threatened democracy. "If we are drifting toward the 'dole' system, is it not also possible that we may be drifting towards Republican bureaucracy and centralized government and Republican 'prosperity?'" Toups was obviously criticizing the current Republican administration in Washington and its fiscal policies blamed for the recent stock market crash. Allowing politicians to take charge over forcibly sterilizing citizens would lead to a similar outcome, but instead of the economy taking a major hit, innocent citizens would be the ones to suffer.<sup>166</sup>

The fact that her argument did not convince Toups, most likely did not concern Gordon, because he was neither an expert nor a lawmaker. However, Gordon met resistance from a far more damaging source. In 1929, Pierson published an article in the *New Orleans Medical and Surgical Journal* article. In the article, entitled, "Are We Sufficiently Progressed Scientifically for the legal Sexual Sterilization of Inmates of State Institutions in Certain Cases," Pierson elaborated on his earlier senate committee testimony by making the case that there was not enough evidence concerning eugenics that would warrant sterilization. He argued that there were various causes for feeble-mindedness, including "natal or post natal conditions, birth injuries, infectious diseases, and endocrine disturbances." Not only were some of these conditions preventable or treatable, but sterilization had no effect on them because they were not linked to genetics. Instead of based on sound science, compulsory sterilization laws were schemes pushed by organizations and individuals enamored with eugenics. He listed several medical and mental health organizations that questioned eugenics and refused to endorse sterilization. For example, the National committee for Mental Hygiene "has never been able to

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<sup>166</sup> "Sterilization" *Times Picayune*, November 26, 1929.

endorse or encourage eugenic sterilization” and Harvard University refused an endowment to teach eugenic sterilization because of doubts concerning the science supporting it.<sup>167</sup>

As he had in his 1928 Senate testimony, Pierson reiterated the argument that sterilization would lead to other problems and abuses, including promiscuity that in turn would lead to an increase in sexually transmitted diseases. He also believed that sterilizing the feebleminded would eventually lead to the sterilization of others confined to “alms houses, county and city jails, ad infinitum.” Additionally, he feared that a sterilization law would scare parents from seeking treatment for their children. Pierson’s article was not only important in its attack on the science and thus usefulness behind sterilization, but it set off the first major debate over the procedure among the state’s physicians.<sup>168</sup>

Pierson’s article sparked a discussion that the medical journal published with it. Otis the outspoken opponent to sterilization wrote an impassioned defense Pierson’s position, by reiterating many of the same objections to the procedure that he made during earlier debates. Sterilization will not stop immoral or illegal behavior. Instead, Otis argued, it would actual encourage bad behavior. Simply separating institutionalized men and women was all that the state had to do to keep them from reproducing. Otis repeated the popular argument that compulsory sterilization laws unfairly targeted the lower class because wealthy families rarely placed their mental or intellectually challenged in state run facilities. Finally, Otis attacked the proponents’ hypocrisy. “They tell you in one breath that they are not fit to be out; nevertheless, they will take them in, sterilize them and send them out again into the world.” Sterilization was

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<sup>167</sup> Clarence Pierson, “Are We Sufficiently Progressed Scientifically for the Legal Sexual Sterilization of Inmates of State Institutions in Certain Cases,” *New Orleans Medical and Surgical Journal* 82 (1929): 350, 351, 352.

<sup>168</sup> *Ibid.*, 350, 351, 352.

illogical, an unnecessary use of state power, and ruthless scheme against the powerless and poor.<sup>169</sup>

Pierson's article also elicited a swift rebuttal from compulsory sterilization's staunchest supporters within Louisiana's medical community. Several of these physicians openly criticized Pierson's conclusions concerning the heritability and curability of feeble-mindedness and insanity. They offered many of the same justifications for sterilization that they had made in previous debates. For instance, proponents continued to argue that feeble-mindedness constituted a major threat. They reiterated the common argument that prostitution was a result of feeble-mindedness. In a twist on the old assertions, A.A. Herold argued for the sterilization of "severe cases" of "dipsomaniacs, alcoholics, social misfits, troublesome psychopaths, maladjusters, ne'er do wells." Although, Herold did not provide evidence that there were genetic links to these conditions, the eugenicist belief that social ills were the result of faulty individual who inherited the fault rationalized his stance. Citing her forty years of work with New Orleans charities, Gordon demanded that the state take action to stem the growing need for charity. "We are swamped today from the charity standpoint due to the feeble-minded men and women." In his comments supporting sterilization, R. McG. Carruth, offered this common warning, "Our civilization is tottering to its fall and sterilization of the unfit is the only hope of the race."<sup>170</sup>

The reasons for sterilization included within the discussion on Pierson's article yielded a weak justification for the procedure. The supporting evidence that they provided was ineffective at best and supporters admitted as much. Carruth used data from Indiana and Louisiana to prove that feeble-mindedness, insanity and criminal behavior were hereditary traits. Over half the

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<sup>169</sup> Ibid, 354.

<sup>170</sup> "Discussion," *New Orleans Medical and Surgical Journal*, 82 (1929): 355, 353, 355, 356.

crimes committed in Indiana, Carruth claimed, had “been committed by the descendents of one hundred families.” In Louisiana, he insisted, most of the patients confined in the East Louisiana State Hospital came from “certain families.” Although Carruth provided unreliable statistical data proving that undesirable traits passed from one generation to the next, A.A. Herold conceded that science could not prove the heritability of “mental conditions” like “physical conditions.” Yet, there was no evidence showing that they were not. Doubts over the validity of eugenics grew throughout the debate in Louisiana. Instead of citing new studies that definitively confirmed the heritability of intelligence or at least support their assertions, proponents relied on anecdotal studies or simple conjecture.<sup>171</sup>

Proponents also recycled their justification that individuals did not have an inalienable right to reproduction and their belittling of those they wanted to sterilize. As she had done throughout the debate, Gordon blatantly proclaimed, “Procreation is not an inalienable right.” She also reminded the physicians reading the journal of the young woman deemed feebleminded who nearly died from an abortion in 1924. “Unfortunately, you doctors cured her and brought her back,” chastised Gordon. Carruth called the children of Indiana’s criminal families, “monstrous but helpless offspring.” These attacks reaffirmed the disdain that proponents had toward those that they wanted to sterilize.<sup>172</sup>

Pierson’s article and the discussion that it initiated highlight important developments going into the 1931 debate. It revealed that the division that emerged in 1928 within the medical community was deep and growing. As a result, no longer did clergy, legal experts or social reformers debate compulsory eugenic sterilization. It had become a highly disputed medical

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<sup>171</sup> “Discussion,” 356, 353.

<sup>172</sup> Ibid, 355, 355, 356.

issue with questionable merits. By stressing the changing opinion on the effectiveness of sterilization, Pierson stripped proponents of the scientific authority that they professed during the 1924 and 1926 debates. He left them to defend their position using improvable speculations and dire warnings void of hard scientific evidence. Therefore, heading into the 1930 legislative session, proponents would become more desperate and less logical concerning their defenses of compulsory sterilization

As state officials squabbled over sterilization, national experts continued to lecture in Louisiana in hopes of influencing public opinion. In March of 1930 Roswell H. Johnson, a nationally known and well-respected eugenicist, delivered a speech at Tulane University's honorary biological society where he made the case for expanding sterilization laws to reach more people. After calling sterilization, "unquestionably the most economical and humane solution of the birth control problem," Johnson went on to insist that state laws expand to include the "lower classes." "In order that the advantages might reach the lower classes where it is most needed," Johnson proclaimed, "the sterilization laws should authorize county hospital to handle free of charge all cases brought in.... Sterilization should be put in the hands of social workers and dispensaries." Class had always been a part of the proponents' case. As predicted by Pierson, instead of hinting at using compulsory sterilization to eliminate the lower class and poverty, proponents actively called for it as a means to limit their numbers.<sup>173</sup>

Although the public debate leading to the 1930 bill was robust and enlightening, it did not continue during the legislative session. Unlike the three previous bills, there were no news reports discussing arguments made for or against the bill by state senators or representatives.

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<sup>173</sup> "Eugenic Society Lecturer Talks on Sterilization," *Times Picayune*, March 21, 1930.

The lack of media coverage most likely resulted from the fact that political shenanigans involving the Long versus anti-Long factions at the state capital diverted media attention away from other legislative matters. What is known about the bill is that Gordon corrected what she saw as one of the 1928 bill's biggest hurdle in selecting the 1930 bill's sponsor. This time, Gordon recruited a veteran lawmaker to guide the bill's journey. Benjamin Ducros, the long time supporter of compulsory sterilization, had successfully navigated the hygienic marriage bill through that body two years earlier, and Gordon must have been confident in his abilities. Gordon must have been so confident in Ducros' abilities that she elected to file the same bill introduced in 1928.

Gordon was wise to trust Ducros. Senators approved sterilization by a vote of twenty-two to thirteen. As with the other three attempts, south Louisiana senators provided the majority of the support and opposition. In a reversal of the 1928 vote, a slight majority of senators from North Louisiana districts voted for the bill.<sup>174</sup>

Yet, the bill's success in the Senate was impossible to recreate in the House. Citing the "fight" over the proposed constitutional convention and the coalition between Catholics and Baptists that would have prevented the bill from passing the House, Gordon pulled the bill from consideration. Gordon complained that state representatives refused to discuss "any other subject" besides the proposed convention. Literature distributed to Catholic representatives added to Gordon's dismay. It listed tooth decay and constipation as causes of temporary insanity. Therefore, relieving these common ailments would cure most cases of the disorder.

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<sup>174</sup> Official Journal of the Senate, June 4, 1930.

### 1930 Compulsory Sterilization Bill Results in the Senate\*

Region	Yes/No	% of Yes Vote	% of No Vote
South LA	14/8	64%	62%
Orleans	3/2	14%	15%
Greater N.O.	3/0	14%	0%
Acadiana	4/6	18%	46%
Florida Parishes	4/0	18%	5%
North La	7/5	32%	38%

\*Does not include Senators who voted absent

### Breakdown by Region of 1930 Senate Vote

Region	Total Number Voting	% Yes	% No
South LA	22	64%	36%
Orleans	5	60%	40%
Greater N.O.	3	100%	0%
Acadiana	10	40%	60%
Florida Parishes	4	100%	0%
North LA	12	58%	42%

Although she ridiculed the assertions made in the pamphlets, they may have played a role in sterilization's declining support. It helped to reaffirm the doubts about the heritability of mental and intellectual disabilities raised by reputable physicians like Pierson. Moreover, by 1930,



evidence to the contrary had become scarce. No matter how ridiculous Gordon believed the literature to be, it added to the growing reservations over compulsory sterilization's effectiveness by highlighting the split within the medical community.<sup>175</sup>

The bill's defeat in 1930 reveals that the causes of the 1928 bill's failure were not flukes, but rather developing trends. As was the case in 1928, a fight between pro-Long and anti-Long factions in the House helped to prevent the compulsory sterilization bill from receiving a hearing. More important, the northern delegation began voting like the southern delegation. For instance, in 1926, sixty-one percent of the southern senate delegation voted for sterilization and a whopping seventy percent of the northern senate delegation voted for the bill that year. In 1928, only fifty-four percent of the southern delegation cast a favorable vote while a mere forty-six percent of their northern counter parts did the same. In two years, northern support for sterilization dropped by an astonishing thirty-three percentage points. In 1930, the northern delegations' support for sterilization rebounded somewhat, and though they represented a majority of North Louisiana senators, nearly the exact same percentage of South Louisiana senators voted for the 1930 edition as well. The overwhelming support that Gordon received from northern senators in 1924 and 1926 disappeared by 1930. Although a northern – southern coalition may have been a better way to phrase the development, Gordon was not too far off in her assessment that an alliance had developed between Catholics and Baptists to oppose compulsory sterilization.

Despite the growing doubt, Gordon made plans to introduce a fifth bill in 1932. She would not live to see that session, however. In February of 1931, Jean Gordon died suddenly

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<sup>175</sup> Report, June 1930, AMHDOG, Box 1 Folder 12.

from complications due to an acute appendicitis. It was up to Kate Gordon, Jean's sister, to pick up the mantle to fight for compulsory eugenic sterilization in Louisiana. Like her sister before her, Kate appealed to the public for support and recruited the senator to introduce the bill. Her efforts, though, would prove to be the least successful of the five attempts.

Leading up to the 1932 legislative session, the discussion surrounding sterilization was sporadic at best. The Reverend James A. Greely called it an attack on the family and religion. "Sterilization, birth control, and divorce ... are three of the most serious menaces against which modern society must defend itself. One of the most deadly influences of today is that of a class of people who call themselves 'intelligentsia,' and put down everything we endear in life and religion as 'hokum.'" Interestingly, Greely made the same argument against sterilization that proponents had been making for it. Yet, instead of sterilization eradicating the menace, it had become the menace.<sup>176</sup>

In her first public appeal for compulsory sterilization, three months before the start of the legislative session, Kate Gordon relied on fear to garner support. Perpetuating the narrative that the feeble-minded and unfit were responsible for society's ills, she relayed the story of a young man who had recently been convicted and sentenced to prison for raping a fourteen-year-old girl. Gordon expressed deep concern that once the young man was released from prison, "he will... [be] able to reproduce his useless, criminal stock." She also worried that the young woman would go on to reproduce unfit children because "all that stands between her reproducing her tainted stock is 30 years or more of support in some institution." Possibly sensing that the opportunity for Louisiana to enact a compulsory sterilization measure was ending, Kate relayed

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<sup>176</sup> "Dr. F. L. Jaubert Elected Head of Catholic Bodies," *Times Picayune*, Oct. 19, 1931; "Miss Gordon's Views Opposed," *Times Picayune*, May 29, 1932; "Dr. F.L. Jaubert Elected Head of Catholic Bodies."

these horrific stories to shock the public and legislators, alike. Her desperation was also evident in her plea for action. Trying to cure hereditary feeble-mindedness with environmental and educational reforms was “like treating a malignant cancer with cold cream when the condition screams for the surgeon’s knife,” Gordon proclaimed. Gordon repeated the argument that the surgery did not disturb sexual function and even if the surgery did result in impairing ability, she insisted, “They would be justified to save an unborn generation from a fate we know to be inevitable.” Gordon did not try to justify the surgery by citing studies or science. Nor did she try to defend the procedure by explaining its benefits, as others had argued earlier. Rather, she focused her attention on dehumanizing and belittling the individuals she wanted to sterilize. The feeble-minded could only reproduce “useless,” “criminal,” or “tainted” “stock.” Moreover, she was willing to mutilate them, so long as it rendered them sterile. The anger that Kate expressed was always part of Jean’s argument, but by 1932, it was the only part of the argument left.<sup>177</sup>

In a second letter published by the *Times Picayune*, Gordon asked the legislature to increase funds for the Milne Home and support sterilization. She cited the growing population as the reason for the additional funds and warned lawmakers that if they failed to pass a compulsory sterilization bill, the home’s need for more money would continue to grow. Not only was the bill constitutionally sound, but she argued “A state that cannot or will not support its feeble-minded population has no justification in refusing to sterilize, under proper precautions, a class that is threatening, if not overpowering our civilization.” Gordon’s tone was more subdued in this letter, but her sentiment was the same as her earlier opinion piece. The state, she argued, had only one choice to make, fully support the feeble-minded or sterilize them.<sup>178</sup>

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<sup>177</sup> Kate Gordon, “An Open Letter to our Legislators,” *Times Picayune*, February 21, 1932.

<sup>178</sup> “Urges Support for Milne Home,” *Times Picayune*, May 22, 1932.

On the advice of the 1930 bill's sponsor, Benjamin Ducros, Gordon suggested that C. A. Gardiner introduce the bill in the senate. Although Gordon expressed doubt over Gardiner's ability to navigate the legislation and his possible ulterior motives in being willing to sponsor the bill as a practicing Catholic, he seemed to possess the qualities to get the bill through that body. He was a medical doctor, Chairman of the Health and Quarantine Committee and expressed a willingness to guide the bill through the senate. Yet, Gordon had reason to worry. Shortly after Gardiner introduced the bill, he withdrew it from consideration. Louisiana's last attempt at enacting compulsory eugenic sterilization died without a vote.<sup>179</sup>

The compulsory sterilization bill was not the only sterilization measure proposed in the senate that session. Gordon offered a second sterilization bill that required parents or legal guardians to give the state the permission to sterilize their institutionalized minor children or "interdicted adults" deemed feeble-minded or unfit. Unlike the compulsory sterilization bill, this one made it to the senate floor for a full vote only to fail in an eighteen — eighteen tie. Public debates over both of these bills have been lost to history. There are no newspaper accounts of how supporters defended the bills or how critics condemned them. Gordon did not comment on their failures before the Milne Homes' Board of Directors.

Though there is no debate to gain information from, the voting record in the senate provides some insight into why compulsory sterilization failed to make it out of committee. Gardiner pulled the compulsory sterilization bill without giving a reason for his actions, yet he prominently displayed his beliefs on sterilization when he recorded his vote for the sterilization with consent bill. Gardiner was one of eighteen senators who voted against it. Therefore,

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<sup>179</sup> Official Journal of the Senate, June 17, 1932; Report, June 1932, AMHDOG, Box 1 Folder 2.

Gordon may have been right not to trust Gardiner. If he refused to vote for her sterilization with consent bill, it would be difficult to imagine that he would have condoned compulsory sterilization. Gardiner was also one of the twenty-eight newly elected senators who considered any type of sterilization for the first time as members of that body. Of the new senators who voted, fifteen of them voted against the bill and eight of them voted for it. On the other hand, of the thirteen senators who had cast a vote on a previous senate compulsory sterilization bill, ten of them voted for the sterilization with consent bill while three of them voted against it. Similar to the vote on the 1928 compulsory bill, where the turnover in the senate was similar, it appeared that it continued to be difficult to convince new senators of the necessity and legitimacy of sterilization. Regional voting trends established with the 1928 also remained much the same. For the first time a majority of the southern delegation voted against a sterilization bill and though a majority of the northern delegation supported the sterilization with consent bill, it was less than sixty percent. Sterilization's base of support that began to erode in 1928 continued its downward trajectory in 1932.<sup>180</sup>

Although the voting records and the trends that they reveal are undeniable, the importance of Jean Gordon in pushing eugenic sterilization in Louisiana cannot be over-emphasized. Enacting a compulsory sterilization law in Louisiana became Jean's life's work in 1924. By the time of her death, Jean was the last of the original proponents actively lobbying both the public and lawmakers on the merits and necessity of a compulsory sterilization law. Kate Gordon attempted to continue her sister's work, but her mistake she in selecting a sponsor in 1932, suggests she appeared to be utterly unprepared for the challenge. The 1932 bill's failure

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<sup>180</sup> Official Journal of the Senate, June 15, 1932.

to get out of committee made it obvious that the state's flirtation with the controversial procedure died with Gordon in 1931.

However, even if Gordon had lived to lobby for the 1932 bill, the trends going into that session had turned against compulsory sterilization. The vote on the 1926 bill seemed to indicate that the Catholic Church influence was waning and success appeared in sight. Yet, their optimism entering the 1928 session quickly diminished. Doubt expressed by Pierson and political changes at the capital undermined the advances made in 1926. Beginning in 1928, lawmakers were less like to embrace compulsory sterilization. By 1932, the legislative will to enact the procedure had evaporated.

## CHAPTER 6

### Conclusion

A sterilization proposal once again spurred controversy in the Louisiana state legislature in 2008. Metairie representative, John LaBruzzo proposed legislation that would have paid poor women receiving public assistance one thousand dollars to voluntarily submit to a tubal ligation. Although not a compulsory measure, LaBruzzo reasoning for the bill was reminiscent of the promises that compulsory sterilization would save the state from financial ruin. The lawmaker insisted that the measure would “reduce the number of people that are going from generational welfare to generational welfare.” Opponents quickly attacked the bill calling it “racist, sexist, unethical, and immoral.” Like the compulsory sterilization bills that preceded it, LaBruzzo’s bill never became law.<sup>181</sup>

Misguided lawmakers are not the only ones who have developed a renewed interest in the controversial procedure. Over the past few years, incredible amounts of scholarship on eugenics and compulsory sterilization have been published. In 2016 alone, two books were published examining roots of compulsory sterilization that arrived at very different conclusions. Adam Cohen’s *Imbeciles* argues that compulsory sterilization is a mechanism through which the powerful controlled the weak. On the other hand, Thomas C. Leonard’s *Illiberal Reformers*, charges that eugenics and sterilization was a progressive initiative meant to end society’s problems. In a 2017 opinion piece written for *The Washington Post*, conservative columnist George Will echoes Leonard’s interpretation when he states, “Eugenics – controlled breeding to

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<sup>181</sup> Mark Waller, “LaBruzzo Considering Plan to Pay Poor Women \$1000 to have Tubes Tied,”

NOLA.com, September 23, 2009 [http://www.nola.com/news/index.ssf/2008/09/labruzzo\\_sterilization\\_plan\\_fi.html](http://www.nola.com/news/index.ssf/2008/09/labruzzo_sterilization_plan_fi.html)  
(accessed May 18, 2017).

improve the heritable traits of human begins – was a progressive cause.” As new scholarship is published and national commentators keep the issue in the public realm, the same two established interpretations on the motivation behind the procedure and the pseudo-science behind it continues to persist. Yet, as scholars argue over the origins and intentions of those who promoted compulsory sterilization, the question remains as to why state legislative bodies all over the country either enacted or rejected the controversial measure.<sup>182</sup>

In Louisiana, the public debate coupled with the legislative record reveals that compulsory eugenic sterilization was a complicated and ambiguous issue. Within the debate itself, there is evidence of class biases and sexism. Moreover, its biggest proponent, Jean Gordon, was among the state’s foremost progressive reformers. Although, the Catholic Church did play a role in stopping the bill, the fact that Catholic rich areas like Acadiana provided a great deal of support tends to undermine the argument that it was responsible for stopping the bill. Since Catholic opposition does not fully account for the bills’ failure, other reasons became a possibility. A close examination of the debate reveals that there was a significant divide among supporters and opponents concerning the rights of the individual versus the power of the state to violate those rights for the good of society. In addition to the ideological divide, political developments like Huey Long’s election and the split within the medical community at the end of the 1920’s further complicated compulsory eugenic sterilization’s ill-fated journey in Louisiana. Often times, the simplest answer is the correct one, but in the case of the ambiguous

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<sup>182</sup> Cohen, *Imbeciles*; Leonard, *Illiberal Reformers*; George F. Will, “The Liberals Who Loved Eugenics,” *The Washington Post*, March 8, 2017 [https://www.washingtonpost.com/opinions/the-liberals-who-loved-eugenics/2017/03/08/0cc5e9a0-0362-11e7-b9fa-ed727b644a0b\\_story.html?utm\\_term=.dd1beef6250](https://www.washingtonpost.com/opinions/the-liberals-who-loved-eugenics/2017/03/08/0cc5e9a0-0362-11e7-b9fa-ed727b644a0b_story.html?utm_term=.dd1beef6250) (accessed May 18, 2017)



nature of the legislative vote on compulsory sterilization bills in Louisiana a multifaceted answer is required.

The public debate and the legislative vote suggest ambiguity but Jean Gordon's role in igniting and sustaining the debate over compulsory eugenic sterilization is clear. Two, seemingly contradictory motives drove Gordon to accept sterilization as essential to solving society's problems. The first motive was her activism and life-long desire to aid mostly women and children seeking a way out of poverty. Gordon's other driving force was her belief that her social status and years of work gave her the authority to determine what was in the best interest of those she claimed that she wanted to help. Instead of trying to fix the person through compulsory school attendance or preventing child labor, Gordon began to see low intelligence and problems such as poverty, crime, and prostitution that she associate with it as an inherited condition that could not be fixed by changing a person's situation. Therefore, the only real solution would be to prevent those afflicted with defective genes from passing them onto future generations.

Inspired by her newfound cause, Gordon founded and operated the Milne Home for Girls. There she would teach life skills to orphaned and girls deemed feebleminded or defective, but more importantly, she segregated them from the rest of society. Given the opportunity, Gordon even sterilized some of her wards. The Milne Home provided Gordon with a base of operation to promote eugenics and sterilization. It would become her life's work.

Beginning in 1924, Gordon aimed to make compulsory sterilization state policy. Working with like-minded physicians, mental health experts, lawyers, and state senators, Gordon composed each of the bills. Borrowing heavily from other states' laws, she believed that it was

the only way to free Louisiana from the problems associated with defective people. In addition to lobbying lawmakers, Gordon mobilize the public. She spoke at various organizations and hosted famed eugenicists at Milne Home Board meetings. Furthermore, New Orleans newspapers regularly published editorials and letters that Gordon wrote warning of the dangers of feeble-mindedness and the necessity of sterilization. By 1930, she was the lone Louisiana proponent making public appeals.

Gordon's importance to maintaining the relevancy of compulsory eugenic sterilization as both a legislative and public topic is most evident in 1932. Her death a year earlier, in February of 1931, meant that Gordon's fight passed to her sister Kate. Kate Gordon was no novice when it came to activism or lobbying. While Jean was busy demanding child labor and compulsory education laws, Kate was fighting for white women's suffrage. Kate had experience appealing to both lawmakers and the public. She put this experience to work in pushing for the 1932 compulsory sterilization bill. Adopting Jean's tactics of publishing editorials and meeting with state senators proved fruitless, though. The Senate Health and Quarantine Commission that had approved every other sterilization bill beginning in 1924 never considered the 1932 measure. The bill's author pulled it from consideration and never re-filed it. Every other sterilization bill, under Jean's direction, made it to the senate floor for a full vote. Although there was a significant turnover in the senate in 1932, it was similar to the one that Jean experienced in 1928. Therefore, the reason for the 1932 bill's epic failure was Jean Gordon's absence. Recognizing Jean Gordon's major role in pushing for compulsory eugenic sterilization in Louisiana is important in understanding why the issue lasted for eight years. However, attempting to understand how lawmakers thought about the procedure proved difficult.

In the accepted interpretation of the fight over compulsory eugenic sterilization in Louisiana, the Catholic Church thwarted efforts by progressive reformers led by Jean Gordon to enact a policy that would have forcibly sterilized patients deemed feebleminded or otherwise defective confined to some state hospitals and privately run institutions. Although Archbishop Shaw did take a public stand against the 1924 and 1926 bills and other Catholic groups lobbied against the bill, the vote in the legislature reveals that the Church's influence was significant but complicated. In the votes for the bills that made it to the Senate floor, over half of the state senators representing Catholic majority south Louisiana districts voted for them. Even more telling was the fact that support from these state senators grew between 1924 and 1926 in spite of Shaw's well-known objections. Catholic opposition was much greater in the State House of Representatives. Yet, support from a sizable portion of the southern delegation in that body nearly passed the 1926 bill. Furthermore, Shaw's public campaign against the procedure inexplicitly ended in 1926. Yet, the 1928 bill failed to pass the full Senate. Clearly, other factors were important in compulsory eugenic sterilization failing in Louisiana.

Since Catholic opposition played a partial role in the bills' demise, other factors such as class, race and gender biases as well as the role of professional experts and social elites and political affiliations must be considered as contributing factors in Louisiana. Historians who have studied proponents of eugenics and compulsory sterilization often point to their highly prejudicial attitudes toward the lower classes. Predicated on the promise to end crime, poverty and other social ills, compulsory sterilization legislation actually aimed to control and limit the size of the poor and working classes. In Louisiana, sterilization supporters expressed bigoted opinions concerning the poor. In 1929, Gordon even asked Louisianans to choose between either sterilization or an increase in the number of people receiving public assistance. According to the

vote in both the Senate and the State House, the proponents' class appeal was ambiguous. Lawmakers from wealthier districts tended to vote against compulsory sterilization while lawmakers from poor districts tended to vote for it. There is no denying that some social elites and progressive reformers wanted to implement eugenic policies, like sterilization, to manage the lower classes. Yet, had their class argument been more persuasive then lawmakers from wealthier districts should have voted for the bill. Instead, some seemed to express hesitation over where the policy would eventually lead. Senator Grundy Cooper was in no way sympathetic but he did not want the lower classes unfairly targeted. "If we set the so-called mental standard even reasonable high and enforced this bill," Cooper exclaimed from the floor of the Senate, "there would not be another cotton picker born in this state – virtually all of our laborers are morons, or they would not be laborers." Cooper's derogatory statement reveals that not only were some opponents unsympathetic to those threatened the most with sterilization but that they may have shared some of the same opinions of the lower class that proponents believed. Therefore, opposition to sterilization did not require compassion for the lower and working classes. Cooper's remarks show a clear class bias, yet he still opposed sterilization. Finally, senators' willingness to subject, in theory, every Louisianan seeking a state marriage license to an examination that could have resulted in sterilization indicates that they did not interpret sterilization as something that should only apply to the poor or institutionalized.<sup>183</sup>

Like class, arguments concerning race and gender did not play the decisive role in the legislative decision. In a state intent on maintaining a strict racial order, the absence of race in the debate seemed strange. Yet, proponents refrained from including black Louisianans in their

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<sup>183</sup> Jean M. Gordon, "Doles or Sterilization," *Times Picayune*, November 23, 1929; "Senate Passes Sterilization in Hot Fight," *State Times*, June 15, 1926.

arguments for two reasons. First, as Gordon explained, proponents were mostly concerned with strengthening the white race. Second, state hospitals admitted black patients. Therefore, black men and women deemed feeble-minded or defective would be just as likely to undergo the operation as their white counterparts would. As for gender, Gordon adamantly campaigned against feeble-minded women. Her Milne Home for Girls served as a place to remove young women Gordon deemed troubled from society, and in some cases sterilize them. Other proponents warned that prostitution would continue if the women remained fertile. However, in the context of the limited legislative debate, both men and women faced sterilization equally. Those who voted for sterilization saw men and women as equal threats. Gender was important to proponents, but it did not greatly factor into the legislative decision.

Scholars and commentators who reject class, gender and race discrimination as the reason for the support for compulsory eugenic sterilization tend to blame its popularity on Progressive era experts and social elites attempting to assert control over society in the name of reform. Local experts and reformers, like Gordon and John N. Thomas, tried to sway public and legislative opinion. They published extensive defenses in local newspapers, and frequently delivered impassioned pleas for the bills before Senate and House committees. National experts also testified at the state capital and lectured before local professional and civic organizations on the benefits of sterilization. In Louisiana, however, not every expert agreed that sterilization was sound policy. Clarence Pierson's objections revealed a split within the state's medical community. This split challenges the notion that compulsory eugenic sterilization was a measure concocted by the progressive elite. Some within this community supported the policy, but not all.

Moreover, the mixed reaction that the bill banning the teaching of evolution received also supports the limited effect that experts had on the legislative vote on compulsory sterilization. The ban on teaching evolution bill's success in the State House meant that several members who voted for compulsory sterilization also voted for the teaching ban. These representatives seemed to accept the principles surrounding evolutionary science when it came to sterilization, but since it undermined religious beliefs, public schools, colleges and universities must not discuss it. Statements made by legislators who supported both measures revealed that they were able to justify their rejection of evolutionary science with their acceptance of eugenics. Human beings did not evolve from lower life forms, they insisted, but the traits that a person inherited from his or her parents determined his or her ability and intelligence. As pointed out by historian Edward Larson, unconvinced by scientists and university biology departments, these lawmakers did not want public schools, colleges and universities to teach students theories that contradicted their religious beliefs concerning the origin of man. These legislators selected the expert opinions that they wanted to believe in order to advance a political agenda. Evolutionary science from which eugenics came was a sufficient reason for forcibly sterilizing some Louisianans, but it was too controversial to teach.<sup>184</sup>

The political division created by Huey Long's rise to power in Louisiana did not have a substantial impact on lawmakers' decision on compulsory sterilization, either. The issue divided both Long's allies and foes in the legislature. Some of his supporters voted for the bill while others did not. The same goes for his opponents. The fact there was no clear consensus among either the pro-Long or the anti-Long factions further adds to the complex nature of the issue in Louisiana. Long's greatest impact on the bill was that he served as a legislative distraction. The

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<sup>184</sup> Larson, *Summer for the Gods*, 44-59.

Long versus anti-Long fight in the house was the reason why Gordon pulled the bill from consideration.

What is certain about Louisiana's eight-year long deliberation over compulsory eugenic sterilization was that it was complicated. The way that proponents and opponents publically debated the procedure was not necessarily the way that lawmakers considered it. Commonly accepted reasons for either the approval or rejection of the procedure including class, gender, race, expert opinion, and political divisions do not provide a complete understanding for why Louisiana's state representatives and senators never adopted compulsory sterilization. Moreover, the state's powerful Catholic Church played a role in pushing for the bills' defeat, but as the legislative voting records proved – its influence was limited.

Without the full legislative debate, it is impossible to know exactly what drove the decisions of state senators and representatives. However, a general idea of what they were thinking is available through newspaper reports on their deliberations. Therefore, the public debate is not only important in revealing how proponents and opponents approached the subject, but it makes known how some lawmakers contemplated compulsory sterilization.

Throughout the eight years of the debate, both sides discussed a wide range of topics surrounding compulsory eugenic sterilization. Proponents made their case by explaining how eugenics proved that social ills were the result of inherited conditions, they justified the need for sterilization through its benefits to society, made the case that it was both safe and cost effective, and disparaged the men and women that they wanted to sterilize. Conversely, opponents attacked eugenics and the promises of sterilization and defended those deemed defective.

However, an important part of the debate that is often time overlooked was how both sides viewed the nature of individual rights and the power of the state to infringe on those rights for the common good. This debate over the nature of individual rights versus state power was not exclusive to Louisiana. Rather, it was part of a larger national debate over compulsory eugenic sterilization.

For proponents of compulsory eugenic sterilization, a person's individual rights depended on his or her worth to society. They believed that the feeble-minded and others they deemed defective embodied all of society's ills. Poverty and crime existed because the poor and criminals continued to reproduce. Removing their ability to reproduce would prevent contemporary problems from entering future generations. Therefore, proponents justified state policy stripping a person of his or her ability to reproduce because it was for the common good. The common good and the future of society was considerably more important than respecting an individual's right to maintain his or her ability to reproduce. Gordon summed up the proponents' views on individual rights when she exclaimed, "Personally, I do not consider the feeble-minded have inalienable rights to reproduce their feeble-minded kind: for let it be well impressed upon our people that...the offspring of the feeble-minded will be feeble-minded." Rights were not universally guaranteed, but rather conditional.<sup>185</sup>

For opponents of compulsory eugenic sterilization, under no circumstance did the state have the right or the authority to strip a person of his or her reproductive ability without his or her consent. Many cited the shaky science on which sterilization rested on. There was simply not enough evidence to prove that such an invasive and radical procedure would deliver on its

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<sup>185</sup> "Miss Gordon, Archbishop Shaw Disagree on Bill to Sterilize Feeble Minded," *New Orleans Item*, June 23, 1924.



promises. Others insisted that even if there was some truth to eugenics, compulsory sterilization was still an unjustifiable abuse of state power. For instance, future state lawmaker, J.Y. Sanders, Jr., was one of the first officials to condemn the bill publically when he argued that the 1924 compulsory sterilization bill “placed too much power in the hands of human beings.” As evident by this early denouncement, one of the key objections to compulsory sterilization was that it was a major violation of individual liberties.<sup>186</sup>

This discussion on the nature of rights reveals that lawmakers and others involved in the public debate considered deep, philosophical questions when considering compulsory eugenic sterilization. This development helps to clarify some of the ambiguity associated with the votes on compulsory sterilization cast by Louisiana’s lawmakers from 1924 to 1932. The voting records over the eight years prove that personal identifiers such as class, religious and political affiliation influenced the way that some state representatives and senators voted. However, the inconsistencies within the votes coupled with the broad discussion of rights, corroborates the contention that other, less personal factors played a major role in the way that a lawmaker voted. For instance, the ability of a majority of South Louisiana senators, some of whom were Catholic, to consistently vote for compulsory sterilization proves that they were able to look past the Church’s opposition. For these men, there was a stronger motive besides their faith or the faith of their constituents compelling them to vote for the measure. As evident from the public debate that contained snippets of the legislative debate, one of these stronger motives was the way that lawmakers viewed individual rights versus the state’s authority to ignore them for the perceived common good.

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<sup>186</sup> “Committee Votes for Sterilization,” *New Orleans Item*, June 18, 1924.

What Louisiana's experience deliberating compulsory eugenic sterilization teaches is that political decisions are often times ambiguous. It proves that there are various reasons why an elected official would support or oppose legislation. Moreover, personal identifiers such as class and religion are not always the determining factors behind how a person approaches an issue. Scholars typically portray compulsory eugenic sterilization in Louisiana as an issue pitting the Catholic Church against misguided, bigoted reformers led by Jean Gordon. Although the Church's opposition and Gordon's unyielding support are a major part of the story, they do not provide a complete understanding of how lawmakers considered the issue. It does not explain how Catholic state representatives or senators could vote for the bill while those representing wealthy districts could vote against it. The only way to explain the inconsistency is to argue that these votes are the result of other, more influential values besides religion and class. Contained within the public debate over the bill, was a significant discussion over the nature of rights. Therefore, beliefs on individual rights and state power played a pivotal role in how lawmakers came to a decision regarding compulsory eugenic sterilization. Even by combining the legislative votes with the public debate the ambiguity surrounding compulsory sterilization in Louisiana remains. However, it does provide a greater understanding of how lawmakers approached the issue and offers a new way to consider other complex pieces of legislation.

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