

Eccleston 1

# Reforming the Sexual Menace: Early 1900s Eugenic Sterilization in Oregon

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Oregon Governor Withycombe, in his 1917 message to the Twenty-Ninth Legislative Assembly, declared, “the prevalence and increase of feeble-mindedness and mental disease is one of the greatest problems confronting modern society.” He pointed to the “two percent of children” and “hundreds of adults” who were “mentally incompetent” and stated that “unrestricted propagation simply [meant] the creation of more human wrecks.”<sup>1</sup> That same year, Oregon became the fourteenth state to mandate sexual sterilization for those labeled “feeble-minded, insane, epileptic, habitual criminals, moral degenerates, and sexual perverts.”<sup>2</sup> Compulsory sterilization laws grew from a combination of Progressive-Era reform initiatives as well as the growing popularity of the eugenics movement. Progressive reformers sought to increase public welfare by protecting the public from criminals and the feeble-minded.<sup>3</sup> While Progressive reformers initially looked to the expansion of prisons and mental institutions in order to segregate so-called dangerous populations from the rest of society, eugenicists claimed they could eliminate these unwanted human traits by keeping people with disabilities and criminal tendencies from being born. Eugenicists supported public welfare reform with the goal of eventually ending the need for institutions altogether.

Although sterilization laws in Oregon claimed to be eugenic and therapeutic rather than punitive, mandatory sterilization worked to control sexual behavior inside and outside institutions by labeling certain groups of people’s sexual practices “deviant.” Historians of early

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<sup>1</sup> Governor James Withycombe, Twenty-Ninth Legislative Assembly 1917, <http://arcweb.sos.state.or.us/governors/withycombe/message1917.html> (accessed November 29, 2007).

<sup>2</sup> Oregon, *General Laws, 1917* (Salem: State Printing Department, 1917), 518-521.

<sup>3</sup> The term feeble-minded has no equivalent in modern terminology, though people with physical or cognitive disabilities or people labeled “border-line,” would have been labeled feeble-minded in the early 20th-century. This socially constructed label changed over time and according to the cultural context. The term is offensive, but I have retained the use of the term feeble-minded to avoid presentism.

20th-century state sterilization laws have paid little attention to Oregon practices.<sup>4</sup> Nevertheless, Oregon legal battles and interpretations of the laws deserve a close examination. As public welfare reform evolved in the late 1910s, Progressive reformers sought to improve society by focusing on the elimination of crime, disability, and poverty. At the same time, reformers persuaded by the newly emerging science of eugenics presented far-reaching solutions, including the involuntary sterilization of individuals deemed social menaces .

The “feeble-minded” became the targets of the medical community who warned of the increasing dangers this group would pose to society. According to the specialists, feeble-mindedness referred to a broad category of people deemed mentally disabled. Doctors spoke of three major categories: “idiots,” “imbeciles,” and “morons.”<sup>5</sup> Dr. J.N. Smith, superintendent of the Oregon State Institute for Feeble-Minded in Salem, declared, “Every feeble-minded person is a potential criminal.” Smith defended his statement by claiming that feeble-minded people could not distinguish right from wrong and drifted into crime or begging.<sup>6</sup> Smith’s attitudes aligned with those of other physicians in his field such as Dr. Walter Fernald, who claimed that feeble-minded children became potential criminals.<sup>7</sup> Research at that time not only alleged that “high grade morons” grew up to become criminals and prostitutes, but that

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<sup>4</sup> Exceptions include Janice A. Brockley, “Doctors, Deviants, and Defectives: Sterilization in Oregon” (Undergraduate Thesis, University of Oregon Honors College, 1991); Peter Boag, *Same-Sex Affairs: Constructing and Controlling Homosexuality in the Pacific Northwest* (Berkeley: University of California Press), 206-216; and Mark A. Largent, “‘The Greatest Curse of the Race’: Eugenic Sterilization in Oregon, 1909-1983,” *Oregon Historical Quarterly*, 103, no. 2 (2002), 188-209.

<sup>5</sup> A.F. Tredgold, *Mental Deficiency* (New York: William Wood & Company, 1908), 75-76; James W. Trent, Jr., *Inventing the Feeble Mind: A History of Mental Retardation in the United States* (Berkeley: University of California Press, 1994).

<sup>6</sup> Dr. J.N. Smith, quoted in “Owens-Adair Bill literature” folder, box 4, Cornelia M. Pierce Papers, Special Collections, Knight Library, University of Oregon, Eugene, OR (hereafter referred to as CMPP).

<sup>7</sup> Dr. J.N. Smith, quoted in “Owens-Adair Bill,” CMPP.

feble-minded women bred at alarmingly high rates.<sup>8</sup> Smith pointed to “statistics [showing] that the feble-minded woman bears twice as many children as the normal woman.”<sup>9</sup> These experts produced logic that painted the picture of feble-minded women having countless children who would become welfare dependents or crooks.

Fear of sexual deviance and criminality generated Progressive reform initiatives in the first two decades of the 20th-century. In 1912, Governor Oswald West initiated a moral reform campaign against female prostitution.<sup>10</sup> The Portland Vice Commission, initially established to control female prostitution, also dedicated their efforts to the eradication of bootlegging and gambling.<sup>11</sup> An agency that received state funding, the Oregon Social Hygiene Society, also focused on female prostitution and “proper sexuality” as a way to eliminate sexually transmitted infections, which they associated with sexual vice.<sup>12</sup>

Public welfare officials sought to explain “potential and actual problems of social inadequacy” by drawing a parallel between disability, criminality, and socioeconomic status.<sup>13</sup> Correspondence, survey documents and media promotions for the *Oregon State Survey for Mental Defect, Delinquency and Dependency* highlight this professional and public discourse. In

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<sup>8</sup> Many historians have detailed studies linking feble-mindedness to prostitution and criminality. For excellent accounts of the construction of the feble-minded as menace in the United States, see James W. Trent, Jr., *Inventing the Feeble Mind: A History of Mental Retardation in the United States* (Berkeley: University of California Press, 1994); Nicole Hahn Raftner, *Creating Born Criminals* (Urbana: University of Illinois Press, 1997); Susan K. Cahn, *Sexual Reckonings: Southern Girls in a Troubling Age* (Cambridge: Harvard University Press, 2007).

<sup>9</sup> Dr. J.N. Smith, quoted in “Owens-Adair Bill,” CMPP.

<sup>10</sup> Boag, *Same-Sex Affairs*, 208.

<sup>11</sup> Boag, *Same-Sex Affairs*, 188.

<sup>12</sup> The Oregon Social Hygiene Society, “Steps Toward Social Health,” in *Biennial Report of Progress* (circa 1922), 3.

<sup>13</sup> Treasury Department, United States Public Health Service, Public Health Bulletin 112, Carlisle, Chester L., M.D., “Origin, Object, Scope, and Methods,” *Preliminary Statistical Report of the Oregon State Survey of Mental Defect, Delinquency, and Dependency* (Washington: Government Printing Office 1922), 6.

1920, at the state legislature's request, the University of Oregon and the United States Health Service conducted a statewide survey in the hopes of identifying "defective, dependent, and delinquent" individuals living in Oregon. Over ten thousand volunteers gathered information on individuals they suspected were "defective," "dependent" and/or "delinquent." Public officials, welfare agents, public school teachers, religious leaders, and other prominent citizens turned in names, ages, and "reason for the person's trouble" of over 45,000 Oregon residents.<sup>14</sup> University of Oregon President P. L. Campbell served as vice president of the Oregon Social Hygiene Society at the time of the survey. According to President Campbell, "The survey indicates very clearly the mutual interdependency of delinquency, dependency, and mental defect."<sup>15</sup> The results of this statewide investigation informed legislative recommendations, as requested by senate joint resolution 28.<sup>16</sup>

Progressive-Era reformers such as the Oregon Social Hygiene Society organized massive sex-education campaigns, alerting the public to the dangers of sexual vice. Social hygiene reformers worked to inform the public about causes and prevention of sexually transmitted infections. They worked to regulate and control sex and sex advice. The society also sought to eliminate prostitution. Other work included disseminating information through public schools, conferences, exhibits, clinics, lectures and door-to-door community outreach. The society claimed that over thirty-three thousand people attended its 1912 exhibits.<sup>17</sup> The society's fifth-

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<sup>14</sup> "A Summary of the Oregon State Survey of Mental Defect, Delinquency and Dependency," in *The University of Oregon Extension Monitor* (University of Oregon, 1921), 38-40, 67.

<sup>15</sup> Treasury Department, United States Public Health Service "Public Health Bulletin 112, P. L. Campbell quoted in *Preliminary Statistical Report of the Oregon State Survey of Mental Defect, Delinquency, and Dependency* (Washington: Government Printing Office 1922), 7 (hereafter referred to as Treasury Department, "Public Health Bulletin").

<sup>16</sup> Treasury Department, "Public Health Bulletin."

<sup>17</sup> The Oregon Social Hygiene Society, *Progress: The Second Annual Report of the Oregon Social Hygiene Society* (Portland: Portland Printing House Company, 1913), 29.

year publication boasted that it led the nation in economic and moral gains. Reformers asked the Oregon legislature to increase their state appropriations due to the importance of the society's creation of "new standards of sex life."<sup>18</sup> The society's work helped increase public awareness about sexually transmitted infections, but with a focus on moral behavior. This progressive reform work initiated and defined sex education in Oregon schools, placing a strong emphasis on the definition of moral sex as heterosexual and confined to marriage in order to produce non-disabled children.

The Oregon Social Hygiene Society approached sexual vice and sex education differently for women and men. Their talks catered to sex-segregated audiences. The language and marketing of printed materials juxtaposed women of the night with women in white. The former would bring ruin to men and boys, while the latter would produce healthy children in a true home life. According to the society, "suggestive costumes of women" caused sexual vice in young boys.<sup>19</sup>

In addition to gendered education, the Oregon Social Hygiene Society offered educational pamphlets about correct sex, marriage and childbearing. For instance, one of dozens of printed circulations included "Education for Sex and Heredity." Part of the society's permanent exhibit, "Have I the Right to Marry?" asked viewers to be sure their marriages would not bring generations of "blind and crippled" children into the world "for the sake of self, future family and the race."<sup>20</sup> This education portrayed sex, marriage, and childbearing as privileges that, if not properly carried out, would destroy "the race."

Eugenics movement activists focused considerable efforts on the creation of what they

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<sup>18</sup> Oregon Social Hygiene Society, *Five Years' Work in Oregon: The Fifth Annual Report of the Oregon Social Hygiene Society* (Portland: Portland Printing House, 1916), 48.

<sup>19</sup> Oregon Social Hygiene Society, *Five Years' Work*, 27-29.

<sup>20</sup> Oregon Social Hygiene Society, *Five Years' Work*, 27-29.

considered human betterment, which strongly emphasized correct marriage and childbearing practices. In the late 19<sup>th</sup> century, Charles Darwin's cousin, Francis Galton, coined the term "eugenics" in his argument that selective breeding could speed up human evolution to create a "better race." By the early 20<sup>th</sup> century, selective breeding campaigns sought to encourage parenting from individuals deemed eugenically "fit" while restricting reproduction from individuals considered "unfit." Eugenacists conducted elaborate family history studies that investigated physical, mental and social characteristics to prove the superiority and subsequent inferiority of particular traits. White eugenacists worried about the "purity" of the white race and used the pedigree studies to evidence the reproduction of criminality, economic dependency, and disability among white families.<sup>21</sup> These eugenacists worked to maintain whiteness, which, according to them, came from "inherently superior" Nordic and Anglo Europeans. Eugenacists argued that every child had the right to be well-born. This rhetoric spilled out into progressivism.

Progressive reformers and eugenacists sometimes collaborated to create public policy campaigns. Other Progressive reformers embraced eugenic ideologies. Dr. Bethenia Owens-Adair, a feminist and the most zealous supporter of involuntary sterilization in Oregon, included eugenic-based arguments in her pro-sterilization campaign. For instance, in 1913, a social hygiene measure restricted marriage licenses of men diagnosed with sexually transmitted infections. Owens-Adair advocated for more stringent marriage restriction. Legislation backed by Owens-Adair required male and female marriage applicants to prove their sexual and mental health. A "fail" on either test required the sterilization of one or both applicants if they still

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<sup>21</sup> Nicole Hahn Rafter, *White Trash: The Eugenic Family Studies 1877-1919*, edited by Nicole Hahn Rafter (Boston: Northeastern University Press, 1988), 8; Paul Popenoe and Roswell Hill Johnson, *Applied Eugenics* (New York: The Macmillan Company, 1933), 284, 299.

wished to pursue marriage. This “Hygienic Marriage Bill” passed the legislature in 1921, but a voter referendum later repealed the law.<sup>22</sup> This particular measure spurred an immense public outcry. Oregonians did not necessarily object to sterilization as a prerequisite for marriage, but they did not want their unmarried daughters subject to indecent sexual health examinations.<sup>23</sup>

Oregon progressive reform campaigns continued to focus on sex and sexual “vice,” turning to the “deviance” of same-sex sexual activity. Governor Oswald West pointed to “degenerate practices” not only in prisons and mental institutions, but also “in every city, contaminating the young, debauching the innocent, cursing the State.” West offered “sterilization and emasculation [as] an effective remedy.”<sup>24</sup> His message referred to a sex scandal the previous year, which involved several prominent Oregonians and the discovery of a thriving gay community in Portland.<sup>25</sup> The statement by West reveals his attitude toward gay men’s behavior as predatory and harmful to society. According to historian Peter Boag, later statements made by West indicated a desire to deliver a “drastic surgical operation” to gay men.<sup>26</sup>

Prison officials reported widespread homosexuality within their institutions as a major problem. In a letter to sterilization-law champion Dr. Owens-Adair, J. J. Walter, chaplain of the Illinois State Penitentiary, wrote, “What a boon your [sterilization] bill would be to the prison

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<sup>22</sup> B. A. Owens-Adair, *The Eugenic Marriage Law and Human Sterilization: The Situation in Oregon* (Salem, Oregon: Dr. Owens-Adair, 1922), 5; Harry Hamilton Laughlin, *Eugenical Sterilization in the United States* (Psychopathic Laboratory of the Municipal Court of Chicago, 1922), 343.

<sup>23</sup> “A Freak Marriage Bill,” *Morning Oregonian*, May 27, 1921, 8; “Dr. Owens Adair Fails to Answer Criticism,” *Morning Oregonian*, June 3, 1921, 10.

<sup>24</sup> Governor Oswald D. West, “Biennial Message, 1913,” <http://www.sos.state.or.us/archives/governors/west/message1913.html> (accessed November 29, 2007).

<sup>25</sup> Peter Boag, “Sex & Politics in Progressive-Era Portland & Eugene: The 1912 Same-Sex Vice Scandal,” in *Oregon Historical Quarterly* 100, no. 2 (1999): 158-181.

<sup>26</sup> Boag, *Same-Sex Affairs*, 208.



management.” Walter pointed to the “burning shame” of same-sex sexual activity both in and out of prisons, adding that “fear of this law” provided a “deterrent influence [stronger than] any sentence that any court might inflict.”<sup>27</sup>

Prison representatives claimed that sterilization laws would control undesirable sexual behavior, all in the name of protecting society. In 1917, a Commission to Investigate the Oregon State Penitentiary recommended a castration law “in cases of congenital homo-sexuality... and in cases of incest and in all cases where the sex abnormality has manifested itself in criminal tendency.”<sup>28</sup> Here the officials’ language spoke of homosexuality as inherited, indicating castration was a eugenic answer to such “sexual deviance.” The eugenic argument, however, cited that habitual, or “three-strike” offenders, could pass the criminal gene to their offspring.

Though sterilization might seem punitive, the arguments for sterilizing sex offenders emphasized the therapeutic and socially protective value of castration. Pro-sterilization campaigns attracted significant support from women reformers who argued that sterilization would help prevent rape. Mrs. A J. Cleaveland pointed to the prevalence of rape in the United States and argued that the proposed legislation would bring safety to women.<sup>29</sup> Women also participated in anti-sterilization activism. Lora C. Little campaigned determinedly to revoke sterilization legislation. As vice-president of the Anti-Sterilization League, Little spoke against sterilization as “the most vicious piece of legislation ever passed.” While Owens-Adair and other pro-sterilization activists insisted that sterilization would “cure” sexual predators of their desire to rape, Little and other anti-sterilization activists understood that enacting compulsory

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<sup>27</sup> J. J. Walter, quoted in marked copy of *Human Sterilization: Its Social and Legislative Aspects*, 46, “Owens-Adair Bill Literature” folder, box 4, CMPP.

<sup>28</sup> E. E. Brodie, F.W. Mulkey and L.J. Wentworth, quoted in Janice A. Brockley, “Doctors, Deviants, and Defectives,” 18.

<sup>29</sup> Owens-Adair, marked copy of *Human Sterilization*, 23, “Owens-Adair Bill Literature” folder, box 4, CMPP.

sterilization had little to do with the issue of sexual assault. Little argued that the use of sterilization would differ from that of “[protecting] society from depraved men.”<sup>30</sup>

Administrators at the Oregon State Penitentiary and the Oregon State Hospital sterilized inmates as a cure for sexual deviance. Historian Janice Brockley cited the Oregon State Penitentiary’s therapeutic use of sterilization in 1912, even before its official legalization in Oregon. Brockley describes a report of “[women] suffering from ‘nymphomania’ [who were] ‘relieved’ after a double oophorectomy.”<sup>31</sup> In the Oregon State Hospital, sterilization allegedly increased the self-control of women. Records labeled the conduct of one woman as unacceptable. Her behavior, listed as “peculiar,” included complaints of depression and discouragement, unreasoned laughter, idleness, and masturbation. Evidence of her sterilization “cure” included her ability to become a hard worker.<sup>32</sup>

Although received with mixed response by the medical community and the public, institutions in the United States used castration as a form of controlling the sexual “deviance” of masturbation starting in the late 19<sup>th</sup> century. According to historian James Trent, the superintendent of an institute in Pennsylvania argued that asexualization stopped patients from masturbating.<sup>33</sup> Other superintendents agreed that public masturbation brought significant embarrassment to the administration, especially during visiting hours. In 1894, public and medical opposition as well as support erupted over the castration of fifty-eight masturbators in a

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<sup>30</sup> Owens-Adair, marked copy of *Human Sterilization*, 72, “Owens-Adair Bill Literature” folder, box 4, CMPP.

<sup>31</sup> Brockley, “Doctors, Deviants, and Defectives,” 24. An oophorectomy, also known as female castration, ovariectomy or ovariotomy, is the removal of one or both ovaries. The practice of removing the sex organs of women as a treatment for mental illness began in the 19<sup>th</sup> century.

<sup>32</sup> Dr. Bethenia Owens-Adair, *Human Sterilization: Its Social and Legislative Aspects* (Michigan: University of Michigan, 1922), 146.

<sup>33</sup> James W. Trent, “Sterilization,” *Encyclopedia of Disability*, ed. Gary L. Albrecht (Thousand Oaks: Sage Publications, 2006), 1500-1501.

Kansas institution.<sup>34</sup> An article reprinted in Owens-Adair's *Human Sterilization* referenced "elaborate experiments" in Kansas that would probably expand to the rest of the United States.<sup>35</sup>

In Oregon, sterilization advocates highlighted the "sterilization as therapy" approach, but also regarded sterilization as discipline. Governor West offered sterilization as a remedy for same-sex sexual practices and Owens-Adair argued that the people convicted of rape and sodomy deserved castration, which, according to Owens-Adair, was not "disproportionate to the crimes."<sup>36</sup> Prison officials' reports of sterilization operations included a man who "desired to rape small girls" who "was paroled shortly after the operation... and remained out of trouble." Another man sterilized after "degenerate practices... was greatly benefited by the operation." The reports printed in Owens-Adair's book repeatedly expressed the benefits of castration to the prisoner, but the administrators writing the records came to the conclusion that castration was therapeutic by stating that the sterilized individual no longer caused them trouble. For instance, an account describing a youth sterilized for "degenerative practices [of] allowing other prisoners to commit sodomy on [him]" concluded castration had an "apparently... desired effect [having] had no further trouble with the boy."<sup>37</sup> Prison administrators linked their perception of patients' post-surgical behavior to their definition of therapeutic benefit.

Some Oregon citizens questioned the therapeutic and eugenic justifications for sterilization laws. Dr. Duncan Fraser argued that a sterilization approach to crime and homosexuality was unscientific. Regarding crime, Fraser noted that criminologists agreed that habitual criminals were "made, not born." Fraser asserted that the causes of crime were "overcrowding in tenements, malnutrition in infants and older children, industrial oppression and

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<sup>34</sup> Trent, "Sterilization," 1500-1502.

<sup>35</sup> Owens-Adair, *Human Sterilization*, 146.

<sup>36</sup> Owens-Adair, *Human Sterilization*, 110.

<sup>37</sup> Owens-Adair, *Human Sterilization*, 144-145.

injustice, accident and sickness... [and] lack of education.” He concluded that sterilization “[applied] the methods of quack doctors in the domain of social reform.” As to homosexuality, Fraser argued that the “nature of their practices” seldom resulted in propagation, adding that homosexuals differed in “culture, intelligence, self control and decency” and would always exist.<sup>38</sup> Although Fraser believed in eugenic sterilization for people with disabilities, he questioned the therapeutic argument espoused by sterilization proponents.

Other Oregon citizens understood sterilization as eugenic, therapeutic *and* punitive. Dr. Charles C. C. Rosenberg argued that unsexing men relieved them from the dangers to themselves and others while keeping their genes out of society. Rosenberg believed that sterilization had a “truly desirable” outcome, leaving men “mild-mannered... and effeminate.” Roseburg added, “punishing the guilty by a penalty which is truly abhorrent [acts] as an effective preventative of progeny, [and improves] the physical chances of the unfortunate invalid while protecting society against propagation of his infirmity.”<sup>39</sup> Although sterilization laws in Oregon claimed to be purely eugenic and therapeutic, many people also interpreted the laws to be a form of punishment.

Public officials and administrators within the welfare institutions discussed sterilization as a therapeutic solution that protected society from “mental defect,” economic dependency, and criminality. Dr. Frank E. Smith, superintendent and medical director of the Oregon State Institute for Feeble-Minded, asked for a sterilization law in his report to the twenty-seventh legislative assembly in 1913. Smith argued for sterilization mandates “not only for the

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<sup>38</sup> Dr. Duncan Fraser, quoted in Owens-Adair, *Human Sterilization*, 183.

<sup>39</sup> Dr. Charles C. C. Rosenberg, quoted in marked copy of *Human Sterilization*, 23, “Owens-Adair Bill Literature” folder, box 4, CMPP.

protection of society, but also as a direct benefit to the individual.”<sup>40</sup> Mrs. Millie Trumbull, Secretary of the Industrial Welfare Commission, submitted an official report regarding youth workers recommending segregation for “defectives” with “sterilization as the price of freedom.”<sup>41</sup> Multnomah Court of Domestic Relations Judge Jacob Kanzler cited his “startling revelation [that a] large percentage of our delinquent and dependent children [are born with] subnormal minds.” Kanzler pointed to his own expert testimony with the conclusion that sterilization would “prevent feeble-minded persons from reproducing.”<sup>42</sup> Dr. J.N. Smith, Superintendent of the State Institute for Feeble-Minded in 1926, heralded sterilization as an economic savior to the state. Smith reported that the Child Welfare Commission and other welfare authorities credited the sterilization act with significantly reducing the number of Portland’s unmarried mothers in welfare institutions.<sup>43</sup>

Oregon sterilization legislation spurred considerable legislative and public debates beginning in 1909, when Governor George Chamberlain vetoed the first sterilization bill after it passed the Senate by a vote of 20-10. The bill specified procreation prevention for “confirmed criminals, insane persons, idiots, imbeciles and rapists.” In his veto message, Chamberlain pointed to the confusing language of the bill, which did not distinguish habitual criminals from those labeled “incurably insane.” Although Chamberlain expressed doubt about whether the class mentioned deserved the “harsh treatment” of sterilization, he recommended a “skillfully

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<sup>40</sup> Frank E. Smith, “Report of Superintendent,” *Third Biennial Report of the Board of Trustees and Superintendent of the State of Oregon to the Twenty-Seventh Legislative Assembly Regular Session, 1913* (circa 1913), 9.

<sup>41</sup> Treasury Department, “Public Health Bulletin,” 14.

<sup>42</sup> Jacob Kanzler, quoted in Owens-Adair, *Human Sterilization*, 87.

<sup>43</sup> J.N. Smith, “Biennial Report of the Oregon State Board of Control,” *Oregon State Board of Control* (Salem, OR: State Printing Department, 1914-1968), 90.

framed” sterilization bill in its stead.<sup>44</sup> When a 1913 referendum prevented the enactment of compulsory sterilization by a vote of 53,319 to 41,767, Owens-Adair counted the result as an overall gain for sterilization legislation.<sup>45</sup> According to Owens-Adair, voter education “provoked much public discussion” and contributed to a 1917 voter referendum failure.<sup>46</sup>

Oregon compulsory sterilization laws passed in 1917 applied to those labeled “feeble-minded, insane, epileptic, habitual criminals, moral degenerates, and sexual perverts” capable of producing offspring and housed in publicly funded institutions. The Oregon State Board of Eugenics administered the law. Board members consisted of the State Board of Health along with administrators of the state institutions governed under the statute.<sup>47</sup> In 1919, a second sterilization statute passed, which allowed sterilization candidates to appeal the Board’s decisions.<sup>48</sup>

In practice, the sterilization laws targeted sexually deviant behavior. People considered to have deviant sexual or childbearing practices included those with physical or mental impairment, women engaging in sex outside of marriage, and men who had sex with men. In the spring of 1918, the State Board of Health ordered twenty persons sterilized. In 1919, State Health officer Dr. David Roberg divided sterilized individuals into two categories, therapeutic cases of people diagnosed as mentally ill and those sterilized as terms of their release from the Feeble-Minded Institute and the Oregon State Hospital.<sup>49</sup> The Board approved seventeen cases

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<sup>44</sup> George E. Chamberlain quoted, veto message and personal letter to Owens-Adair reprinted in Laughlin, *Eugenical Sterilization*, 40-41.

<sup>45</sup> Laughlin, *Eugenical Sterilization*, 42-43.

<sup>46</sup> Owens-Adair, *Human Sterilization*, 71.

<sup>47</sup> Oregon, *General Laws, 1917*, 518-521. Institutions covered under the law included the State Institute for Feeble-Minded, The Oregon State Hospital, The Eastern Oregon State Hospital, and the Oregon State Penitentiary.

<sup>48</sup> Oregon, *General Laws, 1919* (Salem: State Printing Department, 1919), 415-18.

<sup>49</sup> David N. Roberg, quoted in Laughlin, *Eugenical Sterilization*, 88-89.

submitted by the Oregon State Hospital in the first year. Of those cases, twelve of the thirteen men were castrated, and all four women received ovariectomies.<sup>50</sup> According to State Hospital Superintendent R. E. Steiner, sixteen of the men and women who received castration “were flagrant masturbators or sex perverts.”<sup>51</sup>

The view of sterilization as punishment received some public and legislative support in the United States. A few states tried punitive sterilization laws with mixed results. Laws in neighboring Washington allowed for the sterilization of habitual criminals and convicted rapists in addition to mandatory sentences. In 1909, while campaigning for the Oregon sterilization statutes, Dr. Owens-Adair also legislated tirelessly for the Washington law. Along with being eugenic, the law listed sterilization as a prevention of procreation “in addition to such other punishment.”<sup>52</sup> The Washington law faced subsequent challenges, but the state’s supreme court upheld the law. According to national eugenic legal expert Harry H. Laughlin, a cruel and unusual punishment ruling did not stand up in the Washington court because their state constitution did not have a provision against unusual punishment. Iowa’s sterilization law mandated compulsory sterilization of sex offenders, criminals with more than one felony, and all convicted white prostitutes. Iowa repealed the law after a district court ruled it cruel and unusual punishment. Nevada courts also ruled the state’s punitive sterilization law as cruel and unusual.<sup>53</sup> Laughlin’s legislative recommendations warned of courts’ probable rulings of cruel and unusual punishment and cited the Washington court case as an anomaly. Laughlin

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<sup>50</sup> Oregon State Hospital, “Eugenics Record,” 1918-1945, volume 1, 5/04/04/07, Oregon State Archives, Salem, OR.

<sup>51</sup> R. E. Lee Steiner, quoted in Laughlin, *Eugenical Sterilization*, 89.

<sup>52</sup> Boag, *Same-Sex Affairs*, 207.

<sup>53</sup> Laughlin, *Eugenical Sterilization*, 101, 142-145. Oregon law explicitly stated that sterilization of criminals under the law was due to the possibility of transmitting criminality through procreation and not as a punitive measure. Nevada attempted to institute a punitive sterilization law that would sterilize sex offenders, but the Nevada Supreme Court ruled it unconstitutional.

recommended that the language of the laws specify eugenic sterilization while denying any ties to punishment.<sup>54</sup>

Attorney Tom Garland challenged Oregon's laws in 1921.<sup>55</sup> Garland argued that the Eugenics Board decision to castrate Jacob Cline, a 65-year old preacher convicted of raping his 12-year-old adopted daughter, violated the 14<sup>th</sup> amendment regarding due process as well as imposing cruel and unusual punishment.<sup>56</sup> The Marion Circuit Court ruled in favor of Cline, overturning the 1917 and 1919 statutes. Judges Percy Kelly and George Bingham based their decision on the unconstitutionality of the 1917 and 1919 laws, rather than cruel and unusual punishment.<sup>57</sup> The court believed the laws violated due process. More importantly, Judge Kelly and Judge Bingham questioned the punitive disclaimers of the laws, stating, "beyond declaring that it is not in any manner a punitive measure, [the law] is silent as to the rules of evidence applicable thereto." Kelly and Bingham referenced seven cases in which sterilization challenges resulted in unconstitutionality rulings, and then pointed to the Washington upholding as "easily distinguishable [due to] the statute as undeniably punitive."<sup>58</sup>

By the time Kelly and Bingham's ruling overturned the sterilization laws, 127 individuals, all wards of the state, had been sterilized in Oregon institutions. Despite the efforts of sterilization advocates and the media to focus on the law as social protection from incurable criminal rapists, only eight of these sterilizations had occurred in the Oregon State Penitentiary. Peter Boag has argued that half of these men endured castration for charges related to same-sex

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<sup>54</sup> Laughlin, *Eugenical Sterilization*, 147.

<sup>55</sup> "Board Called Autocrat," *Oregonian*, October 9, 1921, 17.

<sup>56</sup> Laughlin, *Eugenical Sterilization*, 272-289, 318-319.

<sup>57</sup> Laughlin, *Eugenical Sterilization*, 147, 287-289.

<sup>58</sup> Percy R. Kelly and George G. Bingham, quoted in Laughlin, *Eugenical Sterilization*, 288.



sexual activity.<sup>59</sup> Ninety percent of the sterilizations occurred inside Oregon's two state hospitals, which served patients diagnosed as mentally ill. Of the remaining ten percent of Oregon sterilizations, "feeble-minded" women constituted eight percent, while the remaining two percent were prison inmates.<sup>60</sup>

Immediately after the 1921 abolition of sterilization in Oregon, sterilization advocates campaigned for and passed another law in 1923. This law stressed sterilization as therapy and again noted that the law was non-punitive. This law applied to all Oregon citizens, both inside and outside public-funded institutions, thus eliminating the Marion Circuit Court's opposition to the laws as class legislation. One clause determined that the law was "to protect society from the acts of such person, or from the menace of procreation by such person."<sup>61</sup> Eugenic sterilization predominately focused on people with disabilities as procreative menaces, continually linking social and sexual deviance and socioeconomic dependency to disability.

Some medical experts advocated for the expansion of the category of feeble-minded and argued that sexual deviance could be an indicator for this so-called mental deficiency. According to Dr. Walter Fernald, administrator of the Massachusetts School for the Feeble-minded, the high-grade, or "moron," could be diagnosed through a complicated system of IQ tests, personal and family history inquiries, and physical examinations. Fernald cited feeble-mindedness as an issue of "significance to physicians, teachers, court officials, social workers and legislators." Fernald laid out the terms for diagnosing the high-grade and pointed to sexually deviant history, economic failure and lack of ethics as indications of mental defect. Fernald urged that "Inquiry should be made as to a history of general moral insensibility,

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<sup>59</sup> Boag, *Same Sex Affairs*, 213; Laughlin, *Eugenical Sterilization*, 88. Laughlin lists the Oregon State Penitentiary sterilizations as three.

<sup>60</sup> Laughlin, *Eugenical Sterilization*, 88

<sup>61</sup> Oregon, *General Laws, 1923* (Salem: State Printing Department), 280.

untruthfulness, theft, cruelty, destructiveness, truancy and vagrancy... the presence or absence of sex precocity, sex perversion and sex immorality is very significant.” Fernald reaffirmed his earlier theory of the feebleminded as criminal, pauper, or social-disease transmitter and argued for their detection and control.<sup>62</sup> Fernald’s theories probably influenced Dr. J.N. Smith, Superintendent for the State Institute for Feeble-Minded, who often quoted Fernald.<sup>63</sup>

Superintendent Smith claimed that sterilizations at the State Institute for Feeble-Minded had no therapeutic value and were purely eugenic.<sup>64</sup> However, compulsory sterilization included people who had acquired, rather than inherited, their disability. For example, the institution sterilized a nineteen-year-old woman whose chart indicated feeblemindedness because of “acute sickness when young.” A boy, castrated on his sixteenth birthday, listed the source of his feeblemindedness as “accidentally swallowing lye.”<sup>65</sup> Those cases indicate that people with noninherited disabilities were thought to be unfit for parenting.

Prison administrators and mental health providers also identified sexual deviance as cause for sterilization. Those labeled sexually “deviant” constituted half of the sterilizations in the Oregon State Hospital and the Oregon State Penitentiary during the first few years of the law.<sup>66</sup> Additionally, the State Institute for Feeble-Minded’s staff often referenced sexual deviance or delinquency in the patient’s record. Just over twenty-seven percent of patients

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<sup>62</sup> Walter E. Fernald, *Diagnosis of the Higher Grades of Mental Defect* (Baltimore: John Hopkins Press, 1914), 253-263.

<sup>63</sup> Dr. J.N. Smith, Argument for marriage restriction, “Owens-Adair Bill Literature” folder, box 4, CMPP.

<sup>64</sup> Smith, quoted in Laughlin, *Eugenical Sterilization*, 90.

<sup>65</sup> Fairview Training Center, *Record Books by Resident Number, 1908-1945, Volumes 1-5*, Oregon State Archives, Salem, OR (hereafter listed as FTC, *Record Books*) when listed, pseudonyms replace patient names.

<sup>66</sup> George Painter, “The Sensibilities of Our Forefathers: The History of Sodomy Laws in the United States,” *Sodomy Laws*, <http://www.sodomylaws.org/sensibilities/oregon.htm#fn49> (accessed November 29, 2007).

sterilized at the institution between 1918 and 1930 included comments such as “immoral, illegitimate, sexually indiscriminate, and masturbator.”<sup>67</sup> In addition, histories of juvenile delinquency and escapes from institutions showed up repeatedly showing that sterilization laws disproportionately applied to people with deviant sexualities or behaviors.

Feeble-mindedness, habitual criminality, moral degeneracy, and sexual perversity already had social definitions, but legal definitions strengthened these categories. For instance, the process of labeling an individual as feeble-minded often took place in the courts or trials during commitment proceedings. Expert witnesses, usually psychiatrists, conducted Intelligence Quotient (IQ) tests, with a score of “border-line” or below indicating feeble-mindedness. Investigation of personal history and heredity also entered the procedures. Sometimes, a testifier merely needed to say a person did not seem “right” as evidence of feeble-mindedness.<sup>68</sup>

The law defined moral degenerates and sexual perverts as “those addicted to the practice of sodomy or the crime against nature, or to other gross, bestial and perverted sexual habits and practices prohibited by statute.” Although sterilization applied to convicted rapists, specifically outlined in the law as “the offense committed on a female over the age of consent...or on a female under the age of fourteen years with or without consent,” reformers could not easily prove instances of sexual violence that would warrant sterilization under the law. For instance, the law did not apply to rape convictions secured by circumstantial evidence only.<sup>69</sup>

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<sup>67</sup> FTC, *Record Books*.

<sup>68</sup> Wendy Kline, *Building a Better Race: Gender, Sexuality, and Eugenics from the Turn of the Century to the Baby Boom* (Berkeley: University of California Press, 2001); 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); Johanna Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare* (Chapel Hill: University of North Carolina Press, 2005); Trent, *Inventing the Feeble Mind*.

<sup>69</sup> Boag, *Same-Sex Affairs*, 210; Harry H. Laughlin, *Eugenical Sterilization: Historical, Legal and Statistical Review of Eugenical Sterilization in the United States* (New Haven: The

Unfortunately, the survivor of sexual assault was just as likely to be institutionalized and subject to sterilization as the assailant. For example, in the argument to establish the State Institute for Feeble-Minded in 1907, casting blame on the sexual assault survivor showed up on the legislative floor. The report from the Board of Building Commissioners pointed to a complaint of an alleged assault in which the girl, deemed feeble-minded, “had been the victim of a number of men and boys [including] her own father.” The report described the young woman as diseased and immoral, then argued that “such an irresponsible girl...[caused] vicious habits in boys.”<sup>70</sup> The men discussing the need for an institution to lock up “feeble-minded” girls did not mention a remedy that included removal of the “number of men and boys” from the community, but rather that these rapists were the victims of “such an irresponsible girl.”

Health care providers focused on “feeble-minded” women as the mothers of increased poverty and crime created a template for gender-differentiated solutions to feeble-mindedness as a social problem. Feeble-mindedness with resulting sterilization applied disproportionately to women and girls whose sexual behaviors or childbearing came under the surveillance of welfare agents. During the first year of the law, the State Institute for Feeble-Minded recommended six sterilizations of women between the ages of 15 and 22. Of these six, four had engaged in sex outside of marriage, with three resulting in pregnancy. Divorce marred the fifth woman’s chart. A charity home for wayward girls referred the three unmarried young mothers to the institution. In the first few months of the sterilization law, all three teenage mothers faced confinement and sterilization. The institution paroled them within a year of their sterilizations. In that same year,

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American Eugenics Society, 1926), 41-42; Oregon, *General Laws, 1917*, 521; Oregon, *General Laws, 1919*, 415-18.

<sup>70</sup> “Report of the Board of Building Commissioners of the State of Oregon Relative to the Location and Establishment of an Institution for Feeble-Minded and Epileptic Persons to the Twenty-Fourth Legislative Assembly: Regular Session: 1907,” quoted in Brockley, “Doctors, Deviants, and Defectives,” 7.

the Oregon State Hospital sterilized then transferred a 31-year-old woman to the State Institute for Feeble-Minded. Her charts listed her as “prolific, with five small children.” The institution released her the same year. In the following year, the State Institute for Feeble-Minded’s sterilizations included nineteen women. Although only two of the charts listed immorality directly, others indicated the results of a sexually transmitted infection test.<sup>71</sup>

Some Progressive reformers pointed to race and ethnicity as an indication of feeble-mindedness and criminality. J. A. Churchill, State Superintendent of Public Instruction, documented twenty-three cases of teachers listing “Indian Blood” as an explanation for school retardation.<sup>72</sup> Additionally, Chester Carlisle noted that many more teachers recorded their pupils’ racial status as Native American somewhere on the information card when describing the reason for impediments in school progress.<sup>73</sup> The official count of twenty-three only included the reports that specified “Indian blood” as the sole reason for so-called mental deficiency. The Oregon State Survey for Mental Defect, Delinquency and Dependency devoted an entire report to Chinese and Japanese immigrants in Oregon. This “special report” furnished by the Oregon Bureau of Labor Commissioner included the total numbers of males, females and children in each county, as well as their income, employment and marital status. The report also detailed whether Japanese or Chinese owned property in each county, and if they spent money on domestic or foreign products. Carlisle credits this report as “a valuable ethnological study... as to the fundamental causes of dependency and social failure.”<sup>74</sup>

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<sup>71</sup> FTC, *Record Books*.

<sup>72</sup> J. A. Churchill, quoted in Treasury Department, “Public Health Bulletin,” 59.

<sup>73</sup> Chester Carlisle, quoted in Treasury Department, “Public Health Bulletin,” 48 (I have assumed the term “Indian blood” referred to Native Americans, rather than Indians).

<sup>74</sup> Chester Carlisle, quoted in Treasury Department, “Public Health Bulletin,” 22-26.

Markers of race and ethnicity on patient charts at the State Institute for Feeble-Minded reveal the bias of institutional staff, which may have contributed to some patients' involuntary sterilization. The chart of one young white woman included the remark, "illegitimate child...father of the child at Indian School Chemawa."<sup>75</sup> In another case, the institution did not include the "alleged cause of deficiency" in any of the charts of the members of one Native American family in 1924. The Board ordered the sterilization of all four family members, which included a ten-year old girl.<sup>76</sup> State Institute for Feeble-Minded sterilized another young woman, whose chart listed her "whole family as peculiar—German." The institution indicated the ethnicity on many more inmate charts, usually those of recent European immigrants, such as people from Germany, Italy, Ireland, Russia and Denmark.<sup>77</sup>

Whether or not the perceived socioeconomic status, race, ethnicity, disability, sexual deviance, or delinquency determined an individual's reproductive future, the perception of their sexual practices as a potential menace to society factored into the detection, detention, and sterilization of thousands of Oregonians. The threat of sterilization worked to control individuals whose sexualities differed from that of the norm while effectively blurring the distinction between sexual assault and alternate sexualities. While some reformers concentrated on child rapists, many others, such as Governor West, focused on social hygiene reform that targeted young women engaging in sex outside of marriage, low-income sex workers, and men who participated in same-sex sexual activities.

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<sup>75</sup> FTC, *Record Books*.

<sup>76</sup> FTC, *Record Books*. It is worth noting that the Chemawa Indian Boarding School did not officially fall under the Oregon state sterilization mandates, but numerous scholars have documented involuntary sterilizations in Indian Boarding Schools. See Myla F. Thyrza Carpio, "Lost Generation: The Involuntary Sterilization of American Indian Women" (M.A. Thesis, Arizona State University, 1995); Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Cambridge, MA: South End Press, 2005).

<sup>77</sup> FTC, *Record Books*.

The varying institutional practices of sterilization reflected the conflicting views of the law's purpose. Administrators of Oregon institutions practiced a few female castrations as a cure for women with sexually "deviant" behavior even before the enactment of sterilization laws, and sexual sterilization as therapy became a selling point for those wishing to increase support for sterilization laws. Administrators of prison and mental health wards employed sterilization, not only as a routine condition for parole that allowed beds to become available for additional inmates, but also as a means of maintaining behavioral control inside their institutions.

During the debate over involuntary sterilization laws in Oregon, progressive reformers adopted rhetoric that diverged from national eugenic theories and professional medical arguments about sterilization, which claimed that sterilization did not inhibit sexual function or desire.<sup>78</sup> Oregon sterilization proponents Owens-Adair and Governor West embraced the eugenic use of sterilization, while heralding that sexual sterilization decreased sexual assault and sexual "deviance."

Oregon laws allowed for the sterilization of more than 2,600 citizens in over sixty years of state-mandated sterilization.<sup>79</sup> Sterilization legislation in Oregon survived despite a governor's veto, two voter referendums, and an unconstitutionality ruling in Marion Circuit court. The expansion of public health and the welfare state combined with eugenicists' legislative efforts to regulate human reproduction resulted in the scrutiny of Oregonians' sexual

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<sup>78</sup> Medicolegal Bureau of the American Medical Association, "Sterilization of Criminals" (Chicago: The Association, circa 1915), 1, 5-11; Popenoe and Johnson, *Applied Eugenics*, 150.

<sup>79</sup> Governor John Kitzhaber, "Proclamation of Human Rights Day, and Apology for Oregon's Forced Sterilization of Institutionalized Patients," [http://arcweb.sos.state.or.us/governors/Kitzhaber/web\\_pages/governor/speeches/s021202.htm](http://arcweb.sos.state.or.us/governors/Kitzhaber/web_pages/governor/speeches/s021202.htm) (accessed December, 02, 2007).

and reproductive practices. People whose socioeconomic status brought them in regular contact with the welfare state most likely had to justify their childbearing practices to the welfare agents who administered their support. People with physical and mental impairment endured most of the scrutiny, because eugenicists and reformers agreed that the privilege of parenthood did not apply to people with disabilities. The Progressives' focus on moral sexuality combined with the sterilization campaigns' focus on deviant sexual practices worked to put unconventional sexual practices and nonnormative bodies under additional police, public, and medical surveillance.



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