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GEORGIA STATE LAW PROFESSORS EXPLORE CURRENT ISSUES

FIT TO BE MARRIED: An Episode from the History of Eugenics

Paul A. Lombardo, Regents' Professor and
Bobby Lee Cook Professor of Law

or an entire century, laws in the majority of U.S. states required a blood test for marriage license applicants. The tests were meant to identify people with conditions formerly designated as "venereal diseases," most importantly, gonorrhea and syphilis; the legal measures that required them were labeled "eugenic marriage laws." They followed a rationale that was common to much of eugenic lawmaking: to prevent damage to future generations and decrease the social welfare costs related to "unfit" children.

Exposure to VD before birth could lead to blindness, deafness, crippling bone conditions and numerous skin diseases. Even more ominously, thousands of children were stillborn or died in utero because their mothers were infected. Eugenists traced the diseases of infancy to the bad habits and bad heredity of their parents. Infections passed down from mother to child were thought just as amenable to eugenic prevention as conditions passed down via the germ cells. A regimen of eugenic marriage certificates was considered "the most practical way promptly to accomplish the eugenic purpose," and "establish a system of eugenic self-protection."¹ The "science of good birth" promised to save innocent infants from the errors of their parents.

Dr. Frank Lydston, a ferocious champion of prevention in the name of eugenics, advocated for marriage regulation in 1906. He prescribed marriage certificates for both brides and grooms, and examinations that would embrace the physical and "moral qualifications" of candidates, and establish "severe penalties" for "infectors of the innocent."² "Society," said Lydston, "begins its self-contamination at the marriage license window."³

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¹ W. Grant Hague, *The Eugenic Marriage* (New York: Review of Reviews Co., 1914) vol. 1, p. 11-15.

² G. Frank Lydston, *The Diseases of Society (The Vice and Crime Problem)*, 4th Ed. (Philadelphia: J.B. Lippincott, 1906) 560-561.

³ "Marriage for Physically Fit," *The Inter Ocean*, Chicago, 14 April, 1912.

Terrill was “weighed, measured, thumped on the chest, stethoscoped and put through violent physical exercises for heart defects,” before the doctors unanimously decided to award him the first eugenic marriage certificate granted by the United States government.

Mary Teats, the “national purity evangelist” of the Woman’s Christian Temperance Union, quickly cast her lot with eugenics. Teats criticized “the depravity of present day immorality in its naked ugliness,” and argued for abolition of prostitution and a reform of sexual relations so that every child had “the right to a perfect birth,” unmarred by infections passed down by unclean parents.⁴ To advance her vision, Teats founded the Chicago Correspondence School of Gospel and Scientific Eugenics.⁵ Lydston and Teats were just two among many supporters of eugenic marriage legislation. The earliest state law, requiring tests of men only, was adopted in Washington in 1909.

Government Certified Eugenics

Eugenic marriage enthusiasts found a champion in Homer Terrill. Terrill’s perfect score on the official mail carrier’s test made a name for him in his hometown of Iola, Kansas. A bout with typhoid fever sent him to Battle Creek, Michigan, where he took up residence at Dr. John Harvey Kellogg’s Sanitarium to recover, and likely heard one of Kellogg’s regular lectures on eugenics.

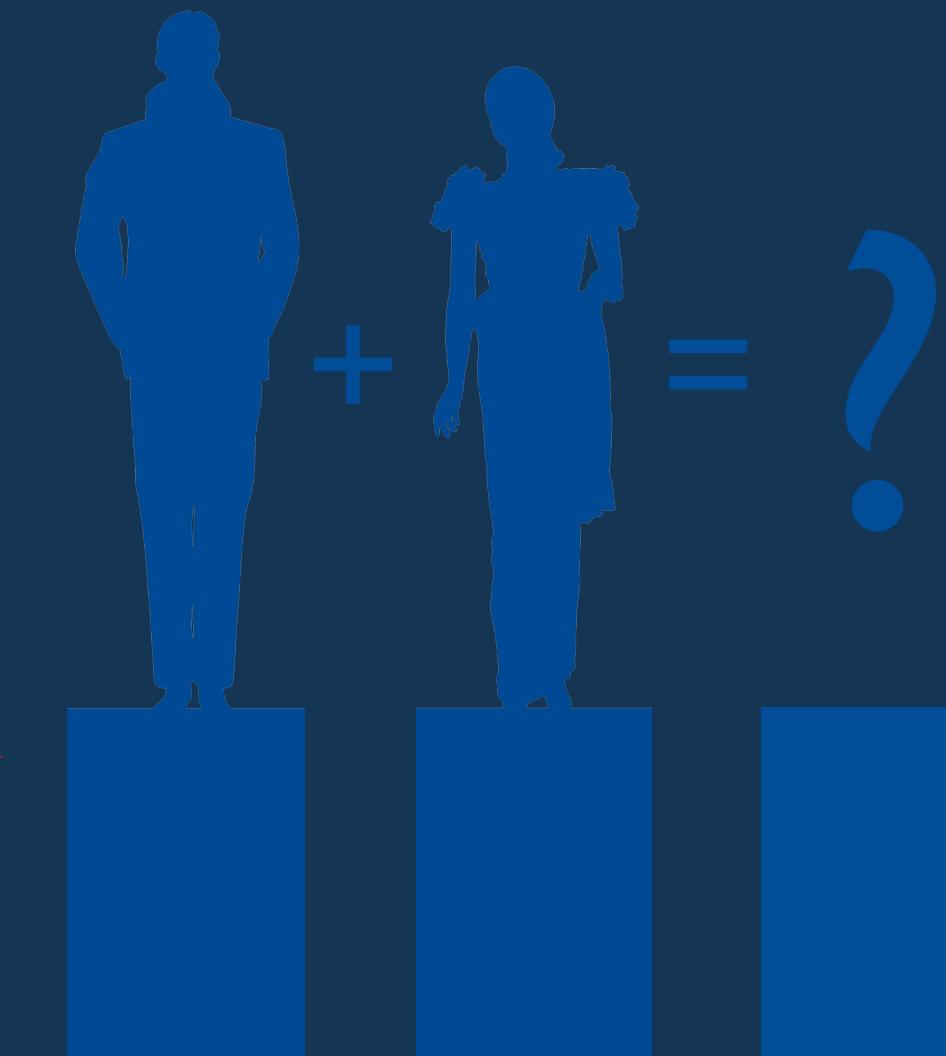
Terrill later moved to Chicago to work for the Chicago Northwestern Railway Co.⁶ Hometown commentators predicted that Terrill would soon “ascend the scale of positions and land something of prominence.” Their predictions seemed prescient when he moved to Washington, D.C., for a job as a clerk to the chief architect in the Treasury Department.⁷ There Terrill approached Dr. Rupert Blue, surgeon general of the Public Health Service—then a division of Treasury—to request a “eugenic examination” in preparation for marriage. Blue, a stalwart of the eugenics creed, favored health certificates for both men and women before marriage, as

well as laws that would allow the compulsory sterilization of “defectives.”⁸

Blue picked three Public Health Service physicians to “put Terrill through the most approved line of investigation known to the modern science of eugenics.”⁹ Terrill was “weighed, measured, thumped on the chest, stethoscoped and put through violent physical exercises for heart defects,”¹⁰ before the doctors unanimously decided to award him the first eugenic marriage certificate granted by the U.S. government.

Terrill earned other headlines when he and his bride wrote their own marriage vows, omitting the traditional line to “love, honor and obey” in favor of more “equitable” promises, and equal rights to both marriage partners.¹¹ Papers across the country repeated the details of the “eugenic courtship” and eventual marriage between Terrill and his bride Belle Reed.

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⁴ “Visits of Stork Hurting Society,” *Salt Lake City Herald-Republican*, November 14 1909.

⁵ “Social Impurity Caused by Ignorance of Parents,” *Atlanta Constitution*, October 19, 1909.

⁶ “Society,” *Iola Register* (KS), December 3, 1912.

⁷ “Rural News,” *Iola Register* (KS), March 21, 1913.

⁸ “Wants Law For Health Certificates From Persons Entering Into Marriage,” *Day Book* (Chicago), July 28, 1913.

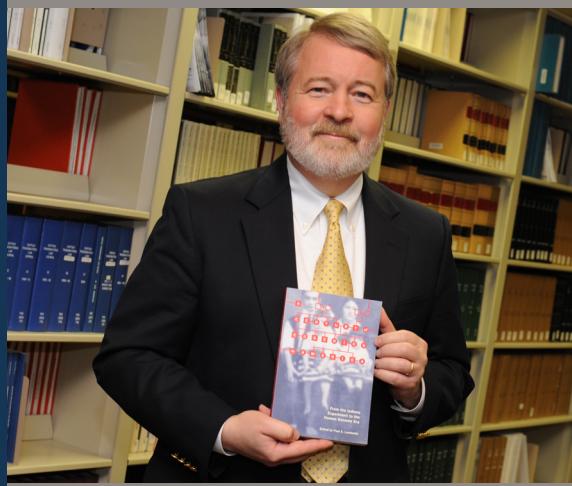
⁹ “Eugenics Examination Gets First Certificate,” *Lincoln Star* (NE), October 21, 1913.

¹⁰ “Chicagoan Gets U.S. Eugenic O.K.” *Chicago Examiner*, October 22, 1913.

¹¹ “Eugenically O.K. Is To Ban ‘Obey,’” *Washington Herald*, October 23, 1913.

¹² “Eugenic Pair Still in Love After 13 Years,” *Amarillo Daily News*, February 10, 1927.

ABOUT THE AUTHOR



Paul A. Lombardo, Regents’ Professor and Bobby Lee Cook Professor of Law, is a lawyer/historian who served from 2011–2016 as a senior adviser to the Presidential Commission for the Study of Bioethical Issues, where he participated in studies such as “Ethically Impossible”: STD Research in Guatemala from 1946–1948 (2011). He is an elected member of the American Law Institute, and has taught, lectured and done research at dozens of universities in the United States and in Italy, Russia, Pakistan, India, Austria, the Netherlands and Canada.

A member of the Center for Law, Health & Society, Lombardo has published extensively on topics in health law, medico-legal history, and bioethics and is best known for his work on the legal history of the American eugenics movement. His books include: *Three Generations, No Imbeciles: Eugenics, the Supreme Court and Buck v. Bell* (2008) and *A Century of Eugenics in America: From the Indiana Experiment to the Human Genome Era* (2011).

His work has been cited and his interviews quoted in every major American newspaper and on TV and radio by the BBC, USA Today, NPR, CBS Evening News, Anderson Cooper 360, and AlJazeera: English.

Learn more at law.gsu.edu/paul-lombardo

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Office of the Dean
PO Box 4037
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PAUL A. LOMBARDO:

Selected Recent Presentations

2016

"Confronting Reproductive Technologies: History, Rhetoric and the Spectre of Eugenics," NIH Grant Working Group: "Goals and Practices for Next Generation Prenatal Testing," Hastings Center, Garrison, New York

"State of the Data: Assessing the Appropriate Legal and Ethical Divide between Biospecimens and Derived Data," American Society of Law, Medicine & Ethics, Health Law Professors Conference, Boston, Massachusetts

"Eugenics at the Movies: Abortion and Birth Control in *Where Are My Children? 1916*," American Association for the History of Medicine, Minneapolis, Minnesota

"Seminar in Law, Medicine and Contemporary Bioethics," Sindh Institute for Medical Sciences, Center for Bioethics and Culture, Karachi, Pakistan

2015

"'The Knife Remedy,' Eugenic Boundaries on Reproduction" Keynote Address, Lethbridge University, Global Conference on Controlling Sexuality and Reproduction, Alberta, Canada

"From Psychographs to FMRI: Historical Context for the Claims of Neuroscience" International Academy of Law and Mental Health, Vienna

"Social Infertility and the Quest for Parenthood" Harvard University School of Law, Cambridge, Massachusetts

2014

"A Eugenic (Un)Haunting," New York University Asian/Pacific/American Institute, New York City

"Eugenics and Disability: A Troublesome History," University Seminar on Disability Studies, Columbia University, New York City

"Crime, Eugenics and the Hillbilly Homicide of 1936," American Society for Bioethics and the Humanities, San Diego, California

"Eugenics: Past and Future," North Carolina State University, Symposium: Intersections of Genetics and Society, Keynote, Raleigh, North Carolina

"The Doctors' Dilemma: Legal and Medical Paternalism in Historical Context" Yale University School of Law, New Haven, Connecticut

"The Craze for Legal Proceedings: *Schloendorff v. New York Hospital, 1914*," Cornell University Weill Medical College Heberden Society Lecture, New York City

"Sex, Money and Moral Imagination: From *Smith v. Williams* to *Stump v. Sparkman*," University of Utah, College of Law Symposium, Salt Lake City, Utah

"America's Eugenic Legacy: 'A Peculiar and Lasting Appeal,'" 35th Annual Reynolds Historical Lecture, University of Alabama, Birmingham, Alabama

Selected Recent Publications

Paul A. Lombardo, "Anthropometry, Race, and Eugenic Research: 'Measurements of Growing Negro Children' at the Tuskegee Institute, 1932-1944," in *The Uses of Humans in Experiment*, Erika Dyck and Larry Stewart, eds. (Leiden: Brill, 2016).

Paul A. Lombardo, "How to Escape the Doctor's Dilemma? De-Medicalize Reproductive Technologies," 43 *Journal of Law, Medicine and Ethics* 326 (Summer 2015).

Paul A. Lombardo, "When Harvard Said No to Eugenics: The J. Ewing Mears Bequest, 1927," 57 *Perspectives in Biology and Medicine* 374 (2015).

Paul A. Lombardo, "Review: An Image of God: The Catholic Struggle with Eugenics, by Sharon M. Leon," 100 *Catholic Historical Review* 179, (January, 2014).

Kayte Spector-Bagdady and Paul A. Lombardo, "Something of an Adventure" How the Public Health Service STD Studies in Guatemala Launched the "New Horizon" of U.S. Medical Research" 41 *Journal of Law, Medicine & Ethics* 697 (2013).

Paul A. Lombardo & Peter Hardin, "Compensate Eugenic Sterilization Victims," *USA Today* (August 21, 2013).

Paul A. Lombardo, "When Heroes Stumble," 40 *Sexually Transmitted Diseases* 280 (April, 2013).

Paul A. Lombardo, "A Case of Abortion in India: Pro-Life, Pro-Choice or Pro-Market Surrogacy?" 25 *HEC Forum* 10 (2013).

Paul A. Lombardo, ed., *A Century of Eugenics in America: From the Indiana Experiment to the Human Genome Project*, (Bloomington: University of Indiana Press, 2011)

Paul A. Lombardo, *Three Generations, No Imbeciles: Eugenics, The Supreme Court and Buck v. Bell* (Baltimore: Johns Hopkins University Press, 2008) (Paperback/Kindle, 2010)