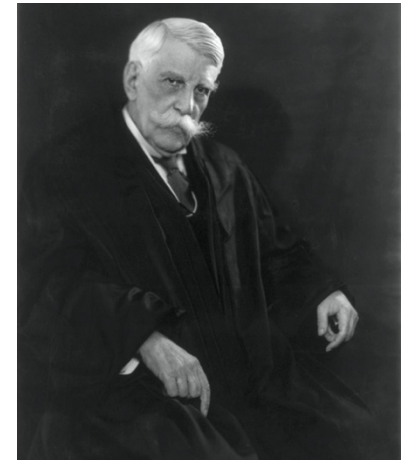


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DIVERSITY & INCLUSION COMMITTEE

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THESE LESSER SACRIFICES



Buck v. Bell and
Eugenics in America

Thursday, June 1, 2023

Imagine a society that paves the way for a super-race by clearing away the “human weeds.” Where physicians conspire with courts to sterilize the unfit in the name of “eugenics.” That brave new world was the United States in 1927.

In that year, the U.S. Supreme Court in *Buck v. Bell* affirmed Virginia’s power to sterilize Carrie Buck for being “feeble-minded.” Buck also legitimized eugenics laws in thirty-four states, who ultimately sterilized over sixty thousand Americans. If you’ve never read the decision, you may have heard its most famous line: “Three generations of imbeciles is enough.”

Eugenics was a movement that sought to improve the human race by preventing reproduction by the genetically unfit. State eugenics laws authorizing compulsory sterilization of committed persons swept the nation in the early decades of the Twentieth Century.

Buck was begun as a test case, however, with the Virginia officials pushing through a statute that would on its face pass constitutional muster—and conniving to create a record based on pseudo-science and hearsay to establish that “feeble-mindedness” was inheritable.

Buck was the high-water mark for eugenics in America, however. Over the ensuing decades, growing distaste for the racism and classism behind the movement led the states to abandon the practice. The last state eugenics law was repealed in 2013.

We have no transcript of the appellate arguments in *Buck*. But we do have briefs, hearing transcripts, and court filings, as well as news articles and “scholarly” works. Those primary sources comprise tonight’s dialogue.

Buck is still good law, however, as is the precedent on which it rests. The only thing that can prevent such atrocities in the future is an informed citizenry.

THANKS TO OUR PERFORMERS

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These Lesser Sacrifices:
Buck v. Bell and Eugenics in America

by Christopher J. DelliCarpini
NCBA Diversity & Inclusion Committee
June 1, 2023

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**SLIDE 1: THESE LESSER SACRIFICES:
BUCK V. BELL AND EUGENICS IN AMERICA**

SLIDE 2:

NARRATOR 1

Imagine a society that paves the way for a super-race by clearing away the "human weeds." Where physicians conspire with courts to sterilize the unfit in the name of "eugenics." That brave new world was the United States in 1927.

SLIDE 3:

NARRATOR 1

In that year, the U.S. Supreme Court in Buck v. Bell affirmed Virginia's power to sterilize Carrie Buck for being "feeble-minded."

If you've never read the decision, you may have heard its most quoted line: "Three generations of imbeciles is enough."

Buck also legitimized eugenics laws in thirty-four states, who ultimately sterilized over sixty thousand Americans.

SLIDE 4:

NARRATOR 1

We have no transcript of the appellate arguments in Buck. But we do have briefs, hearing transcripts, and court filings, as well as news articles and "scholarly" works. Those primary sources comprise tonight's dialogue.

SLIDE 5:

NARRATOR 1

The last state eugenics law was repealed in 2013.¹ Buck is still good law, however, as is the precedent on which it rests. The only thing that can prevent such atrocities in the future is an informed citizenry.

So pay attention.

SLIDE 6: A NATION OF GOOD ANIMALS

SLIDE 7:

NARRATOR 2

The term "eugenic" was coined in 1883 by British scientist Francis Galton.

GALTON

We greatly want a brief word to express the science of improving stock, which is by no means confined to questions of judicious mating....²

NARRATOR 2

A noted polymath and explorer, Galton was inspired by the writings of Charles Darwin -- his half-cousin -- to publish his own theories about inherited traits.³

GALTON

... but which, especially in the case of man, takes cognisance of all influences that tend ... to give to the more suitable races or strains of blood a better chance of prevailing speedily over the less suitable than they otherwise would have had.⁴

NARRATOR 2

Predating the research of Gregor Mendel, Galton suggested that we inherit traits in rigorous statistical proportion from each of our ancestors.⁵

GALTON

I date my first opinion from my days at college ... where competitions of all kinds showed most clearly to an unprejudiced eye that men were not equal in their natural powers, but most diverse in mind as well as body. It was also noticeable that high gifts of both of these tended to run in families.⁶

NARRATOR 2

Galton also advocated a governmental solution to the problem of the unfit.

GALTON

I do not, of course, propose to neglect the sick, the feeble, or the unfortunate.... But I would exact an equivalent for the charitable assistance they receive, namely, that by means of isolation, or some other less drastic yet adequate measure, a stop should be put to the production of families of children likely to include degenerates.⁷

SLIDE 8:

NARRATOR 2

Others were already arguing that antisocial behavior is inherited, through published histories of pseudonymous families like The Kallikaks. In 1877 Richard Dugdale published The Jukes, the supposed history of another such family somewhere in rural New York.

DUGDALE

The ancestral breeding spot of this family ... may be called one of the crime cradles of the State of New York; for in subsequent examinations of convicts in the different state prisons, a number of them were found to be descendants of families equivalent to the "Jukes," and emerging from this nest.⁸

NARRATOR 2

Dugdale struggled with the interplay between nature and nurture.

DUGDALE

Environment tends to produce habits which may become hereditary, especially so in pauperism and licentiousness, if it should be sufficiently constant to produce modification of cerebral tissue....⁹

NARRATOR 2

He was clear, however, on the societal cost of such people.

DUGDALE

Over a million and a quarter dollars of loss in 75 years, caused by a single family twelve hundred strong.... It is getting to be time to ask, do our courts, our laws, our almshouses and our jails deal with the question presented?¹⁰

SLIDE 9:

NARRATOR 2

By the turn of the century, physicians like Harry Sharp of Indiana were writing about "Preventing Procreation in Defectives."

SHARP

Herbert Spencer says that to be a good animal is the first requisite to success in life.... We may become a nation of good animals if we direct the same intelligence to the breeding of human beings that we do to the improvement of the breed of our domestic animals.¹¹

NARRATOR 2

In 1909, he advocated a radical means for "Restricting propagation ... as a means for the relief of the downward tendency."¹²

SHARP

Since October 1899, I have been performing an operation known as vasectomy, which consists of ligating and resecting a small portion of the vas deferens. This operation is very simple and easy to perform.

NARRATOR 2

Doctor Sharp's approach was not without support.

SHARP

Many states have passed restrictive marriage laws ... but unfortunately marriage is not necessary to propagation.... There is a law providing for the sterilization of defectives in effect in Indiana and it is being carried out at the Indiana reformatory. I regret very much that it is not being followed up in the other institutions of the state; but there is no doubt that it will come about in a very short time.¹³

SLIDE 10: CARRIE'S PEOPLE

SLIDE 11:

NARRATOR 2

Carrie Buck's parents were married in 1896 in Charlottesville, Virginia,¹⁴ home to the University of Virginia.

The Bucks, however, belonged to the "southern poor white caste." In the eyes of the law, they were one step up from the emancipated.

Carrie's family had not always been so low. Her paternal grandfather had been a property owner and slaveholder. When he died in 1868, however, he left his wife and two sons to work the land themselves as best they could.

Her mother, Emma, lost her own mother in childbirth, and her father died from an injury when Emma was still a child. She dropped out of school in fifth grade.

SLIDE 12: THE POLICE POWER

SLIDE 13:

NARRATOR 2

The precedent for state sterilization laws was set in 1905 by the United States Supreme Court in Jacobson v. Massachusetts.

A City of Cambridge ordinance required all adults to receive the smallpox vaccine. Henning Jacobson refused to comply, was fined five dollars, and appealed all the way to the highest court in the land, claiming violation of his Fourteenth Amendment rights.¹⁵

WILLIAMS

The States which make no provision for vaccination are not any more afflicted with smallpox than those which compel vaccination.¹⁶

NASH

It is for the legislature of each State to determine whether vaccination is effective in preventing the spread of smallpox.¹⁷

WILLIAMS

A compulsory vaccination law is unreasonable, arbitrary, and oppressive.¹⁸

NASH

The privileges and immunities of the plaintiff in error -- except when he comes in contact with the machinery of the Federal Government -- are those which his own State gives him.¹⁹

SLIDE 14:

NARRATOR 2

The Court affirmed Jacobson's conviction by a 7-2 majority. The decision was written by Justice John Marshall Harlan.

JUSTICE HARLAN

The authority of the state to enact this statute is... commonly called the police power, a power which the state did not surrender when becoming a member of the Union under the Constitution....²⁰

NARRATOR 2

Harlan is famous for his dissent in Plessy v. Ferguson, in which he wrote: "Our constitution is color-blind ... all citizens are equal before the law."²¹

JUSTICE HARLAN

[T]he liberty secured by the Constitution of the United States ... does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint.... This court has more than once recognized it as a fundamental principle that 'persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the state....'²²

SLIDE 15: CARRIE ENTERS THE WORLD

SLIDE 16:

NARRATOR 2

Carrie Buck was born on July 2, 1906.²³

Her parents' marriage ended soon after Carrie's birth. No one knows why her father left or what became of him.²⁴

By the time Carrie was four years old, the courts had placed her with John and Alice Dobbs²⁵ -- for which the Dobbses received funds from the state.²⁶ Carrie would not see her mother again until she was eighteen years old.²⁷

SLIDE 17: THE EUGENICS RECORDS OFFICE

SLIDE 18:

NARRATOR 2

In 1910 the Carnegie Institution of Washington established the Eugenics Records Office in Cold Spring Harbor, New York.²⁸

DAVENPORT

Recent developments ... commonly associated with the name of Mendel, enable us to formulate more precisely ... the working of heredity.²⁹

NARRATOR 2

The Office's first director was Charles Davenport, a former Harvard and University of Chicago professor.³⁰

DAVENPORT

There is... no case on record where two imbecile parents have produced a normal child. So definite and certain is the result of the marriage of two imbeciles... that it is a disgrace of the first magnitude that thousands of children are annually born in this country of imbecile parents....³¹

NARRATOR 2

Davenport was an influential eugenicist, but he relied on questionable data and did not consider whether Mendel's laws of genetics even applied to traits such as intelligence.³²

DAVENPORT

The country owes it to itself as a matter of self-preservation that every imbecile of reproductive age should be held in such restraint that reproduction is out of the question. If this proves to be impracticable then sterilization is necessary -- where the life of the state is threatened extreme measures may and must be taken.³³

SLIDE 19:

NARRATOR 2

In 1912, the luminaries in this field convened the First International Eugenics Congress at the University of London.

Led by Harry Laughlin, then the superintendent of the Eugenics Records Office,³⁴ the "Committee of the Eugenic Section of the American Breeders' Association" reported on the success of sterilization programs thus far:³⁵

LAUGHLIN

It would appear that vasectomy of the adult male criminal ... causes little or no physiological change other than effective sterilization.³⁶

NARRATOR 2

But the Committee suggested a change of strategy.

LAUGHLIN

It is evident that with the lower strains of humanity, among whom illegitimacy is high, it will be necessary to sterilize degenerate women in numbers in fair proportion to the number of males sterilized.³⁷

NARRATOR 2

Laughlin justified this proposal with a particularly repugnant analogy.

LAUGHLIN

[I]n the case of domestic animals of less value, the cutting off of their supply is largely effected through the destruction or the unsexing of the females.

As a rule the tax on a female dog is two or three times greater than that of a male dog; such difference in taxation is not made because of a difference in individual menace, but rather because of a more direct responsibility for reproduction.³⁸

NARRATOR 2

In 1914, Laughlin reported on the danger posed by the genetically unfit.

LAUGHLIN

In these calculations it is assumed that the lowest ten percent of the human stock are so meagerly endowed by nature that their perpetuation would constitute a social menace.³⁹

NARRATOR 2

Offering statistics, Laughlin purported to have performed a cost-benefit analysis on his proposal.

LAUGHLIN

[I]t is believed that the time allotted, namely, two generations, is ample for cutting off the inheritance lines of the major portion of the most worthless one-tenth of our present population, if the recommended program be consistently followed.⁴⁰

SLIDE 20:

NARRATOR 2

One particularly enthusiastic researcher at the Eugenics Records Office was Arthur Estabrook. He published The Jukes in 1915, a follow-up study of the infamous family.

ESTABROOK

A rough classification of the 399 fertile marriages among the Jukes gives us 176 eugenic matings and 223 "cacogenic" matings.

NARRATOR 2

Estabrook's word for matings of the unfit.

ESTABROOK

.... 55 per cent of the matings are detrimental to the forward progress of the Juke family while 45 per cent may be considered eugenic or beneficial.⁴¹

NARRATOR 2

Estabrook also purported to tally up the societal cost of such "cacogenic" matings.

ESTABROOK

The loss to society caused by [] these 2,800 people is estimated now at two million, ninety-three thousand, six hundred and eighty-five dollars. If the drink bill is added this total becomes two million, five hundred sixteen thousand, six hundred and eighty-five dollars.⁴²

NARRATOR 2

Estabrook used these numbers to support the usual policy proposals.

ESTABROOK

Had these cacogenic matings been forbidden or if offspring had been prevented by sterilization, it is safe to say that in the next generation less than 5% of the whole offspring would have shown undesirable traits.⁴³

SLIDE 21: THE PREVENTION OF PROCREATION

SLIDE 22:

NARRATOR 2

In 1907, Indiana governor J. Frank Hanly signed into law America's first compulsory sterilization statute.

GOV. HANLY

Whereas, Heredity plays a most important part in the transmission of crime, idiocy and imbecility....⁴⁴

NARRATOR 2

Doctor Sharp had lobbied hard for the legislation.⁴⁵

GOV. HANLY

....If, in the judgment of this committee of experts and the board of managers ... there is no probability of improvement of the mental condition of the inmate, it shall be lawful for the surgeons to perform such operation for the prevention of procreation....⁴⁶

NARRATOR 2

In 1921 a prisoner challenged the law, and in Williams v. Smith the Indiana Supreme Court struck it down -- on procedural grounds.

JUSTICE TOWNSEND

[T]he prisoner has no opportunity to cross-examine the experts who decide that this operation should be performed upon him. He has no chance to bring experts to show that it should not be performed; nor has he a chance to controvert ... that he is of a class designated in the statute....
[T]his act is in violation of the Fourteenth Amendment to the federal Constitution in that it denies appellee due process.⁴⁷

SLIDE 23:

NARRATOR 2

New York passed its sterilization statute in 1912, but the statute was struck down in the 1918 decision Osborn v. Thomson. A "feeble-minded" resident of the Rome Custodial Asylum challenged the state board of examiners' decision to give him a vasectomy.

JUSTICE RUDD

Frank Osborn is not a malefactor.
 He is mentally deficient.... He is
 no different from many others,
 running no doubt into the thousands
 in our state who are not within the
 confines of a state
 institution....⁴⁸

NARRATOR 2

New York Supreme Court Justice
 William P. Rudd found the statute
 violated the Equal Protection
 Clause because it did not apply
 equally to "feeble-minded" New
 Yorkers not in custody.

JUSTICE RUDD

The state has power, many times
 sustained by the courts, to protect
 the health, morals and welfare of
 the people, but such protection
 cannot be afforded unless it
 applies to all alike....⁴⁹

SLIDE 24:

NARRATOR 2

As early as 1914, Laughlin foresaw
 the concerns ultimately raised by
 the courts reviewing the state
 eugenics laws.

LAUGHLIN

[C]ompulsory eugenical
 sterilization should be authorized
 only as a result of due process of
 law.⁵⁰

NARRATOR 2

He also foresaw the problem in
 using sterilization as punishment.

LAUGHLIN

Certainly such treatment would be contrary to our modern sense of justice.... If an individual possesses hereditary traits of danger to the race he should not be allowed to procreate his kind, but in cutting off his line of descent the eugenical motive must be kept constantly in view.⁵¹

NARRATOR 2

Laughlin began to describe a eugenics scheme that could withstand legal challenge.

LAUGHLIN

If a sterilization program is to become effective, a model law must be worked out.... [T]he statute should be thoroughly consonant with our ideals of justice, and with our heritage of individual rights, and it must stand the test of public opinion.... [I]t must also stand the test of constitutionality by our highest courts.⁵²

NARRATOR 2

By 1925, twenty-five states had sterilization laws that were either punitive or outright eugenic in purpose.⁵³ Many of them faced successful legal challenges, however; New Jersey had passed its law in 1911, only to have it struck down two years later.⁵⁴

SLIDE 25: CURED BY STERILIZATION

SLIDE 26:

NARRATOR 2

In Virginia, sterilizations were first advocated by Charles Carrington, Surgeon to the Virginia State Penitentiary.

CARRINGTON

I have been surgeon to the penitentiary for over ten years, a long enough time to see father and then sons come to the prison, and by looking back over the records I learned that the grandfather had also been an inmate.⁵⁵

NARRATOR 2

Carrington sterilized his first convict in 1902.⁵⁶

CARRINGTON

This poor creature was most dangerously homicidal, and was the wildest, fiercest, most consistent masturbator I have ever seen. I sterilized him. That was six years ago. Improvement with him was reasonably rapid, both physically and mentally, and now he is a sleek, fat, docile, intelligent fellow -- a trusty⁵⁷ about the yard -- cured by sterilization.⁵⁸

NARRATOR 2

Carrington was an early advocate of a law forcing the sterilization of criminals.

CARRINGTON

I have the rough draft of such a law now. But it is such a new subject... and is so hedged about with foolish sentiment and ideas of cruel and unusual punishment, that I admit it will be up-hill work to educate the average legislator to the full knowledge that no single measure for the prevention of crime would be more far-reaching.... Stop the breed is the whole proposition.⁵⁹

SLIDE 27:

NARRATOR 2

As some worked to legitimize sterilization of the feeble-minded, others worked to segregate these undesirables.

The Virginia State Colony for Epileptics was established in 1906, thanks to the efforts of state legislator Aubrey Strode.⁶⁰

The Colony received its first inmates in 1911, all men and all diagnosed with epilepsy.⁶¹

SLIDE 28:

NARRATOR 2

Within a year, the Colony began accepting men and women diagnosed with "feeble-mindedness," which encompassed "the simply backward boy or girl ... to the profound idiot ... with every degree of deficiency between these extremes."⁶²

As early as 1911, The Colony's first superintendent, Dr. Albert Priddy, began advocating for a sterilization law that covered all prisons and charitable institutions.⁶³

SLIDE 29:

NARRATOR 2

In 1914 an article in the Virginia Law Review advocated for "Sterilization of the Unfit."

VIRGINIA LAW REVIEW

Can there be the full blessings of liberty, or full domestic tranquility, if those civilly unfit are allowed to procreate their species and scatter their kind here and there and everywhere amongst our people?⁶⁴

NARRATOR 2

The article argued that such laws posed no Fourteenth Amendment problem, and dared the appellate courts to consider the matter.

VIRGINIA LAW REVIEW

Can we say that these statutes are constitutional or unconstitutional until the highest court of the land has passed its final judgment thereon?⁶⁵

SLIDE 30:

NARRATOR 2

In 1916 a "Special Report of the State Board of Charities and Corrections to the [Virginia] General Assembly" purported to correlate "feeble-mindedness" to every social ill from epilepsy to drunkenness.

SPECIAL REPORT

71.6% of prostitutes plying their trades in the segregated district of the city reacted as feeble-minded....⁶⁶

NARRATOR 2

The report argued the benefits of segregation to the individuals and society.

SPECIAL REPORT

By committing the feeble-minded delinquents to the feeble-minded colony where they would not be allowed to propagate their kind... the state would save in this one city \$45,000 per item which is the interest on \$750,000.⁶⁷

SLIDE 31: SUBSTANTIAL COMPLIANCE

SLIDE 32:

NARRATOR 2

In March 1916, the Virginia Assembly passed a law authorizing any citizen to petition for anyone else's commitment as "feeble-minded."⁶⁸ Encouraged by this new legislation, Priddy sterilized at least fifty inmates at the Colony by 1917.⁶⁹

SLIDE 33:

NARRATOR 2

Among those whom Priddy contrived to have sent to the Colony for sterilization were Ms. Willie Mallory of Richmond and her two daughters.⁷⁰

WILLIE MALLORY

Then a doctor examined my mind.... He asked me all sorts of foolish questions.... Then the doctor took his pencil and scratched his head and said "I can't get that woman in," and Mrs. Roller said to them "put on there 'unable to control her nerves,' and we can get her in for that."⁷¹

NARRATOR 2

Mrs. Mallory and her older daughter were both sterilized at the colony. But before her younger daughter could receive the same treatment, Mr. Mallory sued to challenge the women's commitment. Priddy argued that the procedures were necessary.

PRIDDY

The defendant further denies that the result of the said operation was to sterilize or unsex the plaintiff or destroy her power to bear children, that condition having been produced and resulting from the diseased condition of the plaintiff before and at the time the said operation was performed.⁷²

NARRATOR 2

Ultimately, however, the court in Mallory v. Virginia Colony for the Feeble-Minded vacated the youngest daughter's commitment -- but only on procedural grounds.

MALLORY DECISION

[T]here was no petition under oath inaugurating the proceeding, and there was no warrant issued. We are compelled, therefore, to the conclusion that the procedure was not in substantial compliance with the requirements of the said statute involved....⁷³

NARRATOR 2

Chastened by the prospect of legal liability, Priddy performed only a hundred sterilizations between 1915 and 1922.⁷⁴

SLIDE 34: NOTORIOUSLY UNTRUTHFUL

SLIDE 35:

NARRATOR 2

In 1920, Emma Buck was admitted to the Colony at the age of forty-eight.⁷⁵ The colony's records indicated that she was a widow.⁷⁶

COLONY RECORDS

"well-nourished, fat and pale, nervous and restless...."

NARRATOR 2

She suffered from pneumonia, rheumatism, and syphilis.⁷⁷

COLONY RECORDS

"lacked moral sense and responsibility.... notoriously untruthful...."⁷⁸

NARRATOR 2

Tracks on her arms were taken as evidence of drug use, and she apparently had been arrested for prostitution.⁷⁹

COLONY RECORDS

"Mental Deficiency, familial: Moron."⁸⁰

NARRATOR 2

Carrie Buck remained with the Dobbses through childhood. She attended school and completed the sixth grade.⁸¹ From then on, however, she worked for the Dobbs family as a servant, always referring to her foster parents by their last names.⁸²

SLIDE 36: A MODEL LAW

SLIDE 37:

NARRATOR 2

By 1921, only ten states had sterilization statutes that were still in active use. Yet advocates still urged an expansion of eugenics policies, as did birth control advocate Margaret Sanger.

MARGARET SANGER

Every feeble-minded girl or woman of the hereditary type ... should be segregated during the reproductive period.... The male defectives are no less dangerous. Segregation carried out for one or two generations would give us only partial control of the problem.... [W]e prefer the policy of immediate sterilization, of making sure that parenthood is absolutely prohibited to the feeble-minded.⁸³

SLIDE 38:

NARRATOR 2

In 1922, Laughlin crafted a "Model Eugenical Sterilization Law" to overcome legal objections.

LAUGHLIN

The twenty-three legislative enactments have served a valuable experimental purpose. They have provided a laboratory for working out a Model Law which, it is believed, can be made to function as intended, and which also will conform to sound biological, social and legal requirements.⁸⁴

NARRATOR 2

Laughlin set forth the full text of a model state law, after reviewing all the objections raised to such laws up to that point.

LAUGHLIN

[A] eugenical sterilization law may meet all of the requirements of constitutional law and provide all of the factors named as biologically necessary, and still be a failure. An effective law must make provision for honest and competent administration.⁸⁵

SLIDE 39:

NARRATOR 2

That same year, Strode put forth in the Virginia General Assembly a eugenic sterilization bill:⁸⁶

STRODE

Whereas, both the health of the individual patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives under careful safeguard and by competent and conscientious authority;⁸⁷

NARRATOR 2

The legislation largely borrowed from Laughlin's model law.

STRODE

... and Whereas, the Commonwealth has in custodial care, and is supporting in various State institutions, many defective persons who if now discharged or paroled would likely become by the propagation of their kind a menace to society -- but who, if incapable of procreating, might properly and safely be discharged or paroled and become self-supporting with benefit both to themselves and to society;⁸⁸

NARRATOR 2

... and nowhere did this law use the word "eugenics."

STRODE

and Whereas, human experience has demonstrated that heredity plays an important part in the transmission of insanity, idiocy, imbecility, epilepsy and crime....⁸⁹

NARRATOR 2

The bill became law in 1924.

STRODE

[W]henever the superintendent ... shall be of opinion that it is for the best interests of the patients and of society that any inmate of the institution under his care should be sexually sterilized, such superintendent is hereby authorized to perform ... the operation of sterilization on any such patient.⁹⁰

NARRATOR 2

With a statute built to withstand legal challenge, Priddy was eager for a court to endorse his eugenic scheme. All he needed was a test case.

SLIDE 40: A SUITABLE SUBJECT

SLIDE 41:

NARRATOR 1

In the fall of 1923, The Dobbsses discovered that Carrie was pregnant.

J.T. DOBBS

Your petitioners ... respectfully show unto your Honor ... That they have residing with them an epileptic and feeble-minded person, one Carrie E. Buck, a white female child of the age of seventeen years.⁹¹

NARRATOR 1

No one apparently enquired as to the circumstances.

ALICE DOBBS

[T]he epileptic and feeble-minded symptoms in this child did not develop until she was ten or eleven years of age; [S]ince that time she has become increasingly worse and is now so affected that they can no longer control or care for her....⁹²

NARRATOR 1

In an interview decades later, however, Carrie was quite clear that the Dobbsses' nephew had forced himself upon her.⁹³

J.T. DOBBS

[Y]our petitioners have cared for her as an act of kindness so long as they were able --

ALICE DOBBS

-- and [] are no longer able to care for said girl financially, or to be responsible for her safe control.⁹⁴

NARRATOR 1

In January 1924 Mr. Dobbs had himself deputized to subpoena Carrie, as well as his wife, Carrie's parents, and two physicians, to appear in the Juvenile and Domestic Relations Court in Charlottesville.⁹⁵

Before a panel of physicians, the Dobbsses testified to Carrie's supposed need for confinement.

DR. COULTER

At what age was any mental peculiarity first noticed?

ALICE DOBBS

Since birth.

DR. COULTER

Is she now or has she ever been subject to epilepsy, headaches, nervousness, fits or convulsions of any kind...?

J.T. DOBBS

No.

DR. COULTER

If female, is she pregnant or has she missed any menstrual periods? Give particulars.

J.T. AND ALICE DOBBS

Yes.

DR. COULTER

At what age did epilepsy first appear?

ALICE DOBBS
Since childhood.

DR. COULTER
Did patient have fits or spasms of
any kind at that time?

J.T. DOBBS
No.

DR. COULTER
If no fits or spasms, how was it
first manifested?

ALICE DOBBS
Feeble-minded.

DR. COULTER
What mental change has taken place
in patient?

J.T. AND ALICE DOBBS
Feeble-minded.

DR. COULTER
I, J.C. Coulter ... hereby certify
that I have examined Carrie E. Buck
and find that she is feeble-minded
within the meaning of the law, and
is a suitable subject for an
institution for the feeble-
minded.⁹⁶

SLIDE 42:

NARRATOR 1
On March 28, 1924, Carrie gave
birth to her daughter, Vivian Buck.
On June 4, Carrie arrived at the
Colony. Vivian remained with the
Dobbses.⁹⁷

SLIDE 43:

NARRATOR 1

Once Priddy saw that he had a daughter and mother who were both "feeble-minded," he realized that he had found his test case.

PRIDDY

Your petitioner respectfully represents: that it is for the best interests of the aforesaid Carrie Buck and of society that the said Carrie Buck . . . should be sexually sterilized, she being afflicted with feeble-mindedness.⁹⁸

NARRATOR 1

He ran through the statutory criteria and made the eugenic argument for sterilization.

PRIDDY

The said Carrie Buck, by reason of the laws of heredity, would in all probability, if permitted to bear children, transmit to her offspring some form of mental defectiveness . . . and by reason of her anti-social conduct and mental defectiveness, she is unfit to exercise the proper duties of motherhood.⁹⁹

NARRATOR 1

He also argued that the procedure would benefit Carrie.

PRIDDY

The said Carrie Buck is possessed of good physical health and strength and if by sterilization she be made incapable of child-bearing could leave the Colony and enjoy the liberty and blessings of outdoor life, become self-supporting, and thereby relieve the Commonwealth of Virginia of the burden of the support of her....¹⁰⁰ and the said Carrie Buck desires that the said operation be performed.¹⁰¹

SLIDE 44: IT IS UP TO MY PEOPLE

SLIDE 45:

NARRATOR 1

At a Board meeting on September 10, 1924, Priddy gave testimony -- under questioning by Strode -- in support of Carrie's sterilization by surgical removal of the fallopian tubes, a procedure known as salpingectomy.¹⁰²

PRIDDY

I have had Carrie Buck under observation and care at the colony since the date of her admission.... I have ascertained that she is feeble-minded of the lowest grade moron class.... Carrie Buck has had one illegitimate, mentally defective child; she is a moral delinquent, but physically capable of earning her own living, if protected against childbearing....¹⁰³

STRODE

Is it your opinion that it would be better both for her and for society if she be rendered incapable of childbearing in the way suggested?¹⁰⁴

PRIDDY

The history of all such cases... is that the baneful effects of heredity will be shown in descendants of all future generations.

Should she be protected against childbearing by the simple and comparatively harmless operation of salpingectomy she could leave the institution, enjoy her liberty in life, and becomes self-sustaining.¹⁰⁵

SLIDE 46:

NARRATOR 1

Priddy was then cross-examined by Robert Shelton, Carrie's appointed guardian -- appointed by Priddy.¹⁰⁶

SHELTON

Doctor, what assurance can you give that the operation ... will not be dangerous to the health or even the life of Carrie Buck?¹⁰⁷

PRIDDY

I have performed and assisted in the performance of between 80 and 100 operations on female patients in this institution for pelvic disease.... The operation of salpingectomy is as harmless as any surgical operation can be, and not a single death has occurred in any of the cases [] operated on.

SHELTON

Are we to understand that unless this girl is so operated upon it is likely that both for her protection and the protection of society, she must be kept in custody and confinement until her childbearing age is past?

PRIDDY

It is necessary that she be kept under custody in an institution during the period of childbearing.

NARRATOR 1

Carrie did not testify, except to answer one question from Strode.

STRODE

Do you care to say anything about having this operation performed on you?

CARRIE

No, sir, I have not, it is up to my people.¹⁰⁸

NARRATOR 1

On September 30, 1924, the Board signed the order directing Priddy to sterilize Carrie.

SLIDE 47: AT THE MERCY OF OTHER PEOPLE

SLIDE 48:

NARRATOR 1

Under the Virginia law, the next step was for Carrie to appeal the Board's decision, and for an evidentiary hearing in the Circuit Court of Amherst County.

The hearing took place on November 18, 1924. Carrie -- through Shelton as her "Guardian and Next Friend" -- was represented at the hearing by Irving Whitehead, a friend of Priddy and a sterilization advocate.¹⁰⁹

SLIDE 49:

NARRATOR 1

Strode's first witness was Anne Harris, a Charlottesville "District Nurse," treating people in their homes rather than a hospital. With some help from Strode, she testified to Emma and Carrie's feeble-mindedness.¹¹⁰

STRODE

What do you know about them, Mrs. Harris?

HARRIS

Well, Emma was absolutely irresponsible.... She was literally on the streets with her children, and the numerous charity organizations worked for her at different times, but all that was done for her was to give her relief.

STRODE

What about the character of her offspring?

HARRIS

Well, I don't know anything very definite about the children, except that they don't seem to be able to do any more than their mother.

STRODE

We have not yet used the term "feeble-minded." I was hoping you might get to it yourself. Are you acquainted with that term?

HARRIS

Yes, sir.

STRODE

I wish you would state whether or not Emma or any of her children were feeble-minded?

HARRIS

I would say Emma had the mentality of a child of twelve.

STRODE

That is the mother of these children?

HARRIS

Yes, sir, and the children less than that -- certainly of a child four or five years younger than her age.

SLIDE 50:

WHITEHEAD

The record you have given of the mother, Emma Buck, that is made up on what you have heard, largely?

HARRIS

No, sir, I have had her on my list for years.

WHITEHEAD

[W]hat about this girl, Carrie, herself -- is there anything about her?

HARRIS

I really know very little about Carrie after she left her mother....

WHITEHEAD

So far as you know, you know nothing about her after the Dobbsses took her?

HARRIS

Except one time when she was in school, in the grammar grade. The Superintendent called me and said ... that Carrie was writing notes....

WHITEHEAD

Writing notes to boys, I suppose?

HARRIS

Yes, sir.

WHITEHEAD

Is writing notes to boys in school, nine or ten years old, considered anti-social?

HARRIS

It depends on the character of the note.

SLIDE 51:

NARRATOR 1

Strode next tried to prove feeble-mindedness in Carrie's family. He called to the stand schoolteacher Eula Wood, to elicit testimony about Carrie's half-sister, Doris.

STRODE

What do you know about her?

WOOD

Well, I know very little about her. She is in my room. I have only had her six weeks.

STRODE

Would you call her a dull child?

WOOD

Well, she is dull in her books -- I would call her dull in her books.

NARRATOR 1

Strode next called schoolteacher Virginia Beard.¹¹¹

STRODE

Do you know Roy Smith? I am, speaking of the boy that is half-brother of Carrie Buck?

BEARD

I know Roy Smith.

STRODE

Do you know his relation to Carrie Buck?

BEARD

I don't know anything about that.

NARRATOR 1

Strode next tried to uncover dirt on another of Emma Buck's reputed children.

STRODE

Miss Landis, where do you live?

LANDIS

Charlottesville, Virginia.

STRODE

Do you know George Dudley?

LANDIS

Yes, sir.

STRODE

Do you know his relationship to Carrie Buck?

LANDIS

No, I don't know anything about Carrie Buck.

WHITEHEAD

Do you know what relation, if any,
George and Arthur Dudley are to
Carrie Buck?

LANDIS

I don't know Carrie Buck at all.

NARRATOR 1

Strode next tried with John
Hopkins, superintendent of the
County Home in Albemarle County -
one of several witnesses rustled up
by Estabrook.¹¹²

STRODE

Do you know Roy Smith, a half-
brother of Carrie Buck here?

HOPKINS

Yes, sir.

STRODE

What do you know about him?

HOPKINS

Well, all I know, I have just seen
him passing through the place back
and forth....

STRODE

Did you tell Mr. Estabrook that you
would consider that boy mentally
defective and foolish?

HOPKINS

I think so, yes.

STRODE

Then why don't you tell us that,
then, Mr. Hopkins. Are you averse
to testifying?

HOPKINS

No, sir, but that is all I know
about him.

NARRATOR 1

Having gotten nowhere as to Emma Buck, Strode tried to prove the feeble-mindedness of Carrie's reputed maternal grandfather, Richard Harlow, through Charlottesville resident Samuel Dudley.¹³

STRODE

What was your opinion of Richard, mentally?

DUDLEY

I suppose Richard had just as good ordinary sense as the generality of the people....

STRODE

Did you regard him as at all peculiar in any way?

DUDLEY

No, no more than just in a joking manner, sir.

STRODE

Didn't you tell Mr. Estabrook yesterday or the day before that you considered Richard peculiar, or below the average?

DUDLEY

No, sir, I just told him he had those peculiar ways.

(pointing)

That gentleman there asked me Saturday night, and pressed me about a lot of things I didn't know anything about.

STRODE

But you did tell Dr. Estabrook he was peculiar?

DUDLEY

Well, possibly I did. He kept quizzing me about different things, and I thought I would just let him go.

NARRATOR 1

Strode's most cooperative fact witness was social worker Caroline Wilhelm.¹⁴

WILHELM

I came to Charlottesville about February of this year.... Mr. Dobbs... had reported ... that the girl was pregnant, and that he wanted to have her committed somewhere.... The matter was not put through until I was in the office, and officially I brought Carrie Buck over to the Colony at Lynchburg.

STRODE

From your experience, as a social worker, if Carrie were discharged from the colony still capable of childbearing, is she likely to become the parent of deficient offspring?

WILHELM

I think a girl of her mentality is more or less at the mercy of other people....

STRODE

So that the only way that she could likely be kept from increasing her own kind would be either segregation or something that would stop her power to propagate. Is she an asset or a liability to society?

WILHELM

A distinct liability, I should say.

STRODE

Did you have any personal dealings with Carrie?

WILHELM

Just a few weeks between the time when the commission was held and when I brought her to Lynchburg.

STRODE

Is she obviously feeble-minded?

WILHELM

I should say so, as a social worker.

STRODE

Did you know her mother?

WILHELM

No, I never saw her mother.

STRODE

Where is the child?

WILHELM

The child is with Mr. and Mrs. Dobbs. They kept the child.

STRODE

How old is the child?

WILHELM

It is not quite eight months old.

STRODE

Have you any impression about the child?

WILHELM

It is difficult to judge probabilities of a child as young as that, but it seems to me, not quite a normal baby.

STRODE

You would not judge the child as a normal baby?

WILHELM

There is a look about it that is not quite normal, but just what it is I can't tell.

SLIDE 52:

NARRATOR 1

In cross-examination, Whitehead may have done a better job of proving Strode's case.

WHITEHEAD

Basing your opinion that the girl is unsocial, or antisocial, on the fact that she had an illegitimate child -- the point I am getting at is this -- are you basing your opinion on that?

WILHELM

On that fact, and that as a social worker I know that girls of that type --

WHITEHEAD

Now, what is the type?

WILHELM

I should say, decidedly feeble-minded.

WHITEHEAD

But the question of pregnancy is not evidence of feeble-mindedness, is it?

WILHELM

No, but a feeble-minded girl is much more likely to go wrong.

WHITEHEAD

Was she able to do the average work of a girl of her age?

WILHELM

Under direction. Mrs. Dobbs tells me she needed very careful supervision.

WHITEHEAD

[I]n what way do you think by sterilization she would become an asset to the State?

WILHELM

I don't know that she would become an asset, but much less of a liability.

WHITEHEAD

[I]s it your opinion, that by sterilization she would be made less of a liability and more of an asset to the State?

WILHELM

I think it would at least prevent the propagation of her kind.

SLIDE 53:

NARRATOR 1

Strode's last fact witness was Ms. Wilhelm's colleague, Mary Duke.¹¹⁵

DUKE

I went to see Mrs. Dobbs. She told me this child was a good worker when watched.... She had left her for a few days on account of some illness this summer before, and she had left someone in charge of the child, but they didn't watch her closely enough.

STRODE

Your knowledge of the family began with knowledge of her mother?

DUKE

Yes, sir.

STRODE

And in that way you were brought into connection with Emma's daughter, Carrie, who seemed to be following in her footsteps?

DUKE

Yes. She didn't seem to be a bright girl.

NARRATOR 1

Whitehead did not even cross-examine Ms. Duke.

SLIDE 54: HEWERS OF WOOD AND DRAWERS OF WATER

SLIDE 55:

NARRATOR 1

Strode next called Dr. Joseph DeJarnette, Superintendent of the Western State Hospital in Staunton, Virginia, as an expert witness on the inheritability of feeble-mindedness.¹¹⁶

STRODE

In your experience, and in your studies, have you reached any conclusion as to whether or not there are certain laws of heredity which are ascertainable and which may be relied on in determining whether or not a feeble-minded patient is likely to be a potential parent of socially inadequate offspring?

DEJARNETTE

I think Mendel's law covers it very well. Of course you are familiar with that.

STRODE

No, I am not. What is Mendel's law?

DEJARNETTE

Mendel was a Catholic priest, and he worked out the law of inheritance of sweet peas.... [H]e found that by crossing the red and white peas he got certain results: one-fourth of them would have what we call the dominant quality of one of the peas, and one would be recessive....

STRODE

Now, what is your observation as to its application to human beings?

DEJARNETTE

I have never worked the law out, but it seems to me from the history of the cases I have had that they work out pretty much that way ... you take a feeble-minded woman, if she has a child it is very apt to be -- that one-fourth of them will be feeble-minded. If both parents are feeble-minded, it is practically certain that the children will all be feeble-minded.

STRODE

Have you had opportunities to observe as to what is the likelihood of a feeble-minded woman who is loose in society...?

DEJARNETTE

The feeble-minded women will have three children to every one child a college graduate will have. They are easily oversexed, and it depends on their looks as to how the boys or men will take advantage of them, and it depends on her opportunities.

STRODE

Now, the next requirement here is that the patient may be sexually sterilized without detriment to his physical welfare?

DEJARNETTE

The operation must be by sectomy -- sylgectomy.

NARRATOR 1

He meant "salpingectomy."

DEJARNETTE

It is a very safe operation. In the hands of a skilled surgeon, it gives 100 per cent successful results.... It does not interfere with her sexual desire; it does not interfere with her sexual enjoyment; but it does stop reproduction.

STRODE

In what way would you say it would promote her welfare?

DEJARNETTE

A woman, otherwise, would be having them anyway; and she cannot take care of the children which she is liable, and almost certain to bring into this world.

STRODE

In what way would you say the welfare of society would be promoted by it?

DEJARNETTE

The standard of general intelligence would be lifted... as there are a larger and larger percentage of feeble-minded in prison, and as it affects that, it would lower the number of our criminals.

STRODE

[D]o you know of any better way of having a judicial ascertainment by the State as to whether or not it would be better to have this operation performed, than as set out in this act?

DEJARNETTE

I do not.

STRODE

If the patient has not the intelligence of mind to decide whether this operation should be performed, should not there be some tribunal somewhere to decide whether that operation should be performed?

DEJARNETTE

It should, and this is the best I have ever seen.

SLIDE 56:

NARRATOR 1

Whitehead's cross-examination seemed designed to bolster his adversary's expert's opinion.

WHITEHEAD

You say you turn them out, and say they become self-sustaining: is it your idea that they are to be discharged?

DEJARNETTE

That is my idea. See that girl: she was a good worker and never brought into conflict with the law until she was pregnant. If she had remained sterile, in all probability she would have been there at home working with Mrs. Dobbs, who seems to be very fond of her.

WHITEHEAD

How does it benefit society to turn them out?

DEJARNETTE

It benefits society by not taking care of them, and by the work they do. They are hewers of wood and drawers of water, and there is not very much more likelihood that they would spread venereal disease, if sterilized, than if they were not.... [A]nd by having an in and out method -- that is to take those feeble-minded; put them in for a month or two; sterilize them; and turn them out -- you can get most of them sterilized, whereas the state would keep all of them in.

WHITEHEAD

I agree with you, that society would be benefited to that extent, but what I want to know is whether it would be well to take a chance on turning these girls out that they may drift into prostitution and street-walking and spreading diseases.

DEJARNETTE

Yes, but what I am trying to say is, say you have 100 in there now, who are not distributing disease... whereas if those people were operated on, and have a clearinghouse, taking the others in and sterilizing them, you would have that many less reproducing.

SLIDE 57:

NARRATOR 1

Next to take the stand was Estabrook, who testified to the results of his investigation.¹¹⁷

STRODE

Did you give Carrie Buck any mental tests to determine her mental capacity?

ESTABROOK

Yes, sir.

STRODE

I read ... Section 1073 of the Code of Virginia: "The words 'feeble-minded person' in this chapter shall be construed to mean any person with mental defectiveness from birth, or from an early age so pronounced that he is incapable of caring for himself, or managing his affairs, or of being taught to do so, and is unsafe and dangerous to himself and others and to the community, and who consequently requires care, supervision, and control for the protection and welfare of himself, others and the community...."

In your opinion is Carrie Buck within that definition?

ESTABROOK

She is.

STRODE

Did you see Carrie Buck's child?

ESTABROOK

I did.

STRODE

Were you able to form any judgment about that child?

ESTABROOK

I was.

STRODE

What is it?

ESTABROOK

I gave the child the regular mental test for a child of the age of six months, and judging from her reactions... I decided she was below the average for a child of eight months of age.

SLIDE 58:

WHITEHEAD

You have made a test of Carrie Buck over here; now, do you think she is capable of taking care of herself or being taught to do so?

ESTABROOK

I would say in the case of Carrie Buck she would not be capable of taking care of herself to the fullest extent.

WHITEHEAD

Would she be able to earn a living?

ESTABROOK

She would be able to earn a living -- a sufficient living -- in the proper kind of home where somebody would be looking after her.

SLIDE 59:

NARRATOR 1

Strode's last witness was Priddy himself.

STRODE

I wish you would state to the Court why you moved to have this girl sterilized under this act?

PRIDDY

[B]y a study of her family history; personal examination... and subsequent observation since admission to the hospital....

STRODE

[T]aking into consideration the years of experience you have had in dealing with the socially inadequate, and more, particularly with the feeble-minded, what, in your judgment, would be the general effect, both upon patient, and upon society at large, by the operation of this law?

PRIDDY

It would be a blessing.

STRODE

To whom?

PRIDDY

To both society and to the individuals on whom the operation is performed.

STRODE

Have you had personal observation of that with those you have personally sterilized?

PRIDDY

From 1916 to about the winter of 1917, for tubal diseases, and a few subsequent to that, we sterilized eighty-odd cases. [W]e got good homes for about sixty of them.

STRODE

[A]s to those sixty or eighty you have sterilized under those circumstances, have you undertaken to keep up with them?

PRIDDY

I have kept up with them quite well. Many of them like to come back and show prosperity after they are free. I had a boy, son of a Baptist minister, who was incorrigible -- of the imbecile class. He attempted to assault a girl of this community. His father had him sterilized by the complete method. We had a girl who had been sterilized, and he ran away with the sterilized case, and I have never known a couple to get along better.... Mr. Whitehead knows them both.

WHITEHEAD

Yes, put in there that I know them through being a member of the Special Board of Directors.

STRODE

Doctor, I don't know of anything else, unless you have something that you think I have overlooked.

PRIDDY

I feel that I should say, in a few words, the strong reason for the operation of the sterilization law is that the state contemplates the detention of these women in the institution during their childbearing from 25 to 30 years, and by sterilization -- an absolutely safe and harmless operation -- within three weeks.

SLIDE 60:

WHITEHEAD

Doctor, about these grades of feeble-mindedness -- there are grades, aren't there?

PRIDDY

Yes, sir.

WHITEHEAD

Now, this girl here, as I understand, is sort of a middle-grade?

PRIDDY

Yes, she is middle-grade.

WHITEHEAD

Is she capable of being taught to take care of herself?

PRIDDY

She is capable of going back to the home from which she came.

STRODE

Doctor, I understood you to say that if this girl could be sterilized the Dobbs home would be open to her?

PRIDDY

I understand they want her back.

STRODE

And the only thing to prevent her having an independent home is her child-bearing capacity?

PRIDDY

Yes, sir. I don't know that they would be willing to assume the risk as she is now.

SLIDE 61:

NARRATOR 1

Strode then read in answers to interrogatories served on Laughlin at the Eugenics Records Office.¹¹⁸

STRODE

Please give a short analysis of the hereditary nature of Carrie Buck, the defendant in this case....

LAUGHLIN

[H]er mental age... is only nine years. She has a life-long record of moral delinquency and has borne one illegitimate child, considered feeble-minded.... These people belong to the shiftless, ignorant, and worthless class of anti-social whites of the South....

STRODE

Please give ... the results of scientific investigations tending to show that feeble-mindedness is likely to be transmitted to offspring from a feeble-minded parent....

LAUGHLIN

[T]his girl comes from a moving class of people, and it is impossible to get intelligent and satisfactory data....¹⁹ I have analyzed, so far as data would permit, the hereditary nature of the particular social inadequacy from which the subject... was suffering....

STRODE

Please state the conclusions you have reached as to the beneficial results both to the patient and to society in general that would be likely to follow from the operation of the Virginia statute in question.

LAUGHLIN

[T]he physiologically less radical operations, vasectomy and salpingectomy, are as effective as the physiologically more radical ones.... Modern individual and family history study can, in practically all cases of social inadequacy, locate the heredity factor, if it exists.

NARRATOR 1

Whitehead did not call a single witness, and Carrie Buck did not say a word in her own defense.

SLIDE 62:

NARRATOR 1

The Circuit Court reached its decision on April 13, 1925. It ordered Carrie to be sterilized within ninety days.

Shelton excepted to the order and appealed to Virginia's high court, the Supreme Court of Appeals.¹²⁰

SLIDE 63:

NARRATOR 1

Dr. Priddy, however, did not live to see the fruits of his labors. He had died on January 13, 1925, after a long struggle with Hodgkin's Disease.¹²¹

He was substituted in the caption with his successor as Superintendent of the Colony...

SLIDE 64:

NARRATOR 1

...Dr. John H. Bell.

SLIDE 65: INTERMISSION

SLIDE 66: MITIGATING RACE DEGENERACY

SLIDE 67:

NARRATOR 2

The court heard argument on September 16, 1925.¹²² Here, however, we must confront an inexplicable gap in the record.

We have Strode's Brief for Appellee in the Virginia high court. We also have Whitehead's Reply Brief for Appellant, which spans all of five pages. We do not, however, have any principal brief for the Appellant. Indeed, in compilations of the case files as far back as 1930, there is no mention of an appellant's brief.¹²³

It's as if Whitehead did not even submit a brief for his own appeal.

SLIDE 68:

NARRATOR 2

In any event, the attorneys argued over whether the Virginia law was punitive or beneficial to the subject and to society.¹²⁴

WHITEHEAD

It is said the operation is a simple one. No operation of this magnitude is a simple matter.

STRODE

That the insane, feeble-minded and other defectives ... may be taken and kept in custody of the State and so deprived of the liberty otherwise protected by constitutional sanctions is beyond question. This the State does in the exercise of its police power.

WHITEHEAD

The answer to our protest against this sort of proceedings is that the State in the exercise of its police powers is the sole judge of what is best and proper for its citizens and can say on what set of facts it shall base its order carrying out its policy. If this is true, then judicial trials are a farce and the courts have become mere executives to carry into effect the legislative sentence....

STRODE

....Carrie Buck is feeble-minded and by the laws of heredity is the probable parent of socially inadequate offspring....

She cannot determine the matter for herself both because, being not of full age, her judgment is not to be accepted nor would it acquit the surgeon; and because also besides being under age, she is further incapacitated by congenital mental defect. Her father is dead, her mother is mentally incapacitated and her self under custodial care. Carrie has no other natural guardian and is herself a very ward of the State....

WHITEHEAD

In a proceeding under this statute a rule of evidence is created wholly new to cases involving deprivation of life.

It makes ex parte records admissible without opportunity for cross-examination; permits the Court to base its findings on the mental condition of members of appellant's family, remote ancestors, and collateral kin; and on theories of experts based on hearsay statements; all of which is repugnant to the "settled maxims of the law."

SLIDE 69:

NARRATOR 2

The court issued its decision on November 12, 1925.¹²⁵ Writing for the court, Justice John West found that the proceedings complied with the Virginia law and the Constitution.

JUSTICE WEST

The statute under review clearly vests the special Board of Directors of the state colony for epileptics and feeble-minded... with jurisdiction to hear [] any petition, filed by the superintendent... for the sexual sterilization of an inmate thereof.

The purpose [] was not to punish but to protect the class of socially inadequate citizens named herein from themselves, and to promote the welfare of society by mitigating race degeneracy.

[The] act is based upon a reasonable classification and is a valid enactment under the State and Federal Constitutions.... The right to enact such laws rests in the police power, which the States did not surrender when they entered the Federal union....

SLIDE 70:

NARRATOR 2

Whitehead petitioned the Virginia Supreme Court of Appeals for a writ of error to the United States Supreme Court. The state court granted the petition, and the United States Supreme Court issued the writ on January 27, 1926.¹²⁶

SLIDE 71: SWAMPED WITH INCOMPETENCE

SLIDE 72:

NARRATOR 2

The Supreme Court heard argument on April 22, 1927.¹²⁷ We have no transcript, but we do have the appellate briefs, in which Strode and Whitehead again argued whether eugenics laws like Virginia's benefitted their subjects or society.¹²⁸

STRODE

Some sixteen of the states have endeavored by statute to deal with this problem.... The Virginia statute is believed to be unique... in that it requires a judicial determination that the welfare of the patient will be promoted as a condition precedent to a sterilization order.

WHITEHEAD

But in each instance with the exception of the Virginia Act, such of these laws as were purely eugenic in their effect have been declared by the courts to be unconstitutional and void because they infringed upon certain human rights and liberties protected by either State or Federal Constitution.

STRODE

According to settled principles the police power of a state must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety.

WHITEHEAD

The right to bodily integrity existed before either State or Federal Constitution was adopted and is as old as Anglo-Saxon civilization.

STRODE

An exercise of the police power analogous to that of the statute here in issue may be found in the compulsory vaccination statutes for there, as here, a surgical operation is required for the protection of the individual and of society....

WHITEHEAD

[T]he State cannot under the guise of a police regulation take into custody its unfortunate but unoffending citizens and over their protest subject them to surgical operation in violation of rights guaranteed by the Constitution of the United States....

STRODE

Even for the liberty it may take away -- if there can be liberty to procreate when one is already in permanent custodial care under conditions of physical separation expressly designed to prevent procreation -- it returns a larger liberty in freedom from confinement. This is relief, not punishment.

WHITEHEAD

[T]his idea of benefit to the patient was written into the Virginia law for the sole purpose of enabling any court which may favor the selective breeding idea to find some ground upon which to base an opinion upholding the constitutionality of the Act.

STRODE

There are manifold restraints to which every person is necessarily subject for the common good.

WHITEHEAD

The fact of the welfare of the patient being promoted by the operation is not susceptible of definite proof. At best, it is a mere guess.

STRODE

[I]n what right... could she be justified in bringing another such child into the world?

Surely any right that she might still claim must give way to the larger right of society to protect her, her offspring, and society itself humanely against such afflictions and burdens.¹²⁹

WHITEHEAD

Why sterilize the few segregated in state institutions who have no opportunity to procreate and leave beyond the reach of the legislation the eight or ten thousand like people at large in the state propagating their kind at will?

STRODE

[W]ho indeed is here but the state, ... to decide for Carrie, and for others like her whom it has taken into custody...? Poor the commonwealth in powers and helpless in authority if she be incompetent thus to act for her afflicted children.

WHITEHEAD

The idea of selective breeding is as old as recorded history. Plato in his Ideal Republic... says: "You will establish then in your state the science of medicine ... and along with it a corresponding system of judicature, both of which together may carefully provide for such of your citizens as are naturally well disposed both in body and mind; while as regards the opposite, such as are diseased in their bodies, they should let die...."

If the Virginia Act of Assembly is held to be a valid enactment [then] a reign of doctors will be inaugurated and in the name of science new classes will be added[.] [E]ven races may be brought within the scope of such a regulation in the worst forms of tyranny practiced. In the place of the constitutional government of the fathers we will have set up Plato's Republic.

SLIDE 73:

NARRATOR 2

The Court issued its decision on December 2, 1927, affirming the decision below by a vote of 8 to 1.

JUSTICE HOLMES

Carrie Buck is a feeble-minded white woman who was committed to the State Colony above mentioned in due form. She is the daughter of a feeble-minded mother in the same institution, and the mother of an illegitimate feeble-minded child.¹³⁰

NARRATOR 2

Authoring the opinion was Justice Oliver Wendell Holmes Jr., son of the renowned writer and physician.¹³¹

JUSTICE HOLMES

[A]s every step in this case was taken in scrupulous compliance with the statute and after months of observation, there is no doubt that in that respect the plaintiff in error has had due process at law.¹³²

NARRATOR 2

Holmes' maternal grandfather, Charles Jackson, was a justice of the Supreme Judicial Court of Massachusetts, where Holmes himself sat for twenty years.

JUSTICE HOLMES

The judgment finds ... that Carrie Buck ... may be sexually sterilized without detriment to her general health and that her welfare and that of society will be promoted by her sterilization, and thereupon makes the order.

NARRATOR 2

He also graduated from Harvard University and Harvard Law School.

JUSTICE HOLMES

In view of the general declarations of the Legislature and the specific findings of the Court[,] obviously we cannot say as a matter of law that the grounds do not exist, and if they exist they justify the result.¹³³

SLIDE 74:

NARRATOR 2

Between college and law school, however, Holmes enlisted. In 1861 he was commissioned as a first lieutenant in the Twentieth Massachusetts Regiment of Volunteers.¹³⁴

JUSTICE HOLMES

We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence.

NARRATOR 2

He served for three years, and was seriously wounded at Antietam, Ball's Bluff, and Chancellorsville.¹³⁵

SLIDE 75:

JUSTICE HOLMES

It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles are enough.¹³⁶

NARRATOR 2

Holmes concluded with a dismissal of any equal protection challenge.

JUSTICE HOLMES

It is the usual last resort of constitutional arguments to point out shortcomings of this sort. But the answer is that the law does all that is needed when it does all that it can, indicates a policy, applies it to all within the lines, and seeks to bring within the lines all similarly situated so far and so fast as its means allow. Of course so far as the operations enable those who otherwise must be kept confined to be returned to the world, and thus open the asylum to others, the equality aimed at will be more nearly reached.¹³⁷

SLIDE 76:

NARRATOR 2

The lone dissenter in Buck v. Bell was Justice Pierce Butler, the Court's sole Catholic justice at the time.¹³⁸ Butler did not author a dissenting opinion.

SLIDE 77:

NARRATOR 2

Signing onto Holmes' opinion without even a concurrence, however, were no lesser jurists than Louis Brandeis, Harlan Fiske Stone, and Chief Justice William Howard Taft, previously our twenty-seventh President.¹³⁹

SLIDE 78:

NARRATOR 2

On June 9, 1927, Whitehead petitioned the U.S. Supreme Court for rehearing.

WHITEHEAD

The record admits that sterilization of feeble-minded, imbeciles[,] and insane persons is not generally practiced....¹⁴⁰ It is a matter of common knowledge ... that the beneficent effects of sterilization upon the public welfare claimed by its advocates not only are not generally admitted, but are denied by competent medical and sociological authority all over the country.¹⁴¹

NARRATOR 2

In October 1927, the Court denied the petition.¹⁴² That same month, Dr. Bell made Carrie Buck the first person to be sterilized under the Virginia law.

SLIDE 79: HUMAN WEEDS

SLIDE 80:

NARRATOR 2

Public reaction to the decision was largely optimistic.

MUNCIE EVENING PRESS

Muncie Evening Press: Carrie Buck, 20, with a mental age of 9 years, according to the scientists, will be sterilized by Virginia authorities under a United States Supreme Court decision today.¹⁴³

NEWPORT NEWS DAILY PRESS

Newport News Daily Press: [T]he [] Court pointed out that men must die for the state, and said that since that is so, it may properly be required in the public welfare that imbeciles be deprived of the power to afflict society with feeble-minded offspring.¹⁴⁴

SHAMOKIN NEWS-DISPATCH

Shamokin [Pennsylvania] News-Dispatch: "The more unfit rendered sterile, the more rapid will be the development of a race of supermen in America," said Dr. Claude C. Pierce, acting surgeon general of the United States. "The supreme court's decision is a step toward a super-race, although it is but a feeble step."¹⁴⁵

TIME MAGAZINE

Time Magazine: Supreme Court decisions go into effect 40 days after having been arrived at. Thus Miss Buck had 40 days left in which to be the "potential parent of socially inadequate offspring."¹⁴⁶

NARRATOR 2

Some commentators used the decision to argue for greater use of eugenic sterilization laws.

HELENA DAILY INDEPENDENT

Sterilization is only one of the mild methods of disposing of human weeds.... It is not enough to sterilize the criminal. It would be like picking and burning the seeds of a poisonous weed and permitting the plant itself to flourish and crowd out those of value to mankind.¹⁴⁷

SLIDE 81:

NARRATOR 2

Yet even as Buck v. Bell recognized the states' right to sterilize their citizens, criticism of eugenics was mounting.

PEARL

In preaching as they do, that ... superior people will have superior children, and inferior people, inferior children, the orthodox eugenists are going contrary to the best established facts of genetical science, and are, in the long run, doing their cause harm.¹⁴⁸

NARRATOR 2

In November 1927, Professor Raymond Pearl of Johns Hopkins delivered a categorical attack on eugenics in his essay "The Biology of Superiority."

PEARL

[T]hese eugenic theses ... are all based upon, and derive their entire meaning, from what is now known to be a profound fallacy. This fallacy is that the essence of heredity is comprehended in the statement that like produces like.

The epoch-making achievement of genetics during the last quarter of a century is the complete, comprehensive, and general demonstration that heredity does not mean that like produces like.¹⁴⁹

SLIDE 82:

NARRATOR 2

In December 1930, Pope Pius XI spoke out against eugenic laws against marriage or procreation.

POPE PIUS XI

Public magistrates have no direct power over the bodies of their subjects; therefore, where no crime has taken place and there is no cause present for grave punishment, they can never directly harm, or tamper with the integrity of the body, either for the reasons of eugenics or for any other reason.¹⁵⁰

NARRATOR 2

Lest you think His Holiness was a pioneer for bodily autonomy, however, he also opposed voluntary sterilization.

POPE PIUS XI

[P]rivate individuals ... are not free to ... render themselves unfit for their natural functions....¹⁵¹

SLIDE 83: VIVIAN ALICE ELAINE DOBBS

SLIDE 84:

NARRATOR 2

Carrie Buck left the Colony in the fall of 1927, three weeks after her procedure.¹⁵²

She was discharged to the Coleman family, friends of Dr. Bell and owners of a lumber company in southwestern Virginia. She worked there as an unpaid domestic servant until the family returned her to the Colony, unhappy with her performance.¹⁵³

COLEMAN

I may be calling on you to get me another girl later.... I certainly do not want one so feeble-minded. [The last one] had plenty of sense but didn't care to work, & Carrie is the opposite.¹⁵⁴

NARRATOR 2

Bell then tried to send Carrie back to Charlottesville. But Mrs. Dobbs did not "think it wise" for Carrie and her daughter to be together. So, to Carrie's disappointment, Bell placed her with another family in southwest Virginia, where the 22-year-old would remain on "parole" for another year.¹⁵⁵

Meanwhile, Carrie's sister, Doris Buck, who in 1926 at age 12 had been shipped to the Colony, in 1927 at the age of 13 became the youngest candidate for sterilization.¹⁵⁶

Carrie was formally discharged from the Colony on January 1, 1929. Doris was discharged the following year.¹⁵⁷ Emma Buck, however, remained at the Colony until her death in 1944.¹⁵⁸

SLIDE 85:

NARRATOR 2

In the spring of 1932, Carrie married and settled down in Bland, Virginia, some 200 miles west of Charlottesville, where her daughter still lived with the Dobbses.¹⁵⁹

SLIDE 86:

NARRATOR 2

Vivian was eight years old at the time, and doing well in the second grade.

CARRIE

"Department, A. Reading, B. Writing, B."¹⁶⁰

NARRATOR 2

That summer, however, Vivian contracted measles. She died on July 3, 1932.¹⁶¹

CARRIE

"English, B. Mathematics, B."¹⁶²

NARRATOR 2

Her headstone reads: "Vivian Alice Elaine Dobbs."¹⁶³ It appears that not until the following summer did Carrie even learn of her daughter's passing.¹⁶⁴

CARRIE

"March Honor Roll. April Honor Roll. May Honor Roll."¹⁶⁵

SLIDE 87: PERVERTED OFF-SPRINGS

SLIDE 88:

NARRATOR 1

The drive to improve humanity by eliminating "human weeds" remained popular. In 1938 The Washington Evening Star surveyed the impact of Buck v. Bell.

WASHINGTON EVENING STAR

When Justice Holmes said that Carrie could have no more children it meant that countless other Carries, in countless other places with countless other names, must have no more children either.... As a result of that decision, 29 of the 48 states now have sterilization laws in force. Up to January 1935 -- the last time a tabulation was made -- 21,539 persons actually had been made sexually impotent.¹⁶⁶

NARRATOR 1

That same year, a Gallup poll showed more support for forced sterilizations than for legal distribution of birth control information.¹⁶⁷

SLIDE 89:

NARRATOR 1

The eugenic movement found particularly fertile ground in Germany, which in July 1933 enacted the "Law for the Prevention of Hereditarily Diseased Offspring."

Among its greatest cheerleaders was Arthur Gütt, head of the National Hygiene Department in the Reich Ministry of the Interior.

GÜTT

We do not want to abolish the benefits of civilization. We will still care for the sick and infirm. But we do want to prevent the hereditary afflicted from transmitting their affliction to their children, thereby poisoning the entire bloodstream of the race.

NARRATOR 1

Unsurprisingly, eugenics in Nazi Germany was rooted in racism, as shown by the Marital Health Law of 1935, which banned "hereditarily healthy" persons from marrying the unfit.¹⁶⁸

GÜTT

The purpose of this is first to dissuade bodily or mental inferiors from marrying, and especially from procreation. Second, to prevent marriages between hereditarily tainted persons, the same as a marriage between an Aryan and a non-Aryan, Third, to influence the choice of life partners from a health, as well as a racial viewpoint.¹⁶⁹

NARRATOR 1

Nazi Germany sterilized 400,000 of its own citizens. Hundreds of women died from the surgery.¹⁷⁰

GÜTT

We go beyond neighborly love; we extend it to future generations. Therein lies the high ethical value and justification of the law.¹⁷¹

NARRATOR 1

German eugenicists recognized the inspiration of their American forebears. Harry Laughlin's efforts earned him an honorary degree in 1936 from the University of Heidelberg.¹⁷²

SLIDE 90:

NARRATOR 1

World War II only forged in the popular consciousness a link between eugenics and Nazism.

After World War II, however, the impact of Buck was felt at the International War Tribunal at Nuremberg.

Physician Karl Brandt was the first named defendant in the "Doctors' Trial," and he was not the only one to point out the ubiquity of laws worldwide restricting procreation to one degree or another.

BRANDT

Until now only in Germany "thinking in hereditary values," in order to build up a nation, emerged. Though the just beginnings appeared in foreign countries already before the decree of the German law was made, they were not put into effect so as to improve the general hereditary position....¹⁷³

NARRATOR 1

Brandt's defense exhibits went on to quote Buck v. Bell.

BRANDT

"For the whole world, it is better if the state can prevent obviously inferiors to reproduce their kind instead of waiting until perverted off-springs have to be executed for crimes committed, left to starve because of imbecility."¹⁷⁴

NARRATOR 1

Brandt was convicted of "War Crimes, Crimes against Humanity, and membership in an organization declared criminal by the judgment of the International Military Tribunal," and executed.¹⁷⁵ The sterilization of German citizens, however, was not even among the charged offenses.¹⁷⁶

SLIDE 91: AN UNEQUAL HAND

SLIDE 92:

NARRATOR 1

The beginning of the end for eugenics in America was the Supreme Court's 1942 decision Skinner v. Oklahoma, a challenge to Oklahoma's sterilization law.

ANDREWS

Your Petitioner respectfully shows that heretofore, on the 12th day of July, 1937, he was ordered by judgment of the District Court of Pittsburg County, Oklahoma, to be rendered sexually sterile.¹⁷⁷

NARRATOR 1

Jack Skinner was in prison for armed robbery, and he had been convicted twice before, for stealing chickens and an earlier armed robbery.¹⁷⁸

ANDREWS

The Act provides generally that persons sentenced to serve a term in the penal institutions in the State of Oklahoma who had been twice, or more times, convicted prior thereto for the commission of felonies involving moral turpitude should ... be ordered to be rendered sexually sterile....¹⁷⁹

NARRATOR 1

The state defended its law as an exercise of police power, while Skinner's counsel distinguished the Oklahoma law from the Virginia law.

WILLIAMSON

The ... Act ... does not even purport to impose a punishment or penalty, but is purely an eugenic measure.... This Court upheld a sterilization law enacted by the Legislature of Virginia, in the case of Buck v. Bell....¹⁸⁰

ANDREWS

The statute there provided for an intelligent and scientific inquiry to determine whether or not the defendant could in fact transmit to offspring mental or physical characteristics imposing unnecessary burdens upon society.¹⁸¹

NARRATOR 1

Writing for the Court, Justice William O. Douglas found that Oklahoma's law violated the Equal Protection Clause.

JUSTICE DOUGLAS

A clerk who appropriates over \$20 from his employer's till and a stranger who steals the same amount are thus both guilty of felonies. If the latter repeats his act and is convicted three times, he may be sterilized. But the clerk is not subject to the pains and penalties of the Act no matter how large his embezzlements nor how frequent his convictions....

When the law lays an unequal hand on those who have committed intrinsically the same quality of offense and sterilizes one and not the other, it has made as invidious a discrimination as if it had selected a particular race or nationality for oppressive treatment.¹⁸²

NARRATOR 1

The Court distinguished Buck, however, rather than repudiate it.

JUSTICE DOUGLAS

The Virginia statute was upheld though it applied only to feeble-minded persons in institutions of the State. But it was pointed out that "so far as the operations enable those who otherwise must be kept confined to be returned to the world, and thus open the asylum to others, the equality aimed at will be more nearly reached." Here there is no such saving feature.¹⁸³

NARRATOR 1

Justices Stone and Jackson concurred, citing favorably Buck v. Bell.

SLIDE 93:

NARRATOR 1

After World War II, sterilization laws remained in force across the United States. The practice declined, however, with increasing public distaste for the racism and classism behind eugenics.

The first of these invidious prejudices was condemned by the Supreme Court when it struck down Virginia's anti-miscegenation law in Loving v. Virginia.

CHIEF JUSTICE WARREN

There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause.¹⁸⁴

NARRATOR 1

Writing for the Court, Chief Justice Earl Warren cited Skinner in finding that the law also violated the Due Process Clause.

CHIEF JUSTICE WARREN

Under our Constitution, the freedom to marry or not marry a person of another race resides with the individual and cannot be infringed by the State.¹⁸⁵

NARRATOR 1

The Court said nothing, however, about laws that equally controlled reproduction of all peoples, married or not.

SLIDE 94:

NARRATOR 1

The classism behind eugenics was exposed in Relf v. Weinberger, presided over in the U.S. District Court for District of Columbia by Judge Gerhard Gesell.

JUDGE GESELL

Plaintiffs are the National Welfare Rights Organization, suing on behalf of its 125,000 members, and five individual women, proceeding by class action on behalf of all poor persons subject to involuntary sterilization under the challenged regulations.¹⁸⁶

NARRATOR 1

In the summer of 1973, Minnie Lee and Mary Alice Relf were taken from their home in Montgomery, Alabama, and sterilized -- against their will and without their parents' informed consent -- by a physician working in a federally funded clinic.¹⁸⁷

JUDGE GESELL

There is uncontroverted evidence in the record that minors and other incompetents have been sterilized with federal funds and that an indefinite number of poor people have been improperly coerced into accepting a sterilization operation under the threat that various federally supported welfare benefits would be withdrawn unless they submitted to irreversible sterilization.¹⁸⁸

NARRATOR 1

The lawsuit helped reveal that more than 100,000 mostly Black, Latina, and Indigenous women were sterilized under U.S. government programs over decades.¹⁸⁹

JUDGE GESELL

Patients receiving Medicaid assistance at childbirth are evidently the most frequent targets of this pressure....¹⁹⁰

NARRATOR 1

The District Court enjoined the regulations, but the D.C. Circuit vacated the order after [the Department of Health, Education and Welfare] withdrew the regulations altogether for proper rulemaking procedures.¹⁹¹ Nevertheless, the case showed how the "lesser sacrifices" of eugenics were disproportionately demanded of the poor.

SLIDE 95:

NARRATOR 1

The last effort to overturn Buck v. Bell came in 1981, in Poe v. Lynchburg Training School and Hospital.

JUDGE TURK

This case is filed as an individual and class action suit challenging the involuntary sterilization of a number of men and women by Virginia state officials acting pursuant to a statute enacted in 1924 by the Commonwealth of Virginia. The complaint also challenges the constitutionality of the purported refusal of appropriate Virginia state officials to notify all those persons who received such surgery as to their medical status and medical alternatives.¹⁹²

NARRATOR 1

The plaintiffs did not seek damages, but to enjoin sterilizations without informed consent and to have Virginia's sterilizations, and subsequent failure to inform those who had been sterilized, declared a violation of the Fourteenth Amendment.

JUDGE TURK

Regardless of whatever philosophical and sociological valuation may be made regarding involuntary sterilizations in terms of current mores and social thought, the fact remains that the general practice and procedure under the old Virginia statute were upheld by the highest court in the land in Buck v. Bell.

It is no answer for the plaintiff to allude to changing patterns of social and constitutional thought as a ground for reopening the inquiry.

NARRATOR 1

District Judge James C. Turk recognized that Virginia had by then repealed its eugenics sterilization statute, but he let the case continue on other grounds.

JUDGE TURK

[C]onsidering the continuing anguish and discontent which could reasonably be inferred assuming that appropriate notification had been intentionally or negligently withheld, the court is unable to conclude as a matter of law that defendants are dispossessed of all continuing legal duty to plaintiffs.¹⁹³

NARRATOR 1

The case settled in 1985, and the precedential force of Buck v. Bell remained undiminished.¹⁹⁴ Poe's greatest impact, however, may have been bringing to light the abuses under the Virginia law.

SLIDE 96:

NARRATOR 1

In all, however, over sixty thousand men and women were forcibly sterilized across the thirty states to enact eugenics laws.¹⁹⁵

New York was among the least active in this regard, sterilizing only 42 individuals between passage of its sterilization law in 1912 and its repeal in 1920.¹⁹⁶

SLIDE 97: PROFOUND REGREET

SLIDE 98:

NARRATOR 1

Carrie Buck died in 1983 at 77 years old. Her one-paragraph obituary identified her as "Carrie Detamore," her second husband's surname. It made no mention of the Supreme Court decision that bore her maiden name.¹⁹⁷

The next year, anthropologist Stephen Jay Gould in his article "Carrie Buck's Daughter," reviewed the evidence and dismantled the premise of the entire proceeding.

STEPHEN JAY GOULD

[T]here were no imbeciles, not a one, among the three generations of Bucks.... [F]orced eugenic sterilization, a procedure of such dubious morality, earned its official justification (and won its most quoted line of rhetoric) on a patent falsehood.¹⁹⁸

SLIDE 99:

NARRATOR 1

Virginia repealed its eugenics law in 1979.¹⁹⁹ It took decades more for Virginia to face the facts.

VIRGINIA RESOLUTION

[T]he goal of the "science" of eugenics was to improve the human race by eliminating what the movement's supporters considered hereditary disorders....²⁰⁰

NARRATOR 1

Some called for the government to issue an apology, while others resisted apologizing for conduct that was entirely legal.

VIRGINIA RESOLUTION

[I]n practice, the eugenics laws were used to target virtually any human shortcoming or malady, including alcoholism, syphilis and criminal behavior.... [S]till another regrettable aspect of the eugenics laws was their use as a respectable, "scientific" veneer to cover activities of those who held blatantly racist views....²⁰¹

NARRATOR 1

After protracted debate, the state legislature in 2001 issued a compromise resolution that satisfied no one.

VIRGINIA RESOLUTION

[T]herefore, be it RESOLVED... That the General Assembly expresses its profound regret over the Commonwealth's role in the eugenics movement in this country and the incalculable human damage done in the name of eugenics....²⁰²

SLIDE 100:

NARRATOR 1

In 2002, however, Virginia Governor Mark Warner gave a more fulsome apology.

GOV. WARNER

Today I offer the Commonwealth's sincere apology for Virginia's participation in eugenics. As I have previously noted, the eugenics movement was a shameful effort in which the government never should have been involved.

NARRATOR 1

He dedicated a highway marker on Preston Avenue in Charlottesville, not far from Carrie's gravesite.

GOV. WARNER

We must remember the Commonwealth's past mistakes in order to prevent them from recurring. This highway marker will serve as a constant reminder of how our government failed its citizens and how we must always strive to do better.²⁰³

NARRATOR 1

In 2015, Virginia authorized reparations to the victims of its eugenics programs, \$25,000 to each person forcibly sterilized.²⁰⁴

SLIDE 101: A CRIMINAL, CAPTAIN

SLIDE 102:

NARRATOR 1

Today, eugenics in popular culture is a tool of villains. Take for example the genetically-engineered antagonist portrayed by Ricardo Montalban in 1982's Star Trek II: The Wrath of Khan.

CAPTAIN TERRELL

Chekov, who is this man?

CHEKHOV

A criminal, Captain -- a product of the late 20th Century genetic engineering.²⁰⁵

SLIDE 103:

NARRATOR 1

Trekkies will recall that Wrath of Khan was actually a sequel to the Star Trek TV episode from 1967 that first introduced Khan -- played back then by Ricardo Montalban.

SPOCK

The mid-1990s was the era of your last so-called World War.

MCCOY

The Eugenics Wars.

SPOCK

Of course. Your attempt to improve the race through selective breeding.

MCCOY

Now, wait a minute. Not our attempt, Mister Spock. A group of ambitious scientists. I'm sure you know the type. Devoted to logic, completely unemotional.²⁰⁶

SLIDE 104:

NARRATOR 1

Today the unenhanced human can be the underdog hero of the story, as in the 1997 film Gattaca, which asked filmgoers to believe that Hollywood heartthrob Ethan Hawke was genetically inferior to anyone.

SLIDE 105:

NARRATOR 1

Yet the promise of eugenics still has appeal. In Frank Herbert's science-fiction epic Dune, a young man -- who is the product of a eugenics program that spans centuries -- manifests psychic super-powers and becomes the savior of the galaxy.

SLIDE 106:

NARRATOR 1

And if you think that sounds a little like Luke Skywalker or Harry Potter, you're not alone.

SLIDE 107:

NARRATOR 1

Perhaps the most nakedly pro-eugenic film ever was 2006's Idiocracy. In it, our hero wakes up five hundred years in the future to an America ravaged by Estabrook's "cacogenic matings," as the film's voice-over narration explained:

IDIOCRACY NARRATOR

Most science fiction of the day predicted a future that was more civilized... and more intelligent. But as time went on, things seemed to be heading in the opposite direction. A dumbing down.

How did this happen? Evolution does not necessarily reward intelligence. With no natural predators to thin the herd... it began to simply reward those who reproduced the most... and left the intelligent to become an endangered species.²⁰⁷

SLIDE 108: THIS NATION'S HISTORY AND TRADITION

SLIDE 109:

NARRATOR 1

As for the Buck v. Bell decision, the Supreme Court has cited it only three times this century -- and not favorably.

The last time was in 2019, in Box v. Planned Parenthood of Indiana and Kentucky, Inc. The Court affirmed Indiana's laws barring, among other things, "the knowing provision of sex-, race-, or disability-selective abortions." Buck was only cited in a concurrence, by Justice Thomas.

JUSTICE THOMAS

This Court threw its prestige behind the eugenics movement in its 1927 decision upholding the constitutionality of Virginia's forced-sterilization law.... This case highlights the fact that abortion is an act rife with the potential for eugenic manipulation.²⁰⁸

SLIDE 110:

NARRATOR 1

The precedent on which Buck v. Bell rests, however -- Jacobson v. Massachusetts -- has been cited in 93 decisions addressing COVID-19 vaccine mandates.

In September 2022, Judge Ann Donnelly of the Eastern District of New York dismissed a challenge to 10 NYCRR Section 2.61, which required health care workers to receive the vaccine.

JUDGE DONNELLY

In the years since Jacobson was decided, the Supreme Court has reaffirmed the principle that governments have the power to enact mandatory vaccination policies to protect the public health in the face of a public health emergency.... Section 2.61 is rationally related to a legitimate governmental interest.²⁰⁹

SLIDE 111:

NARRATOR 1

Sterilization scandals have been discovered across the nation. In the 1975 case Madrigal v. Quiligan, ten plaintiffs claimed that the Los Angeles County U.S.C. Medical Center was systematically sterilizing Spanish-speaking mothers who delivered their babies via caesarean section,²¹⁰ as detailed in the New York Times.

NEW YORK TIMES

Dolores Madrigal remembered being told that her sterilization could be reversed. Jovita Rivera and Georgina Hernández said they were bullied by doctors and nurses who declared their children burdens on California taxpayers. Melvina Hernandez did not find out that her tubes had been cut until four years after her son was born.

NARRATOR 1

The National Institute of Health has recognized the sterilization without consent of Native American women.

N.I.H.

A study by the U.S. General Accounting Office finds that 4 of the 12 Indian Health Service regions sterilized 3,406 American Indian women without their permission between 1973 and 1976.... The Indian Health Service had "singled out full-blooded Indian women for sterilization procedures."²¹¹

NARRATOR 1

As recently as 2020, a nurse at the immigration detention center in Irwin County, Georgia, filed a whistleblower complaint alleging that the facility physician was removing the uterus of detainees without their understanding or consent.²¹²

SLIDE 112:

NARRATOR 1

Those hoping for a judicial ban on eugenics laws must reconsider after the Supreme Court decision in Dobbs v. Jackson Women's Health Organization, authored by Justice Samuel Alito, which found no right to abortion in the Due Process Clause.

JUSTICE ALITO

That provision has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty."²¹³

NARRATOR 1

When it comes to eugenics, the Virginia Colony is our "history and tradition."

NARRATOR 1

Perhaps the best advice came from the Virginia Legislature, in its 2001 resolution.

SLIDE 113:

VIRGINIA RESOLUTION

[T]he General Assembly urge the citizens of the Commonwealth to become familiar with the history of the eugenics movement, in the belief that a more educated, enlightened and tolerant population will reject absolutely any such abhorrent pseudo-scientific movement in the future.²¹⁴

SLIDE 114: THE END

Endnotes

Georgia State University College of Law houses an extensive collection of primary-source information about *Buck v. Bell* and the eugenics movement in America. The collection is freely available online at <https://readingroom.law.gsu.edu/buckvbell/>, cited below as “GSU Reading Room.”

- ¹ “West Virginia sterilization law repealed,” The Eugenics Archives, available at <https://bit.ly/3BT2NDV>.
- ² Galton, Francis, *Inquiries into Human Faculty and Its Development*, available at <https://bit.ly/3xP5Efe>.
- ³ “Francis Galton,” biography.com, available at <https://bit.ly/3Swn2gz>.
- ⁴ Galton, supra n. 2.
- ⁵ Galton, Francis, “Eugenics” (June 25, 1906), available at <https://bit.ly/3y5O8TS>.
- ⁶ *Id.*
- ⁷ *Id.*
- ⁸ Dugdale, Richard, *The Jukes: A Study in Crime, Pauperism, Disease and Heredity*, at 7, 13, available at GSU Reading Room.
- ⁹ *Id.* at 66.
- ¹⁰ *Id.* at 70.
- ¹¹ Sharp, Harry C., “Vasectomy as a Means of Preventing Procreation in Defectives” (June 1909) at 1899, available at GSU Reading Room.
- ¹² *Id.*
- ¹³ *Id.*
- ¹⁴ Adam Cohen, *Imbeciles: The Supreme Court, American Eugenics, and the Sterilization of Carrie Buck*, at 19.
- ¹⁵ Wendy K. Mariner, JD, LLM, MPH, George J. Annas, JD, MPH, and Leonard H. Glantz, JD, *Jacobson v Massachusetts: It’s Not Your Great-Great-Grandfather’s Public Health Law*, National Library of Medicine, available at <https://bit.ly/3yAcVzP>.

- ¹⁶ *Jacobson* Argument for Plaintiff in Error, available at GSU Reading Room.
- ¹⁷ *Jacobson* Argument for Defendant in Error, available at GSU Reading Room.
- ¹⁸ Argument for Plaintiff in Error, *supra* n.14.
- ¹⁹ Argument for Defendant in Error, *supra* n.15.
- ²⁰ *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).
- ²¹ *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896)(Harlan, J., dissenting).
- ²² *Jacobsen*, 197 U.S. at 26.
- ²³ *Cohen*, *supra* n.10, at 16.
- ²⁴ *Id.*
- ²⁵ Lombardo, *supra* n.62, at 103; Shankar Vedantam, *Emma, Carrie, Vivian: How A Family Became A Test Case For Forced Sterilizations*, NPR (Apr. 23, 2018), available at <https://n.pr/3ZedquJ>.
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- ²⁷ *Cohen*, *supra* n.10, at 16.
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