

6. Toward Civic Biology

The prime duty of the good citizen of the right type is to leave his or her blood behind in the world, and we have no business permitting the perpetuation of the wrong type.

Theodore Roosevelt

Chapter 5 revealed how eugenicists tried to provide not only a scientific rationale for long-standing prejudices but also someone to blame for all of society's ills. Chapter 6 explores how eugenicists and their supporters translated their beliefs about difference into public policy in the early 1900s. Using the language of public health and progressive reform, they argued that progress required "cleansing" the nation of citizens of the "wrong type." As Charles R. Van Hise, then president of the University of Wisconsin, explained:

We know enough about agriculture so that the agricultural production of the country could be doubled if the knowledge were applied. We know enough about disease so that if the knowledge were utilized, infectious and contagious diseases would be substantially destroyed in the United States within a score of years; we know enough about eugenics so that if the knowledge were applied, the defective class would disappear within a generation.¹

Many Americans liked the idea of a seemingly scientific approach to the nation's social problems. Few questioned whether a democratic government has a right to take such action. This chapter explores two "eugenic laws" that gave government a say in the most fundamental choices a person makes—the selection of a mate and the decision to have children. Anti-miscegenation laws and statutes requiring forced sterilization were passed by elected legislatures and signed into law by elected governors. Many judges considered these laws in keeping with the Constitution.

How did eugenicists win support for laws that labeled friends, neighbors, even relatives as "defective" or "racially inferior"? How did they convince people that government has the right, even a duty, to interfere in the most personal decisions an individual can make? These questions are central to Chapter 6. The chapter also considers the significance of the way we as individuals and members of a society define our universe of obligation—the circle of individuals and groups to whom we feel obligated.

1. Quoted in *Eugenics: Hereditarian Attitudes in American Thought* by Mark H. Haller. Rutgers University Press, 1985, p. 76.

What Did You Learn in School Today?

Reading 1

By 1928, eugenics was part of the curriculum in most high schools as well as in 376 institutions of higher learning—including Harvard, Columbia, Cornell, Brown, Wisconsin, and Northwestern. According to one survey of 41 textbooks, nearly 90 percent of all high school biology textbooks published between 1914 and 1948 endorsed the movement. Students also learned that some among them were a threat to society in their psychology, sociology, anthropology, and home economics classes.¹

What did high school students learn about eugenics and how did it shape their lives? In *The New Civic Biology*, a textbook first published in 1914, author George William Hunter alerted young people to the “menace of feeble-mindedness” and the value of “breeding the best with the best” by using the language of science to heighten real fears about the spread of diseases and the threat of possible disabilities.

Since our knowledge of heredity has been increased, the demand has become more urgent that we do something to prevent the race from handing down diseases and other defects, and that we apply to man some of the methods we employ in breeding plants and animals. This is not a new idea; the Greeks in Sparta had it, Sir Thomas More wrote of it in his *Utopia*, and today it has been brought to us in the science of eugenics. The word comes from the Greek word *eugenes*, which means well born. Eugenics is the science of being well born, or born well, healthy, fit in every way. A tendency to cancer, or tuberculosis, or chorea, or feeble-mindedness, is a handicap which it is not merely unfair, but criminal, to hand down to posterity.

Two notorious families

Studies have been made on a number of different families in the country, in which mental and moral defects were present in one or both of the parents as far back as was possible to trace the family. The “Jukes” family is a notorious example. “Margaret, the mother of criminals,” is the first mother in the family of whom we have record. Up to 1915 there were 2094 members of this family; 1600 were feeble-minded or epileptic, 310 were paupers, more than 300 were immoral women, and 140 were criminals. The family has cost the state of New York more than \$2,500,000, besides immensely

lowering the moral tone of the communities which the family contaminated.

Another careful investigation (up to 1912) concerned the "Kallikak" family. This family was traced to the union of Martin Kallikak, a young soldier of the War of the Revolution, with a feeble-minded girl. She had a feeble-minded son, who had 480 descendants. Of these 33 were sexually immoral, 24 confirmed drunkards, 3 epileptics, and 143 feeble-minded. The man who started this terrible line of immorality and feeble-mindedness later married a normal Quaker girl. From this couple a line of 496 descendants was traced, with no cases of feeble-mindedness. The evidence and the moral speak for themselves!

Parasitism and its Cost to Society

Hundreds of bad families such as those described exist today, spreading disease, immorality, and crime to all parts of this country. The cost to society of such families is very severe. Just as certain animals or plants become parasitic on other plants or animals, these families have become parasitic on society. They not only do harm to others by corrupting, by stealing, and by spreading disease, but they are actually protected and cared for by the state out of public money. It is estimated that between 25% and 50% of all prisoners in penal institutions are feeble-minded. They take from society, but they give nothing in return. They are true parasites. . . .

Blood Tells

Eugenics shows us, on the other hand, in a study of families in which brilliant men and women are found, that the descendants have received the good inheritance from their ancestors. . . . Although we do not know the precise method of inheritance, we do know that musical and literary ability, calculating ability, remarkable memory, and many other mental and physical characters are inheritable and "run in families." The Wedgewood family, from which three generations of Darwins have descended, and the Galton family are examples of scientific inheritance; the Arnolds, Hallams, and Lowells were prominent in literature; the Balfours were political leaders; the Bach and Mendelssohn families were examples showing inheritance of musical genius. A comparison of fathers' and sons' college records at Oxford University shows [that] . . . fathers who did well had sons who did well also. It is said that 26 out of 46 men chosen to the Hall of Fame of New York University had distinguished relatives. Blood does tell!

How to Use Our Knowledge of Heredity

Two applications of this knowledge of heredity stand out for us as high school students. One is in the choice of a mate, the other in the choice of a vocation. As to the first, no better advice can be given than the old adage, "Look before you leap." If this advice were followed, there would be fewer unhappy marriages and divorces. Remember that marriage should mean love, respect, and companionship for life. The heredity of a husband or wife counts for much in making this possible. And, even though you are in high school, it is only fair to yourselves that you should remember the responsibility that marriage brings. You should be parents. Will you choose to have children well born? Or will you send them into the world with an inheritance that will handicap them for life?²

The implications of Hunter's questions were reinforced in popular newspapers, magazines, and books. For many Americans, they had a very real meaning. In 1939, a minister in Pontiac, Michigan, sent the following letter to the Eugenics Record Office at the suggestion of a physician in Chicago:

A few years ago two young men came to our city from a state several hundred miles distance. These brothers lived in our home and shared our devotional and church life and we have learned to love them as one of our family.

Then one day, unsolicited, word came to me that these boys have a strain of black blood in their veins. This seemed impossible to me since there were no Negro characteristics apparent to me. They have no thick lips. Their hair is light brown and their eyes light blue and their complexion is fair. But I carefully sought facts and when I was fairly certain from these, I approached the boys and they too informed me that it was so and that they learned the truth when they were in high school. I believe they have told me the truth and they are facing the problem, for which they are not responsible, in a very courageous manner.

These boys, 24 and 28 years of age, have met girls and I discover that they are contemplating marriage. The girls know the conditions and the girls' parents also know it. The young people and the mother of one of the girls have come to me for advice. There is no feeling of animosity between the parents and the young men. There is a deep sympathetic desire to do what is right. Their questions are: Is there any assurance that children would not revert back to black? Can they be certain of birth control methods? Is sterilization the only

positive and right procedure? If the man submits to such an operation could the sex act still be practiced with satisfying results? Do you have any scientific data on hand to give us a helpful report?

These young men both contemplate sterilization and have asked me to investigate for them. I plan to do that today, but I shall wait for word from you before any final step is taken.

I am enclosing a statement of the family history as accurately given as the boys know from the father's side. The facts are not fully known on the mother's side. If there is a strain on the mother's side the boys think that it is probably with the American Indian.

If there are any questions and statements of fact that you desire and I can be of any help, be assured that I shall gladly do anything possible to get to the truth in this matter.

It seems unfortunate that a public announcement of the engagement and date of anticipated wedding has been made. Probably some postponements will have to be made so if we could have some word soon it would be deeply appreciated.

It appears now that they will go on with their plans and our ultimate question is, should sterilization be done?³

CONNECTIONS

The author of *The New Civic Biology* uses such words as *we*, *us*, and *our* throughout the passage. Who are *we*? Who is one of *us*? Members of a society are part of a universe of obligation—a community made up of the individuals and groups toward whom members have obligations, toward whom they believe the rules of society apply, and whose injuries call for amends. Whom does the author of *The New Civic Biology* seem to exclude? How does he want readers to define their “universe of obligation”? What does the letter suggest may be the consequences of such a definition?

The New Civic Biology is a textbook. How are textbooks like other informational books? What distinguishes them from other non-fiction? How does that distinction affect the content of the book? The way it is written? Compare the passage from *The New Civic Biology* with a modern biology textbook. What similarities do you notice? What differences seem striking?

Propaganda refers to words or images that are designed to spread a message or promote a cause. What is the message of the passage quoted from *The New Civic Biology*? At whom is that message aimed? To what emotions does it appeal?

What is the moral or message of the passage? How does the author's use of such words as *criminal*, *notorious*, *parasite*, and *immorality* underscore that message? What terms are clearly defined in this account? What terms are only vaguely defined? To what extent is the passage an example of propaganda?

The New Civic Biology states that “a tendency to cancer, or tuberculosis, or chorea, or feeble-mindedness, is a handicap which it is not merely unfair, but criminal, to hand down to posterity.” What is the difference between an “unfair” handicap and one that is “criminal”? How do you think students who had such “tendencies” in their families may have reacted to such statements? What is the author suggesting about their future?

According to Hunter, whose achievements are signs of good heredity—those of the men of the family or the women? How do you think views like his may have affected the way students saw themselves, their families, and their classmates?

How may textbooks like Hunter's have shaped the way the brothers responded to the discovery that they were at least partly African American? Why do you think the minister turned to a physician in Chicago for advice rather than the Bible, another minister, or even a local doctor? Why do you think the physician referred him to the Eugenics Record Office?

What can we learn about the two brothers from the letter? Why do you think that aspects of their identity were kept secret from them until they were in high school? How do you explain their willingness to undergo sterilization rather than pass on their genes to another generation? What does their willingness to do so suggest about the power of eugenics? The danger it posed to ordinary people?

There is no record of a response to the minister's letter. How do you think eugenicists like Harry Laughlin would respond to the young men's “desire to do what is right”? How would you respond? What questions would you like to ask the two young men? What would you like to tell them and their fiancées? The minister who wrote the letter?

What values and beliefs shape the letter? What does it suggest about the power of myths and misinformation to shape a person's life? Racism is often thought of as hatred towards a minority group. Yet the minister expresses no hatred. Indeed he cares deeply about the two young men he describes. Is he a racist?

1. *Inheriting Shame: The Story of Eugenics and Racism in America* by Steve Seldon. Teacher's College Press, 1999, p. 64.

2. *The New Civic Biology* by George William Hunter. American Book Company, 1914, pp. 398–401.

3. Courtesy of Harry H. Laughlin Papers, Pickler Memorial Library, Truman State University, Kirksville, Missouri.

Eugenics, Race, and Marriage

Reading 2

In challenging students to choose a mate carefully, the author of *The New Civic Biology* (Reading 1) implied that it was an individual choice. And for some individuals like the young men from Michigan described in the reading, it was. In other parts of the United States, the government had a voice in that decision, as Richard Loving and Mildred Jeter would discover.

Loving and Jeter grew up in Virginia's rural Caroline County in the 1950s. They met at a dance and dated for a few years before deciding to marry. After a wedding in Washington, D.C., they returned to Virginia to start a family. Historians Peter Irons and Stephanie Guitton write:

Six weeks later, the Lovings had a terrible shock. Sheriff Garnet Brooks arrived with a warrant directing him to bring "the body of said Richard Loving" before a judge. He dragged the Lovings out of bed. And what was their crime? Rich was white and Mildred had mixed black and Indian ancestry. Their marriage violated a Virginia law providing that "if any white person intermarry with a colored person"—or vice versa—each party "shall be guilty of a felony" and face prison terms of five years.

The Lovings pleaded guilty to avoid prison. Judge Leon Bazile suspended a one-year sentence if they agreed to leave Virginia for twenty-five years. The Lovings moved to Washington, but they were country people and couldn't adjust to city life. They came back to Caroline County and lived a fugitive life for nine years, sheltered by family and friends and raising three small kids. "I never expected . . . such a beating," Rich said later. "It was right rough."

Rich appealed for help to Attorney General Robert Kennedy in 1963. Kennedy sent his letter to the American Civil Liberties Union, which recruited two Virginia lawyers, Philip Hirschkop and Bernard Cohen. They [argued] that the Lovings' conviction [violated] the Fourteenth Amendment's guarantee of "equal protection of the laws" to Americans of all races. Civil rights and church groups [supported] the appeal.¹

In 1967, the case now known as *Loving v. Virginia* reached the Supreme Court. Ten days after the couple's ninth wedding anniversary, the justices issued a unanimous opinion: Virginia's law was unconstitutional. This ruling also overturned anti-miscegenation laws—laws that banned marriages between whites and

individuals of other “races”—in fifteen other states. Chief Justice Earl Warren stated the court’s opinion:

Marriage is one of the “basic civil rights of man,” fundamental to our very existence and survival. . . . To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes . . . is surely to deprive all the State’s citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry may not be restricted by invidious racial discriminations. 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.

Anti-miscegenation laws date back to colonial times. The first such statute was passed by the Maryland General Assembly in 1691. Other colonies followed suit. These laws were an American invention. There was no ban on interracial marriage in England at the time. By the late 1800s, 38 states had anti-miscegenation statutes. As late as 1924 these laws were on the books in 29 states. Anti-miscegenation laws varied greatly in the way they defined whom one could and could not marry. In a legal brief filed in *Loving v. Virginia*, the National Association for the Advancement of Colored People (the NAACP) commented on the inconsistencies in these laws:

In Mississippi, Mongolian-White marriages are illegal and void, while in North Carolina they are permitted. . . . In Arkansas, a Negro is defined as any person who has in his or her veins “any Negro blood whatever”; in Florida, one ceases to be a Negro when he has less than “one-eighth of African or Negro blood,” and in Oklahoma, anyone not of the “African descent” is miraculously transmuted into a member of the white race.

A number of states updated their anti-miscegenation laws in the 1920s. The Virginia Racial Integrity Act of 1924, which the Lovings violated, is a good example. Its sponsors used eugenic arguments to justify restrictions. They argued that interracial relationships are “dysgenic unions” in which “the superior group (whites) risks polluting their germ plasm with inferior hereditary traits.” Lothrop Stoddard, a lawyer and self-proclaimed eugenics expert, supported the proposed law. He told Virginia lawmakers:

White race purity is the cornerstone of our civilization. Its mongrelization with non-white blood, particularly with Negro blood, would spell the downfall of our civilization. This is a matter of both

national and racial life and death, and no efforts would be spared to guard against the greatest of all perils—the perils of miscegenation.²

On March 20, 1924, state lawmakers passed the Virginia Racial Integrity Act by a wide margin, and the governor signed it into law. The Virginia law remained on the books until 1967 when the Supreme Court overturned it in *Loving v. Virginia*. The law stated in part:

Section 1-14 of the Virginia Code:

Colored persons and Indians defined—Every person in whom there is ascertainable any Negro blood shall be deemed and taken to be a colored person, and every person not a colored person having one fourth or more of American Indian blood shall be deemed an American Indian. . . .

Section 20-54 of the Virginia Code:

Intermarriage prohibited; meaning of term 'white persons.'—It shall hereafter be unlawful for any white person in this State to marry any save a white person, or a person with no other admixture of blood than white and American Indian. For the purpose of this chapter, the term 'white person' shall apply only to such person as has no trace whatever of any blood other than Caucasian; but persons who have one-sixteenth or less of the blood of the American Indian and have no other non-Caucasic blood shall be deemed to be white persons. . . .

Section 20-58 of the Virginia Code:

Leaving State to evade law —If any white person and colored person shall go out of this State, for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be punished as provided in §20-59, and the marriage shall be governed by the same law as if it had been solemnized in this State. The fact of their cohabitation here as man and wife shall be evidence of their marriage.

Section 20-59 of the Virginia Code:

Punishment for marriage.—If any white person intermarry with a colored person, or any colored person intermarry with a white person, he shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one nor more than five years.

Walter Plecker, a physician and the director of the Virginia Board of Vital Statistics, was responsible for the enforcement of the law in the early 1900s. He and his staff relied on birth certificates, marriage licenses, tax records, and gossip to decide who was white and who was not. Plecker “corrected” birth certificates if he thought a person was trying to “pass” as white. He targeted Native Americans in the belief that they were really blacks trying to pass as something else. The pride Plecker took in his work is evident in a letter he wrote in 1943, during World War II: “Our own indexed birth and marriage records, showing race, reach back to 1853. Such a study has probably never been made before. . . . Hitler’s genealogical study of the Jews is not more complete.”³

CONNECTIONS

The word *miscegenation* comes from two Latin words—*miscere*, which means “mix” and *genus* for “race.” What is miscegenation? What is the purpose of an anti-miscegenation law?

Over the years, the Supreme Court has identified a number of rights that are “so rooted in the traditions and conscience of our people as to be ranked as fundamental.” Why does the Court consider the right to marry “fundamental”? What other rights are viewed as “fundamental”?

Why do anti-miscegenation laws regard interracial marriages as a “public health” issue? What arguments did Lothrop Stoddard offer the General Assembly in favor of the proposed Virginia Racial Integrity Act? What scientific arguments might you offer to counter his argument? What moral or philosophical arguments were offered in support of the law? How would you respond to them? If possible, refer to particular provisions in the law.

American Indian groups in Virginia, including the Monacan tribe in Amherst County, are still feeling the consequences of Plecker’s interpretation of the Virginia Racial Integrity Act. They have been unable to persuade the federal government to recognize them as tribes because Plecker erased all evidence of their heritage. Some have called it “a paper genocide.” What does it mean to have your heritage—a part of your identity—erased?

1. Copyright © 1993 *May It Please the Court* edited by Peter Irons and Stephanie Guitton.

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2. *Richmond Times-Dispatch*, Feb. 13, 1924, p. 1.

3. Letter from Walter Plecker to John Collier, Office of Indian Affairs, April 6, 1943.

Controlling the “Unfit”

Reading 3

In the early 1900s, anti-miscegenation laws were not the only marriage laws enacted or amended according to “eugenic principles.” Many states also outlawed or restricted marriages in which one or both partners were “feeble-minded,” “insane,” epileptic, or had a venereal disease.

In 1895, Connecticut became the first state to outlaw marriages that involved “defective” persons. The new law called for imprisonment for up to three years for a party to a marriage or an extra-marital relationship in which one partner was “feeble-minded,” an epileptic, or an “imbecile.” The only exception was for women over the age of 45—that is, women who were past their childbearing years. Over the next 20 years, 24 states enacted similar laws. By the mid-1940s, 41 states had laws prohibiting the marriage of the mentally ill and the “feeble-minded.” Seventeen states banned marriages to epileptics and alcoholics.

Eugenicists applauded these measures but believed that they addressed only a part of the problem. Therefore they urged that the states pass laws that identified and then sterilized women and men “unfit” to reproduce. In 1913, a writer for *The Psychological Bulletin* argued, “The burden of supporting these people must not rest any more heavily upon the normal race.” Since the “unfit” were becoming too numerous to be segregated, he insisted, “the only thing to do is to sterilize them. With procreation stopped, the matter would be practically under control in a generation.”¹

Eugenicists were not the first to favor laws that would make it impossible for the “unfit” to have children. In the United States, the practice began with prison officials who, in the belief that “criminalism” is inherited, saw sterilization as a deterrent to crime. At the turn of the 20th century, a prison official in Indiana carried out dozens of vasectomies without the legal authority to do so. He later reported, “It occurred to me that this would be a good method of preventing procreation in the defective and physically unfit.”² Eugenicists actively encouraged state lawmakers to make such sterilizations legal. In 1907, Indiana became the first state to permit involuntary sterilization if a committee of experts decided that a prisoner should not be allowed to have children. Other states followed Indiana’s lead in sterilizing criminals as well as the disabled.

By 1924, 21 states had laws permitting involuntary sterilization. The impetus to pass these laws came from eugenicists like Harry Laughlin, the superintendent of the Eugenics Record Office. In 1914, Laughlin wrote a Model Sterilization Law that was circulated widely in the United States and Europe. He also testified personally before state legislatures that were considering sterilization laws or

arranged for other eugenicists to do so. Their scientific expertise and prestige had an impact on lawmakers.

Laughlin's Model Sterilization Law states in part:

An Act to prevent the procreation of persons socially inadequate from defective inheritance, by authorizing and providing for the eugenical sterilization of certain potential parents carrying degenerate hereditary qualities.

(a) A socially inadequate person is one who by his or her own effort, regardless of etiology or prognosis, fails chronically in comparison with normal persons, to maintain himself or herself as a useful member of the organized social life of the state; provided that the term socially inadequate shall not be applied to any person whose individual or social ineffectiveness is due to the normally expected exigencies of youth, old age, curable injuries, or temporary physical or mental illness, in case such ineffectiveness is adequately taken care of by the particular family in which it occurs.

(b) The socially inadequate classes, regardless of etiology or prognosis, are the following (1) Feeble-minded: (2) Insane, (including the psychopathic): (3) Criminalistic (including the delinquent and wayward): (4) Epileptic: (5) Inebriate (including drug habitués): (6) Diseased (including the tuberculous, the syphilitic, the leprous, and others with chronic, infectious and legally segregable diseases): (7) Blind (including those with seriously impaired vision): (8) Deaf (including those with seriously impaired hearing): (9) Deformed (including the crippled): and (10) Dependent (including the orphans, ne'er-do-wells, the homeless, tramps and paupers). . . .

(f) A potential parent of socially inadequate offspring is a person who, regardless of his or her own physical, physiological or psychological personality, and of the nature of the germ-plasm of such person's co-parent, is a potential parent at least one fourth of whose possible offspring, because of the certain inheritance from said parent of one or more inferior or degenerate physical, physiological or psychological qualities would, on the average, according to the demonstrated laws of heredity, most probably function as socially inadequate persons; or at least one-half of whose possible offspring would receive from said parent, and would carry in the germ-plasm but would not necessarily show in the personality, the genes or genes-complex for one or more inferior or degenerate physical, physiological or psychological qualities, the appearance of which

quality or qualities in the personality would cause the possessor thereof to function as a socially inadequate person under the normal environment of the state.

Section 3. Office of State Eugenicist

There is hereby established for the State of the office of State Eugenicist, the function of which shall be to protect the state against the procreation of persons socially inadequate from degenerate or defective physical, physiological or psychological inheritance.

Section 4. Qualifications of State Eugenicist

The State Eugenicist shall be a trained student of human heredity, and shall be skilled in the modern practice of securing and analyzing human pedigrees: and he shall be required to devote his entire time and attention to the duties of his office as herein contemplated. . . .

Section 7. Duties of State Eugenicist

It shall be the duty of the State Eugenicist: (a) To conduct field-surveys seeking first-hand data concerning the hereditary constitution of all persons in the State who are socially inadequate personally or who, although normal personally, carry degenerate or defective hereditary qualities of a socially inadequate nature, and to cooperate with, to hear the complaints of, and to seek information from individuals and public and private social-welfare, charitable and scientific organizations possessing special acquaintance with and knowledge of such persons, to the end that the State shall possess equally accurate data in reference to the personal and family histories of all persons existing in the State, who are potential parents of socially inadequate offspring, regardless of whether such potential parents be members of the population at large or inmates of custodial institutions, regardless also of the personality, sex, age, marital condition, race or possessions of such persons.³

From the start, sterilization laws were controversial. In seven states, local and state judges overturned these laws. A number of them argued that they violated the Fourteenth Amendment to the U.S. Constitution, which grants every citizen due process and equal protection under the law. Other judges noted that the laws unfairly singled out “feeble-minded persons” in state institutions for sterilization, while leaving other individuals who were mentally defective alone. Still others believed that sterilization violated the Eighth Amendment to the Constitution, which bans “cruel and unusual punishments.”

CONNECTIONS

How is a “socially inadequate person” defined in Section (a) of the “Model Sterilization Law”? What terms in this definition might prove difficult to define? Who does the law hold responsible for the care of socially inadequate persons?

No one has ever proved that there is a genetic link between “feeble-mindedness” and poverty or crime. Even physical disabilities might be the result of a variety of factors. In 1910, psychiatrist Smith Ely Jelliffe warned:

Is it logical to take such an enormous complex of conditions as all the psychoses and try to make them fit in one artificial box? It is the same way with epilepsies. . . . There is no one epilepsy. Convulsions could arise from a hard blow to the head, a motor area thrombus provoked by infection, or poisoning. . . . Is there any heredity here—or chance of it? If eugenics is to be correctly started, we must sharpen up our conceptions, and that very markedly.⁴

What categories in the model law does Jelliffe seem to challenge? What aspects of the law does he seem to accept without question? What other causes for “genetic conditions” does he suggest? What is his attitude toward the eugenics movement as a whole? (Ironically, Harry Laughlin could have been sterilized under the statute he drafted. He developed epilepsy as an adult.)

Laws requiring sterilization violated the basic rights of the victims. How did eugenicists and their supporters seem to justify those civil rights violations? What arguments might you offer in support of the victims?

Compare the assumptions in Harry Laughlin’s “Model Sterilization Law” with the passage from Davenport’s *Heredity in Relation to Eugenics* reprinted on pages 75-76. What similarities do you notice? What relationship between science and government do the two men seem to favor?

What are the duties of the state eugenicist, according to the model law? What families are likely to be investigated? What protections does the law provide for their privacy?

1. Quoted in *In Search of Human Nature* by Carl Degler. Oxford University Press, 1991, pp. 46–47.

2. Ibid.

3. *Eugenical Sterilization in the United States* by Harry Laughlin. Psychopathic Laboratory of the Municipal Court of Chicago, 1922, pp. 446-448.

4. Quoted in *In the Name of Eugenics* by Daniel Kevles. Harvard University Press, 1995, p. 49.

“Three Generations of Imbeciles”?

Reading 4

Critics of forced sterilization laws believed that they violated rights guaranteed in the U.S. Constitution. In 1924, eugenicists and their supporters decided to find out if the laws were constitutional. To do so, they needed someone who could challenge the law in the courts. They chose Carrie Buck of Virginia. At the age of 17 years old, she was pregnant and unmarried. Her mother, Emma, an inmate at the Lynchburg Colony for Epileptics and Feeble-minded, was rumored to have been a prostitute. Carrie was classified as “feeble-minded” and after her child was born, she was committed to the Lynchburg Colony. Officials were convinced that they now knew everything worth knowing about her.¹

A simple check of state records would have revealed that Emma Buck and her husband were legally married at the time Carrie was born, although they separated when she was very young. Unable to support Carrie after she and her husband parted, Emma placed the four-year-old in foster care. The child was sent to live with a Mr. and Mrs. J. T. Dobbs. She did chores for the couple and attended school through the sixth grade. She kept up with her classmates and was promoted every year. According to school records, her sixth-grade teacher characterized Buck’s work and behavior as “very good.”

Like most poor children in rural Virginia in the first years of the twentieth century, Buck received a sixth-grade education. After leaving school, she continued to live with Dobbses and work in their home. She attended church and sang in the choir. In the early 1920s, a nephew of Mrs. Dobbs joined the household, possibly to help with farm work much as Buck helped with the housework. In the summer of 1923, when Buck was about 16, the nephew raped her while his aunt and uncle were away from home.

When Carrie Buck became pregnant, the Dobbses tried to commit her to the Lynchburg Colony by claiming that she had appeared “feeble-minded” since the age of ten or eleven. Later they said she was “peculiar” since birth, even though she did not come to live with them until much later. State officials did not question these claims. After all, Carrie Buck fit their stereotype of a “feeble-minded” girl. She was poor, pregnant, and uneducated.

On March 28, 1924, Carrie Buck gave birth to a daughter, whom she named Vivian. A few months later, Carrie was admitted to the Lynchburg Colony. Not long after her arrival, Virginia passed a law allowing involuntary sterilization of those labeled as “feeble-minded.” Officials at the Lynchburg Colony decided to sterilize Carrie Buck under the new law with the approval of Albert Priddy, the

superintendent of the colony. But first, he and his colleagues arranged for her to appeal the decision in the Virginia courts. Although the appeal was in her name, Carrie Buck had no voice in the process. Priddy and other eugenicists were in charge. They hired an attorney for her as well as one for themselves. The two lawyers were in constant contact with one another and with Priddy before and during trial proceedings even though such collaborations are unethical.

The case, later known as *Buck v. Bell*, was first heard in the Circuit Court for Amherst County on November 18, 1924. At the trial Aubrey Strode, the lawyer for Priddy and the Lynchburg Colony, offered “scientific evidence” that Carrie Buck ought to be sterilized. The evidence came from the Eugenics Record Office and was prepared by Harry Laughlin. It stated:

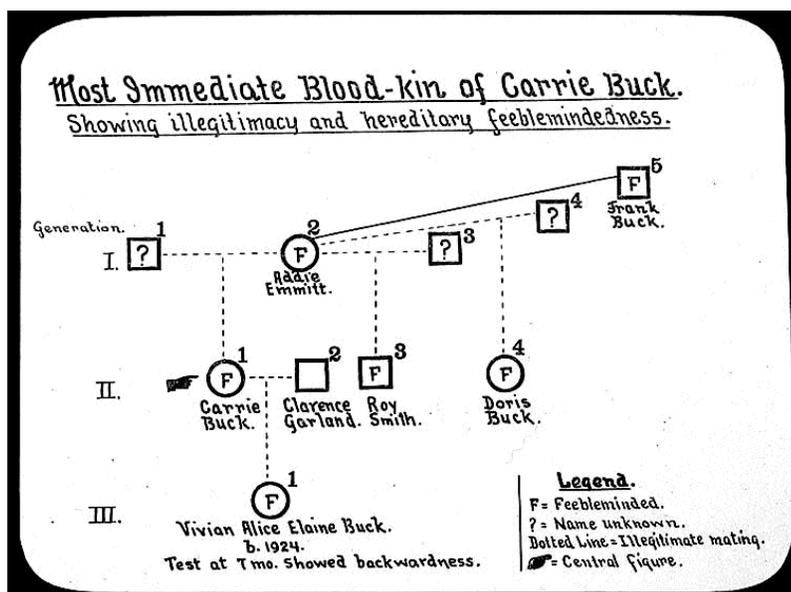
Carrie Buck: Mental defectiveness evidenced by failure of mental development, having chronological age of 18 years, with a mental age of 9 years, according to Stanford Revision of Binet-Simon Test: and of social and economic inadequacy; has record during life of immorality, prostitution, and untruthfulness: has never been self-sustaining; has had one illegitimate child, now about 6 months old and supposed to be a mental defective. . . .

This girl comes from a shiftless, ignorant, and worthless class of people and it is impossible to get intelligent and satisfactory data, though I have had Miss Wilhelm, of the Red Cross of Charlottesville, try to work out her [family] line. . . .

Further evidence of the hereditary nature of Carrie Buck’s feeble-mindedness and moral delinquency consists in the fact that at a very early age of four years she was taken from the bad environment furnished by her mother and given a better environment by her adopted mother. . . . The family history record and the individual histories, if true, demonstrate the hereditary nature of the feeble-mindedness and moral delinquency in Carrie Buck. She is therefore a potential parent of socially inadequate or defective offspring.²

Laughlin’s statement was based on information provided by the colony. He never met Buck. It was important to the colony’s case to show that Buck was likely to pass on defective traits to her children. After watching her seven-month-old daughter for a short time, a nurse decided that the baby was “not quite normal.” Based on this testimony, the judge decided that Carrie’s mother, Carrie herself, and her infant daughter were all “socially inadequate.”

Irving Whitehead, Buck’s lawyer, did little on her behalf. He called no witnesses to dispute Laughlin or other “experts” who favored sterilization. Not surprisingly, a judge upheld the decision to sterilize Carrie Buck. Whitehead promptly



A pedigree chart that Harry Laughlin offered as evidence of Carrie Buck's hereditary "feeble-mindedness."

filed an appeal on her behalf in the Virginia Court of Appeals. It was just eight pages long, compared with the 44-page document the colony's lawyers prepared. In November 1925, the appeals court also ruled against Buck.

In April of 1927, the case reached the U.S. Supreme Court. By then, Albert Priddy was dead. The new superintendent of the Lynchburg Colony was his former assistant, a Dr. Bell. So the case that began as *Buck v. Priddy* went to the Supreme Court as *Buck v. Bell*. The justices saw only the records from the original trial and the appeals court. Based solely on what they read in the court transcripts, they voted 8-1 to uphold the sterilization of Carrie Buck. Justice Oliver Wendell Holmes, Jr. stated:

The case comes here upon the contention that the statute authorizing the judgment is void under the Fourteenth Amendment as denying to the plaintiff in error [Carrie Buck] due process of law and the equal protection of the laws.

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. She was eighteen years old at the time of the trial of her case in the Circuit Court in the latter part of 1924. . . . The commonwealth [of Virginia] is supporting in various institutions many defective persons who if now discharged

would become a menace but if incapable of procreating might be discharged with safety and become self-supporting with benefit to themselves and to society; . . . experience has shown that heredity plays an important part in the transmission of insanity, imbecility, etc. . . .

There can be no doubt that so far as procedure is concerned the rights of the patient are most carefully considered, and as 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. . . .

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. 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.

The ruling had important consequences. Carrie Buck was sterilized in October 1927. She was paroled from the colony shortly after the operation with the stipulation that she report to officials annually. Over the years, Buck worked at odd jobs in households and on farms. She married, was widowed, and later remarried. She died in a nursing home in 1983. People who knew her remarked on her kindness and recalled her enjoyment of reading. Her daughter Vivian died from an infection in 1932, at the age of eight. School records show that she was a good student who made the honor roll at least once.

In 1928, Virginia officials also sterilized Carrie Buck's sister. She was told that the operation was to remove her appendix. Only in 1980 did she learn why she was never able to have a child. "I broke down and cried," she said. "My husband and me wanted children desperately. We were crazy about them. I never knew what they'd done to me."

The ruling encouraged other states to enact sterilization laws. By 1930, 24 states had passed similar measures and about 60,000 people were sterilized under these statutes. Virginia alone sterilized more than 7,500 people between the Supreme Court ruling in 1927 and 1972 when the law was finally replaced.

Most of the people who were sterilized came from poor or working-class backgrounds, much like Carrie Buck's. Patients from well-to-do families were cared for at home or private facilities. They rarely underwent sterilization. African Americans and other people of color were also unlikely to be sterilized—mainly because they were not admitted to public mental hospitals or institutions.

CONNECTIONS

How did Virginia's sterilization law view Carrie Buck and the other women in her family? To what extent did the law place them outside the state's "universe of obligation"?

Review the Supreme Court's decision and identify key elements in Holmes's justification for upholding the Virginia law. Who, in his view, are the "best citizens"? What is the implication of his use of such phrases as "a menace" and "swamped with incompetence"? To what extent did Buck receive "due process at law"? The Supreme Court relied on Laughlin and other eugenicists to make its decision. What scientific studies might have led to a very different decision? What does Holmes mean when he says that sterilization is a sacrifice "often not felt to be such by those concerned"? What assumptions is he making? What evidence provided in the reading might have altered his opinion? Historian Carole R. McCann writes of his decision:

In effect, the Court gave the government the right to determine which women were competent to become mothers. Although Carrie Buck, the woman in the case, was poor and white, the Court's decision implicitly endorsed elitism and racism. It sanctioned the eugenic logic behind sterilization laws that defined fitness by class and race as much as by intelligence or character.³

What is elitism? Racism? In what sense does the decision endorse either or both? How does the decision define "fitness"?

What arguments might a more able and impartial lawyer have made on Carrie Buck's behalf? How might such a lawyer have challenged the scientific testimony in support of her sterilization?

The Supreme Court is mainly concerned with constitutional issues. What constitutional claim did Carrie Buck's lawyer make? The first section of the Fourteenth Amendment states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

How do you think the amendment applies to this case? Why does Holmes believe it does not apply?

The Lynchburg Story is a powerful documentary film on the Carrie Buck case and its legacy. The video adds an important element to this case by bringing it down from a legal and scientific plane into the real lives of the people involved.

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1. This account is based upon an article by Paul A. Lombardo, "Three Generations, No Imbeciles: New Light on Buck v. Bell," *New York University Law Review*, vol. 60 (April, 1985), pp. 30–61.
 2. The Supreme Court of Appeals of Virginia, No. 1700, *Carrie Buck vs Dr. J.H. Bell*, pp. 40–42.
 3. "Eugenics" by Carole R. McCann in *The Reader's Companion to U.S. Women's History* ed. by Wilma Mankiller, Gwendolyn Mink, et. al. Houghton Mifflin, 1998, p. 179.

Apology or "Regrets"?

Reading 5

Forced sterilizations violated basic civil rights. In recent years a number of victims have demanded apologies and compensation for the damages done to them in the name of eugenics. Journalist Bill Baskervill describes one such victim:

His state labeled him a "mental defective" and surgically sterilized him.

His nation honored him as a war hero, awarding him the Bronze Star for valor, the Purple Heart and the Prisoner of War Medal for service in World War II.

Now the Virginia House of Delegates has refused to apologize to Raymond W. Hudlow and the thousands of other Virginians, mostly teen-agers and young adults, who were sterilized under the state's eugenics program. Instead, the House . . . voted to express its "profound regret" for the General Assembly's action 77 years ago that led to forced sterilizations.

"Does this man [Hudlow] deserve an apology, or just regrets?" said Phil Theisen, president of the Lynchburg Depressive Disorders Association. Theisen is a leading advocate for a state apology.

Virginia officials, acting under a eugenics law that served as a model for the rest of the nation, tried to purify the white race from 1924 to 1979 by targeting virtually any human shortcoming they believed was a hereditary disease that could be stamped out by surgical sterilization. Such maladies included mental illness, mental retardation, epilepsy, criminal behavior, alcoholism and immorality.

In 1941, Hudlow was a frightened 16-year-old who became caught up in Virginia's eugenics frenzy that led to the forced sterilization of about 7,500 people.

His crime: repeatedly running away from home to avoid beatings by his father.

"Every time my father beat me I ran away. He beat me half to death," Hudlow said in a recent interview at his mobile home near Lynchburg.

When his father told the "welfare lady" "he couldn't control me," Hudlow's reproductive fate was sealed.

"I was picked up by the sheriff at home. He handcuffed me and took me" to the Virginia Colony for Epileptics and Feeble-minded near Lynchburg, where most of Virginia's sterilizations were performed.

On June 17, 1942, Amherst County Circuit Judge Edward Meeks granted the colony's request to sterilize Hudlow, identified in the court order as an "inmate" of the colony.

Hudlow, now 75, remembers the day the colony eugenicists came for him.

"They just came and got me before I woke up one morning. They wheeled me and throwed me up on the operating table. They put straps around my waist and chest, spread my legs and put my feet in stirrups.

"There was a nurse holding my arms above my head so I wouldn't move.

"When they grabbed my testicles, they pinched them up. They took a needle and stuck it into my testicles." Hudlow believes this was anesthesia.

"They didn't wait for it to work. They made an incision. They went right on in there. I was hollering and crying. I was hurting."

None of the colony medical staff explained what they were doing to him, Hudlow said. "The only way I found out, an employee on Ward 7 told me I wouldn't be able to father any children.

"They treated us just like hogs, like we had no feelings."

Hudlow was released from the colony in October 1943 and drafted into the Army two months later.

"I went in at Omaha Beach in France in August 1944," two months after the Allied invasion of Europe.

Hudlow served as the radioman for his platoon leader. He saw combat in France, Belgium and Holland, where he was wounded in the left knee and captured by the Germans. He was in various prison camps for seven months until he was liberated by the Russians in May 1945.

Hudlow decided to make the military a career, serving 21 years in the Army and Air Force.

Hudlow doesn't talk about his war service unless questioned about it and did not mention his medals until asked if he was awarded any. He keeps his medals, citations and military records in a footlocker in his bedroom closet.

He said he has had more flashbacks about the sterilization procedure than about the terror of combat and imprisonment by the Germans.

"I remember this just as it was yesterday. It has always been in my mind. It has never left me."

He said his inability to have children "worked on my mind,

especially when I was around my sisters and my brother. They had children.”¹

Hudlow is not the only victim outraged by the wrong done to him. Fred Aslin and his eight brothers and sisters are also angry. After their father died during the Great Depression of the 1930s, they were taken from their mother who was unable to care for them and placed in the Lapeer State School, a closed psychiatric facility in Michigan hundreds of miles from their home. When they turned 18, the state sterilized them, one by one, against their will.

Michigan’s law called for a hearing before a person could be sterilized. Fred Aslin was not permitted to attend his hearing. He had no attorney. Instead a guardian whom he never met represented him. At the hearing, a probate judge signed the papers for forced sterilization without comment and in August, 1944, the boy underwent surgery. In 1996, Aslin used the Public Information Act to find out why he was singled out. As he read the files kept by Lapeer, he learned for the first time how the authorities had justified the sterilization: “They termed us feeble-minded idiots, and wrote that our children would be like us or even worse.” Yet neither he nor any of his siblings is mentally retarded. “My brother John always thought it was because we were just poor Indians,” said Aslin, who is of mixed Ottawa and Chippewa ancestry.

Aslin demanded an apology from the state. When no apology came, he hired a lawyer and filed suit against the state of Michigan, seeking compensation. His claim was turned down because the statute of limitations had expired. However, one state official did send Aslin a letter of apology. After meeting with him, James K. Haveman, director of the Michigan Department of Community Health, wrote, “I am saddened that it took so long and so many had to suffer before the medical profession and judicial system realized how offensive the practice of sterilization was.”²

Virginia and Michigan are not the only states that performed “eugenic sterilizations.” There were victims in 28 other states as Becca Tanner, a reporter for the *Wichita (Kansas) Eagle*, discovered when she investigated the history of forced sterilization in Kansas. She discovered that the victims were “people with epilepsy, non-English-speaking immigrants, teenage girls who may have been raped or were pregnant out of wedlock, people suffering from depression or some form of mental illness, gays and lesbians, and, most frequently, criminals.” Local officials tried to explain:

“The whole idea of perfection of mankind meant that you were willing to experiment through science or social reform to do whatever you could to bring about a society that was better,” said Virgil Dean, research historian at the Kansas State Historical Society in Topeka.

At one time, Kansas ranked third nationally in the number of sterilizations. The procedures were phased out in 1952, but the law allowing them remained on the books until the 1970s.

"There was a period of time when people thought this was the thing to do," said former Kansas Secretary of Social Rehabilitation Services Robert Harder. Harder, who served in that position from 1973 to 1987, said he was one of the people who finally insisted that the forced-sterilization law be repealed. "By then, we had begun to develop a more humane understanding of people and viewed sterilization as an inhumane practice," Harder said.

The effort to sterilize the unfit in Kansas began in 1894 with F. Hoyt Pilcher, then superintendent of Winfield's Kansas State Asylum for Idiotic and Imbecile Youth.

By 1895, Pilcher had developed a reputation as a trailblazer. The Winfield Courier reported: "The unsexing of one hundred and fifty of these inmates—male and female—was an innovation that received the endorsement of the entire medical profession of the world, and the plaudits of right thinking people everywhere."

Although forced sterilization had opponents from the start, by 1913 Kansas became one of the first states in the nation to pass a law saying forced sterilization was acceptable if "the mental or physical condition of any inmate would be improved . . . or that procreation by such inmates would be likely to result in defective or feeble-minded children."

"Keep in mind, this was the same period that the same institutions were performing lobotomies," said Harder, the former SRS director. "Now, I don't think there is anyone around who would talk about lobotomy as an effective way or humane way to deal with persons with mental illness."

The Kansas sterilization law was declared constitutional in 1928 by the Kansas Supreme Court. The court relied on the US Supreme Court case of *Buck vs. Bell*, in which the court determined that "procreation of defective, feeble-minded children with criminal tendencies does not advantage but patently disadvantages the race."

But as decades went by, people began raising questions.

A 1937 *Time* magazine story about the Girls Industrial School in Beloit led to the discovery that 62 of Beloit's inmates had been sterilized and 22 more had been scheduled to be sterilized.

A state investigation ensued, and the sterilizations were found to be illegal. An 18-year-old Beloit student quoted in the *Kansas City Star* following the investigation said: "All of us girls had been threatened before with sterilization unless we behaved ourselves. I

knew it wouldn't do any good to kick although I didn't want it done. . . . I thought for a long while that life had very little left for me."

Dean, of the state historical society, said that even those who argued in favor of forced sterilization eventually began to see how it could be used on anybody—any group, any race. The American movement withered, particularly after World War II when news surfaced about how Nazis used eugenics to persecute people.³

CONNECTIONS

Why do you think state officials have been reluctant to apologize? What do they seem to fear? How does your answer explain the careful wording of the resolution passed by the Virginia House of Delegates? Why might it be easier for a state to express regret than to apologize?

Robert Harder told Becca Tanner that he was pleased that "light is now being shed on the forced sterilization laws in Kansas. It's like the stories about civil rights and how long it has taken for some of them to surface," he said. "For example, the Tulsa race riots were hardly talked about until recently. All this is just a reminder of the past and how some things were handled on the quiet side—and makes it difficult to track down."⁴ What kinds of things are "handled on the quiet side"? Why is it important that "light" is shed on them?

In 2000, a number of groups in Virginia argued that making the Department for the Rights of Virginians with Disabilities independent of state government would be a good way to make amends to victims of forced sterilization. Do you agree? How might such a group have affected the outcome in Carrie Buck's case?

Find out about the history of the eugenics movement in your state. What efforts have been made to confront that history? To right old injustices? How important is it to acknowledge past wrongs even if they cannot be undone?

Why is it hard for public opinion to change? What is the role of education? Why is it important that a state or a nation set the record straight?

1. "Grim Legacy: Va. Eugenics Policy Led to Sterilization" by Bill Baskerville. The Associated Press, Feb. 6, 2001. Reprinted by permission of The Associated Press.

2. © 2000 The Washington Post Company.

3. "Eugenics Not Kansas' Proudest Moment" by Becca Tanner. *Wichita Eagle*, April 3, 2000

4. Ibid.