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Imbeciles

*The Supreme Court,
American Eugenics,
and the Sterilization
of Carrie Buck*

Adam Cohen



PENGUIN BOOKS

Conclusion

Oliver Wendell Holmes's opinion in *Buck v. Bell*, with its bold declaration that "three generations of imbeciles are enough," gave the eugenic sterilization movement "a constitutional blessing and an epigrammatic battle cry." Harry Laughlin announced that the ruling marked the end of eugenic sterilization's "experimental period." Now he said, "eugenical sterilization will be looked upon by the American people as a reasonable and conservative matter." Laughlin had long advocated an expansive national program of sterilization—and now he believed his dream was on the verge of becoming a reality.

Buck v. Bell breathed new life into the sterilization movement. In the years leading up to it, the eugenicists had encountered substantial opposition in courts and statehouses across the country. Now supporters of sterilization laws were emboldened, and their opponents were suddenly on the defensive.

In 1928, a new governor took office in Mississippi, and he declared in his inaugural address that his state had spent an enormous amount "to advance our civilization, to educate and uplift our people yet our feeble-minded, epileptic, insane, paupers and criminals can reproduce without restriction, thus continuing to corrupt our society and increase

tax burdens on our people." That same year, the Mississippi legislature adopted a sweeping eugenical sterilization law, with little opposition. William Faulkner, who began work in 1928 on *The Sound and the Fury*, immortalized his state's newfound eugenic fervor in the novel, in which Benjy Compson, the "idiot" of the family, is castrated.

The sterilization movement gained greater force in 1929, when nine states enacted laws, three of them—Arizona, West Virginia, and Maine—for the first time. The momentum continued over the next several years. In 1931 ten state legislatures considered sterilization bills, and in five states they became law. By that year twenty-eight of the nation's forty-eight states had laws authorizing eugenic sterilization.

Even with the new enthusiasm, there continued to be opposition. The main obstacle to sterilization laws remained the Catholic Church and its members. In states where the church "could mobilize sufficiently," one study found, eugenic sterilization bills "often against the odds, failed." In New Jersey, reform groups, including the League of Women Voters, pushed for a eugenic sterilization law to replace the one that had been struck down by the New Jersey Supreme Court. New Jersey, however, was about 26 percent Catholic—one of the highest percentages of any state—and the church and its supporters played a major role in stopping the sterilization bill.

One leading eugenicist complained bitterly that when sterilization bills were being considered throughout the country "the Catholics descend upon the capitol in numbers—priests, nuns and laity—and attack the bill as 'against the will of God' and 'an attack on the American home.'" This opposition was effective even in states with relatively few Catholics. In Colorado, which was about 12 percent Catholic, church leaders and laity helped to defeat four consecutive eugenic sterilization bills. In Ohio, which was less than 15 percent Catholic, several bills "crashed . . . against the rocks of Roman Catholic opposition."

Not all of the opposition came from Catholics. The Supreme Court's decision had not done away with the discomfort a considerable number of people of all sorts, state legislators included, felt about ster-

ilization. In the wake of the ruling, Kentucky's state legislature voted down a eugenic sterilization bill. One lawmaker helped to rally opposition to the bill by arguing that if it had been enacted in an earlier generation, "there would not be so many fools [in the legislature] now."

Despite this resistance, in the years after the Supreme Court's decision, the number of eugenic sterilizations increased sharply, due both to new laws and to an increased willingness to use those that were already in place. In 1925 there were just 322 sterilizations of institutionalized people nationwide. In the two-year period from 1928 through 1929, there were 2,362—more than triple the annual rate from before the court's ruling.

There was also a significant change in the gender of the people being sterilized. At the end of 1927, men made up about 53 percent of all of the legal sterilizations that had been performed in the United States. Over the next five years, 67 percent of the institutionalized people who were sterilized were female. Many of the women, institutional records show, were admitted for the express purpose of being sterilized and then released. The "clearing house" model Laughlin, Dr. Priddy, and Dr. DeJarnette proposed was increasingly becoming a reality.

Not surprisingly, there was also a pronounced class bias to who was sterilized. Poor women like Carrie and Doris Buck were the most common victims of the eugenic sterilization boom. The procedures were performed so often on poor white southerners that they acquired a nickname: "Mississippi appendectomies."

Virginia was one of the main drivers of the increase in sterilizations. Before the Supreme Court's ruling, there had been no eugenic sterilizations in Virginia—or at least no legally sanctioned ones. Ten years after the court's ruling, there were more than one thousand. The people who were sterilized, like Carrie and Doris, were often not told what was being done to them. Many tried to have children and did not understand why they were unable to conceive.

Virginia's sterilizations occurred in all five state hospitals, but al-

most half of them occurred at the colony. The sterilization program reached its peak in the 1930s and 1940s, when the colony was likely performing the most sterilizations of any hospital in the country. "It was as routine as taking out tonsils," according to one newspaper account. "Men on Tuesdays, women on Thursday[s]."

The impact of the Supreme Court's ruling was felt beyond the United States. Over the next few years, European countries began to adopt eugenic sterilization laws along the American model. Denmark enacted "voluntary" sterilization in 1929, and forced sterilization of "mental defectives" in 1934. Sweden and Norway also enacted sterilization laws in 1934, followed by Finland in 1935, Estonia in 1936, and Iceland in 1938. An American medical researcher who traveled to Europe to study eugenic developments noted that the United States had "pioneered" eugenic sterilization for the rest of the world.

Nazi Germany adopted its Law for the Prevention of Hereditarily Diseased Offspring in the summer of 1933. The Nazis also established an elaborate system of Hereditary Health Courts—the *Erbgesundheitsgerichte*—to decide who should be sterilized. Laughlin, who was proud of his influence on German eugenics, published an article in the *Eugenical News* by a leading Nazi attesting that "Germany learned from the United States" when it drafted its own sterilization laws.

The influence of American eugenics reportedly reached the highest levels of the Nazi regime. Otto Wagener, a high-ranking economic adviser to Adolf Hitler, quoted Hitler as saying: "I have studied with great interest the laws of several American states concerning prevention of reproduction by people whose progeny would, in all probability, be of no value or be injurious to the racial stock."

The German eugenic sterilization program operated on a scale that eclipsed its American model. The law authorized sterilization for many of the reasons in Laughlin's model law, including feeble-mindedness, alcoholism, and epilepsy. The Nazis also used sterilization against Jews and people of partial Jewish background, Roma, the children of German women and black French soldiers, and other disfavored racial and

religious groups. When the Final Solution was adopted, provisions were made for Germans with mixed Aryan and Jewish blood to be sterilized as an alternative to extermination. The hereditary courts issued 375,000 sterilization orders, but some estimates of the number of people sterilized by the Nazis are far higher.

At the Nuremberg trials, where the victorious Allies prosecuted Nazi leaders for war crimes, the charges included mass sterilization. Otto Hofmann, the head of the SS Race and Settlement Office, one of the Nazis charged with mass sterilization, defended himself in part by referring to the American states that had adopted eugenic sterilization laws—and the *Buck v. Bell* decision. One of Hofmann's submissions included a quote from Holmes's opinion, which was mangled by being translated into German and back into English:

In a judgment of the [United States] Supreme Court . . . it says, among other things: "It is better for everybody if society, instead of waiting until it has to execute degenerate offspring or leave them to starve because of feeble-mindedness, can prevent obviously inferior individuals from propagating their kind."

The classic 1961 movie *Judgment at Nuremberg* captures in dramatic fashion how the Nazi defendants used the case. At a key moment in the trial, a defense lawyer asks the witness if he is aware that "sexual sterilization was not invented by National Socialism," but had "advocates among leading citizens in many other countries." He then reads an excerpt from *Buck v. Bell*, ending with "three generations of imbeciles are enough." The Nazi lawyer then states triumphantly that the words were those of "that great American jurist, Supreme Court Justice Oliver Wendell Holmes."

For Aubrey Strode, *Buck v. Bell* was the capstone to a distinguished legal career. Few lawyers ever appear before the Supreme Court, much less win a case that helps to set social policy for the nation.

Strode's victory was all the greater because he had been involved with the issue from the beginning. He had sponsored the legislation that created the colony, drafted the eugenic sterilization law, advised the hospital board on a strategy for winning in the courts, and then litigated all the way to the highest court in the land. Strode was lauded for his role in the case and received little criticism. He did not live long enough to see popular opinion turn against sterilization.

For all of his hard work—and his permanent place in eugenics history—there is little evidence Strode was a great believer in eugenic sterilization. Toward the end of his life, Strode was asked to create a written account of how Virginia's sterilization law came about. His retelling of the events underscored how unenthusiastic he appeared to be at critical junctures. It could even be read as the story of someone who was swept up in a cause with which he did not entirely agree and worked from the inside to minimize the damage.

Strode's account began in 1921, when he was counsel for the colony, and Dr. Priddy approached him about drafting a eugenic sterilization bill. Strode had been a member of the legislature himself when many states were enacting such laws, but he had never been moved to introduce a bill on his own. Indeed, when a eugenic sterilization bill was introduced by Dr. Charles Carrington, there is no evidence Strode supported it. On the day it came up for a vote, he was present and voted on other bills, but he apparently did not vote on eugenic sterilization.

Rather than accept the assignment to draft a sterilization bill, as many lawyers might have under the circumstances, Strode instead investigated how these laws had fared in the rest of the country. He then told the State Hospital Board, Dr. Priddy's bosses, that in every case he could find where such a law had been challenged, it had been defeated. Strode succeeded in persuading his client not to pursue the law.

In his account, Strode recalled that Dr. Priddy approached him again two years later, telling him that the hospital board and the governor still wanted a eugenic sterilization law. This time, Strode did draft a bill, though one that was far narrower in several important respects than the model statute he was given as a guide. When Strode's

bill became law, the board asked him, he recalled, whether "it might safely proceed under the Act." Many states were carrying out sterilizations under even more expansive laws, with fewer procedural protections. but Strode once again put on the brakes.

Strode persuaded the State Hospital Board not to begin sterilizing anyone until the law was tested in the courts, all the way up to the Supreme Court, if it got that far. If he had not given that advice, the hospitals might have sterilized hundreds, even thousands, of people before any sort of legal challenge was mounted. Strode's advice delayed sterilizations in Virginia by three years, and created a significant possibility that none would occur at all.

After his victory in the Supreme Court, Strode had a new opportunity to show enthusiasm for the eugenic sterilization cause. He could have become one of the public faces of the movement and spoken out in support of sterilization. Instead, he seemed content to let the matter drop. Shortly after the ruling, the *Virginia Law Review*—for which he had already written one article about eugenic sterilization—invited him to write about his Supreme Court triumph. It was an honor many lawyers would have been quick to accept, and many eugenics advocates would have seen the invitation as an opportunity to lay out the next steps in the battle. Strode informed the editor in chief, however, that he doubted that "this matter would justify" an article or that he could "find the time in the near future" to write one.

Unlike most of the other major participants in *Buck v. Bell*, Strode almost never spoke publicly about sterilization once the case ended. Dr. John Bell, whose name had replaced Dr. Priddy's in the Supreme Court case and who performed Carrie's sterilization, lectured widely on eugenic sterilization. He spoke to the Medical Society of Virginia on the importance of the procedure in protecting the commonwealth from the tide of "degenerates and defectives" that was threatening to engulf it. Addressing a national audience at the American Psychiatric Association, Dr. Bell called eugenic sterilization a key spoke of the "wheel of social progress."

Like Dr. Priddy before him, Dr. Bell used the colony annual re-

ports as a platform to promote eugenic sterilization. The program was, he insisted, working well. In the 1932 report, he said nearly all of the inmates who were sterilized had been returned to their families, relieving the state of "the immense financial burden incident to the care of them and the long line of defective descendants that would naturally have followed." In the following year's report, Dr. Bell wrote: "Now is the time to apply the pruning knife with vigor and without fear or favor."

Dr. Bell's career as an evangelist for eugenic sterilization was short-lived. On September 11, 1933, he took a leave of absence due to poor health and moved to Asheville, North Carolina. Shortly thereafter, he resigned. On December 9, 1934, he died of heart failure at the age of fifty-one, after serving as colony superintendent for just under ten years.

While Dr. Bell carried the sterilization banner to the end of his life, Strode largely remained silent. In 1934 he ended a three-decade career as a trial lawyer to become a judge on Lynchburg's corporation court, as the municipal court was then known. In all of his years as a lawyer and judge after the ruling in *Buck v. Bell*, only one instance has come to light of Strode speaking publicly about eugenic sterilization, and, not surprisingly perhaps, it was anything but a call to arms.

Strode's reference to sterilization came nearly a decade after his Supreme Court victory, in a 1936 address to the Virginia Social Science Association. In "The Utility and Futility of Punishment for Crime in Virginia," Strode had more to say about the role of environment than heredity in producing criminals. In discussing convict labor laws, he observed that while the state took advantage of prisoners' labor, their children were often condemned to grow up in poverty. If those children ended up "in the struggle for existence" driven to steal, he said, people mistakenly then argued "that their children are criminal because their father was a criminal." Strode disagreed with this "hereditarian" analysis, focusing instead on the environmental factors that would have led the children astray. He went on to advocate a long list of progressive

measures that could be used to reduce crime, including full employment programs and doing away with slums. Strode included on his list "carefully guarded measures for the sterilization of" the "unfit," but it was the last factor he raised—and it was undercut by everything he had said up until then. At best, the speech offered a very ambivalent and weak endorsement of the *Buck v. Bell* advocacy that had made him famous.

If Strode had been trying to quietly moderate the drive for sterilization in Virginia, it did not hurt his standing with the state's eugenicists, who remained grateful for his work. At a 1939 celebration of Dr. DeJarnette's fiftieth anniversary at Western State Hospital, the guest of honor had warm words for Dr. Priddy—and for his former lawyer. "I knew him as a boy and I thought he was the handsomest young man I had ever seen," Dr. DeJarnette recalled of Strode. He was a "wonderful lawyer," who had written a "law for sterilization of the unfit that has stood the test of the Courts."

Strode's health declined in the 1940s, when he suffered several strokes. He remained on the bench until a friend in the legislature could rewrite the state law to give full pensions to judges who retired because of physical disabilities. On May 17, 1946, four years into his retirement, Strode died at Kenmore. A brief *New York Times* obituary said he was "known for his interest in social legislation," a description that would doubtless have pleased him. But there was no avoiding the reason the *Times* was reporting his death, the achievement he would forever be remembered for: Strode had, the obituary said, drafted "the Virginia Sterilization Act, which became a model for other states."

After the ruling in *Buck v. Bell*, Harry Laughlin had no shortage of new projects, including writing an analysis of the court's decision. Laughlin's study was published in 1930 under the title *The Legal Status of Eugenic Sterilization: History and Analysis of Litigation Under the Virginia Sterilization Statute, Which Led to a Decision of the Supreme*

Court of the United States Upholding the Statute. In his introduction, Chief Justice Harry Olson of the Municipal Court of Chicago said Laughlin "is entitled to the thanks of the American people" for his success in promoting eugenic sterilization.

Laughlin ended his study by presenting the path forward for sterilization. He included more model sterilization laws, along with an appeal for his own work. The "next task," Laughlin said, was "building up a body of knowledge and of legal practice for evaluating evidence of hereditary degeneracy." Among the organizations doing this work, he noted, was the Eugenics Record Office.

Laughlin continued his interest in immigration. After his success with the exclusionary Immigration Act of 1924, he turned to a new tactic: deportation. It was, he believed, the only way to undo the damage of decades of immigration from the wrong countries. On February 21, 1928, Laughlin testified on the eugenic aspects of deportation to the House Committee on Immigration and Naturalization. Deportation was, he said, the "last line of defense against contamination of American family stocks by alien hereditary degeneracy."

Laughlin helped Madison Grant with his follow-up to *The Passing of the Great Race*, the book Hitler reportedly called "my Bible." Grant was finishing up *The Conquest of a Continent*, a book of which a *New York Times* reviewer would write: "Substitute Aryan for Nordic, and a good deal of Mr. Grant's argument would lend itself without much difficulty to the support of some recent pronouncements in Germany." Laughlin gave Grant editorial suggestions on the manuscript, and when it came out he helped promote it. He wrote to the publisher to urge "wide and continuous distribution." Laughlin suggested it be sent to high school and college American history departments across the country and in Canada.

In 1937, Laughlin made his last great effort for his friend. He embarked on his unsuccessful lobbying campaign to persuade Yale to award him an honorary degree. In his energetic letter writing to the degree committee, Laughlin described Grant as an "exemplar of American ideals"—and so he was for Laughlin. Decades later, a lead-

ing historian of the American eugenics movement would offer up another description of Grant: America's "most influential racist."

Laughlin's dreams for the American eugenics movement continued to grow. His attention was increasingly turning from the states, which had been the drivers of eugenic policies, to the federal government. He wanted Congress to create an official Bureau of Eugenics, which would administer its own federal eugenics statute, and in 1929 he drew up a blueprint for it. Laughlin also tried, without success, to persuade the U.S. Census Bureau to use the 1930 census to collect eugenics data on the American population. His aim was to turn the census into "a permanent and complete pedigree record of the American people as individuals"—information that could be used for future eugenic purposes.

While Laughlin's ambitions for the movement were growing, the tide was turning against eugenics. In the early years scientists had generally kept silent, but they were becoming more openly critical. In the fall of 1927, Raymond Pearl, a Johns Hopkins biologist, became the most prominent scientist to come out strongly against eugenics. Because Pearl had once been an active eugenicist, even addressing the First International Eugenics Congress in London, his stand carried particular weight. In an article in H. L. Mencken's *American Mercury* magazine, titled "The Biology of Superiority," Pearl lambasted eugenicists for the deficiency of their science. The eugenics literature, he insisted, had "largely become a mingled mess of ill-grounded and uncritical sociology, economics, anthropology, and politics, full of emotional appeals to class and race prejudices, solemnly put forth as science, and unfortunately accepted as such by the general public."

While criticism was growing, the eugenics movement was also weakening from within. With the Crash of 1929 and the Great Depression, the nation suddenly had new and more important things to worry about than defective germplasm. In 1931, after the Democrats won a majority in Congress, Albert Johnson was replaced as chairman of the House Committee on Immigration and Naturalization by Samuel Dickstein, a New York Democrat who was a Jewish immigrant

from Russia. Laughlin's career as a congressional Expert Eugenics Agent was over.

Laughlin's position at the Eugenics Record Office was also increasingly precarious. John Merriam, the president of the Carnegie Institution, was uncomfortable with how politicized the office had become under Laughlin, and he raised his concerns with Charles Davenport. Merriam also reprimanded Laughlin for using the office's stationery to lobby Congress. The Carnegie Institution had long been hearing from critics who objected to the Eugenics Record Office's scientific methods, and Merriam decided to appoint a committee to review its work. The committee concluded that the office's records were deficient and its research protocols unduly subjective.

As the Nazis rose to power in Germany, Laughlin was a strong supporter of their eugenics programs. He corresponded regularly with leading Nazi scientists, including one who praised Hitler for being the first politician to recognize that "the central mission of all politics is race hygiene." Laughlin ran regular reports in the *Eugenical News* on the Nazis' progress, and he published his own work in the Society for Racial Hygiene's journal, *Archiv für Rassen- und Gesellschafts-Biologie*.

Laughlin was an admirer of Germany's infamous Sterilization Act of 1933. The law called for forced sterilization of anyone, institutionalized or not, who suffered from a wide array of purported defects. Feeble-mindedness, drug and alcohol addiction, blindness, and physical deformity were all grounds for sterilization. Laughlin published the new law as the lead article in the September–October 1933 issue of *Eugenical News*, and he shared the special pride he felt in it. "To one versed in the history of eugenical sterilization in America," he wrote, "the text of the German statute reads almost like the 'American model sterilization law.'"

Laughlin followed developments in Germany closely. An inveterate newspaper clipper, he collected articles on German eugenic and race policies, including one from the August 16, 1933, *New York Times* with the headline: "Hindenburg Asked to Save Reich Jews: 500,000 Are Facing 'Certain Extermination,' American Congress Declares."

None of the grim news out of Germany caused Laughlin to temper his enthusiasm. In December 1934—after laws were enacted expelling Jews from the civil service, and removing many Jewish children from school—the *Eugenical News* published an essay on the Germany's Sterilization Act of 1933 that appeared to endorse the broader Nazi agenda. "In the new Germany," it said, "laws are made for the benefit of posterity, regardless of the approval or disapproval of present generations."

Laughlin's lack of outrage over Nazi racial policies had a simple explanation: his own views were not so different. In a November 19, 1932, letter to Madison Grant, Laughlin indicated that he would like to make the United States *judenrein*—"cleansed of Jews," in Nazi terminology—if it were possible. In a passage he carefully marked "not for publication," Laughlin wrote: "Whether we like it or not, a Jew must be assimilated or deported. The deportation of four million Jews would be many more times more difficult than the repatriation of three times as many Negroes." All they could do, Laughlin said, was work to keep the nation's Jewish population from growing any larger.

Preventing more Jews from coming to the United States was Laughlin's response to the gathering storm in Europe. With the disturbing reports coming out of Germany—and the threat, as the *New York Times* headline noted, of "certain extermination"—there were growing calls to loosen, at least temporarily, the immigration quotas Laughlin himself had helped put in place. The New York Chamber of Commerce commissioned Laughlin to investigate the subject, and in May 1934 he authored a report recommending that no special efforts be made to admit Jews fleeing Nazi Germany. In his report, which received prominent press coverage, Laughlin insisted the nation should adhere to a policy of admitting immigrants because they are "desirable human seed-stock of future American citizens" and "not because of persecution."

Laughlin's political stands and Nazi sympathies attracted criticism, some of it directed to his funders at the Carnegie Institution. Hyman Achinstein, a Brooklyn resident who said he had known Andrew Carnegie well, wrote to object to Laughlin's report urging no excep-

tional admissions for Jews fleeing Nazi Germany and to say it was a "disgrace" that the Carnegie Institution kept him on staff. If Carnegie were to "arise of his restful abode and see for himself what spirit pervades his institutions," Achinstein said, "he would say Halt."

Charles Davenport consistently stood by Laughlin when his critics attacked, but in 1934 Davenport retired, leaving Laughlin vulnerable. John Merriam appointed a new visiting committee the following year to review Laughlin and the Eugenics Record Office. Its members were less favorable than the first committee toward eugenics, and less likely to support Laughlin.

The new committee's report, which was released in June 1935, was a broad indictment of the Eugenics Record Office for engaging in worthless research and undertaking inappropriate political crusades. The chairman of the committee attacked Laughlin personally for having "a messiah attitude toward eugenics" that was "out of place" in a "scientific institution." The committee called for the office to cease its politics and propaganda and focus on "pure research."

Laughlin resented the inference, and he refused to rein in his politically charged activities. In August 1935 he and Clarence Campbell, an associate from the Eugenics Record Office, served as vice presidents of the International Congress for Population Science in Berlin—a conference that has been singled out for being "the apex of international support of Nazi race policies." Laughlin did not attend, but contributed a paper on eugenic sterilization in the United States. Campbell gave his own remarks praising Nazi racial policies. At the end of the conference, Campbell gave a toast "To that great leader, Adolf Hitler!"

In May 1936 Laughlin was informed that he was to be recognized the following month with an honorary doctorate of medicine from the University of Heidelberg in recognition of his work on the "science of racial cleansing." The university was marking its 550th year, and it had decided to celebrate not on the actual anniversary in October, but on June 30, the two-year anniversary of Germany's "blood purge" of Jewish university faculty. With German universities entirely under Nazi

control, the award was effectively an honor from the Third Reich itself, and one of the anniversaries it was marking was an odious one.

Laughlin was delighted by the recognition, and not put off by the Nazis' actions, including, the previous September, adopting the infamous Nuremberg laws, which made marriage or sexual relations between Jews and non-Jewish Germans illegal and stripped Jews and other "non-Aryans" of German citizenship. Laughlin did not attend in person, but he wrote to the university to express his "deep gratitude" for "this high honor." Laughlin particularly appreciated it, he said, because it came "from a nation which for many centuries nurtured the human seed-stock which later founded my own country and thus gave basic character to our present lives and institutions."

Laughlin continued the political activism and propaganda that the Carnegie visiting committee had directed him to stop. In 1937 he and a wealthy friend, Wickliffe Draper, founded the Pioneer Fund. One of the organization's main purposes, it declared at its founding, was to aid in the education of children of parents who were "deemed to have such qualities and traits of character as to make such parents of unusual value as citizens." The Pioneer Fund charter gave priority to "children who are deemed to be descended predominantly from white persons who settled in the original thirteen states prior to the adoption of the Constitution of the United States and/or from related stocks."

Another factor working against Laughlin, besides the decline of eugenics and mounting criticism of him and the Eugenics Record Office, was his health. The man who had lobbied for laws that described epileptics as "defective" and authorized their sterilization was showing increased symptoms of his own epilepsy. Laughlin was having seizures in public, and in 1937 had one while driving in downtown Cold Spring Harbor. He would have driven directly into the ocean if he had not crashed into a retainer wall. The Carnegie Institution's board of directors expressed concerns about Laughlin's health, and Merriam ordered him to get a full medical checkup.

At the end of 1938, Merriam retired as president of the Carnegie Institution and was replaced by Vannevar Bush. A respected scientist

and inventor, Bush was even more opposed to Laughlin's work than Merriam had been. Four days after he took office on January 1, 1939, Bush told Laughlin there would be a new review of his work. In June Bush asked for Laughlin's resignation, based on concerns about his research and his health. Laughlin resisted at first, but he agreed when the Carnegie Institution offered him a lifetime pension.

In December, which was to be his final month, Laughlin had a change of heart. He wanted to stay, and he had Senator Robert Reynolds of North Carolina—the leading Nazi sympathizer in Congress—lobby members of the Carnegie board. Bush, however, stood his ground, and Laughlin agreed to leave. On December 31, the Eugenics Record Office was effectively shut down. At Bush's direction, it was renamed the Genetics Record Office, and its budget was slashed.

The *Eugenical News* was also freed from Laughlin's influence. In new editorial hands—and once the United States formally entered the war against Germany—the publication abandoned the Nazi sympathies it had exhibited during the Laughlin era. In June 1943, after recounting German atrocities, it declared: "These almost unbelievable facts bring to our hearts a rush of pity for those victims of sadism, brutality and planned race extinction." The *Eugenical News* was no longer the propaganda organ for Nazi racial policies it once was.

Because American eugenics was effectively over as anything but a fringe cause, Laughlin's career was at an end. His work lived on in limited form: sterilization laws remained on the books, and sterilizations were still being performed. There would be no new legislative victories, however, no federal eugenics agency, and no more cooperative work with Nazi eugenicists. An internal memo prepared to help Carnegie Institution staff answer questions about Laughlin's departure noted tersely that the Eugenics Record Office was no longer in a "position to furnish information regarding genealogy, marriage advice, nor to assist students in preparation of themes on eugenics."

The transition memo also advised that Laughlin's personal mail should be forwarded to his new home: 201 West Normal Avenue, Kirksville, Missouri. In his retirement, Laughlin returned to his early

roots, living quietly in the small town where he had first absorbed his mother's fiery reform spirit—and where, as a college student, he had written a term paper predicting that "eventually the world will be inhabited by an enlightened race, Caucasian in blood, Christian in religion and free in government."

Laughlin no longer concerned himself with germplasm, biological immigration policy, eugenic sterilization, or guarding the nation against refugees fleeing Nazi Germany. He devoted his final days to leisurely, small-town pursuits, including building a new house and gardening. On January 26, 1943—a little more than a year after his country formally declared war on the German regime he admired so much—Laughlin died, at the age of sixty-two.

Holmes was eighty-six years old when he delivered the Supreme Court's decision in *Buck v. Bell*. He no longer had the fire of youth that led him into battle with the Harvard Regiment, or the burning ambition that caused William James to describe him as gouging "a deep self-beneficial groove through life." Holmes was still, however, a man of strong principles and committed to acting on them. After the ruling, he told his friend Harold Laski of the satisfaction he took from the case. "I wrote and delivered a decision upholding the constitutionality of a state law for sterilizing imbeciles the other day," he wrote, "and felt that I was getting near to the first principle of real reform."

Holmes would live nearly another eight years, and remain on the court for almost five. He did not return to eugenic sterilization in his judicial work or legal writings. Holmes's final years on the court were filled with other matters, both great and inconsequential, and the quiet process of winding down a legendary career in the law.

In August 1927 Holmes was asked to enter the controversy over Nicola Sacco and Bartolomeo Vanzetti, the Boston anarchists who had been convicted of murder and sentenced to death. Their supporters contended that they were victims of ethnic and political prejudice.

Sacco and Vanzetti's lawyers showed up at Holmes's summer home asking him to block their clients' execution, but he refused, insisting it was not a matter for the federal courts. Many leading progressives championed the men's innocence, including old friends like Felix Frankfurter, but Holmes was unmoved. Privately, he scorned all the fuss, saying the case had simply given "the reds a chance to howl."

Holmes wrote several major opinions in his final years. When Taft wrote for the majority in *Olmstead v. United States* upholding the conviction of a bootlegger based on phone calls recorded with a warrantless wiretap, Holmes delivered a famous dissent that liberals cheered. "I think it a less evil that some criminals should escape," he said, "than that the Government should play an ignoble part." As he entered his late eighties, Holmes remained devoted to his duties, but he showed signs of decline—falling asleep at work and expressing frustration at his own "muddle-headed" thinking at oral arguments. It was a great blow when Fanny died suddenly in April 1929, after taking a bad fall and breaking a hip.

The following month, Holmes dissented in another important civil liberties case. Rosika Schwimmer, a Hungarian pacifist, was barred from immigrating because she would not take an oath to defend the United States. The majority in *United States v. Schwimmer* upheld the decision, and Holmes wrote a dissent with another of his famous aphorisms: "the principle of free thought" is "not free thought for those who agree with us but freedom for the thought that we hate."

In March 1931 Holmes turned ninety. It was increasingly clear to some of his colleagues that he could no longer adequately perform his duties, and the chief justice approached him in January 1932 and asked him to retire. Holmes did not resist or delay in writing a formal note to the president. He was stepping down with "deep regret," he said, but "the time has come and I bow to the inevitable."

In retirement, Holmes read and greeted visitors—most notably, on his ninety-second birthday, Franklin Roosevelt, who had just been sworn in as president. With his work on the court behind him, Holmes withdrew from the world, even when Felix Frankfurter tried to interest

him in events of the day. "It's all very remote to me," he told his old friend. "I'm dead," he said. "I'm like a ghost on the battlefield with bullets flying through me." Holmes died of pneumonia on March 6, 1935, two days shy of his ninety-fourth birthday. The *New York Times* reported his death on its front page, with a large photograph. The headline hailed Holmes as the Supreme Court's "Chief Liberal," and the obituary did not mention *Buck v. Bell*.

Fifteen years after *Buck v. Bell*, the Supreme Court revisited eugenic sterilization. In *Skinner v. Oklahoma*, the court considered a challenge to Oklahoma's Habitual Criminal Sterilization Act, which provided for sterilization of people convicted of at least two felonies involving moral turpitude. A prisoner facing sterilization claimed, among other things, that the law was not within Oklahoma's police power "in view of the state of scientific authorities respecting inheritability of criminal traits."

The case arrived at the Supreme Court in 1942, at a time when at least some of the horrors occurring in Germany were known, and when the nation was fighting a world war to defeat Nazism. The inmate's claim gave the court a chance to overrule *Buck v. Bell* and declare that the American Constitution did not allow the state to engage in this sort of bodily mutilation, or to deprive people of the right to have children for committing two nonviolent crimes. The Supreme Court, however, declined to issue a sweeping ruling.

The court struck down Oklahoma's sterilization statute on narrow grounds. William O. Douglas, writing for the majority, said the law violated the equal protection clause of the Fourteenth Amendment because it did not draw a proper line between crimes of moral turpitude and other crimes. The court noted that the law included theft but not embezzlement, so a stranger who stole \$20 from a store would be guilty of a crime of moral turpitude, but a clerk who worked at the same store and embezzled \$20 would not. These "conspicuously artificial lines" violated equal protection, the court said. The seven justices who signed

only the majority opinion raised no larger objections to the sterilization itself.

Neither did the two justices who wrote separate concurring opinions. Chief Justice Harlan Fiske Stone argued that the law violated due process because the inmate being sterilized was not given a proper hearing. Robert H. Jackson thought the law violated both equal protection and due process. Jackson, who would soon take a leave from the court to prosecute Nazis at the Nuremberg trials, came the closest to challenging the state's right to engage in eugenic sterilization. He stated that there were "limits to the extent to which a legislatively represented majority may conduct biological experiments at the expense of the dignity and personality and natural powers of a minority." Rather than think about what those limits might be, however, Jackson said he would "reserve judgment."

The decision in *Skinner v. Oklahoma* was not intended to overturn or even limit *Buck v. Bell*. Douglas, the author of the majority opinion, confirmed the limited nature of the ruling in an interview decades later. "I thought that this kind of legislation was permissible and constitutional," he said, "but that it had to be surrounded by very careful procedural safeguards lest it be used oppressively or arbitrarily."

In fact, *Buck v. Bell* remains good law, and courts have continued to cite it into the twenty-first century. In 2001 Margaret Vaughn, a young woman who had been labeled mildly mentally retarded, sued Columbia County, Missouri, for trying to force her to be sterilized. In *Vaughn v. Ruoff*, the U.S. Court of Appeals for the Eighth Circuit explained that "involuntary sterilization is not always unconstitutional." The state had to have a good reason for the sterilization, the court said, and there had to be appropriate "procedural protections." As authority for the correctness of its constitutional analysis, the Eighth Circuit cited *Buck v. Bell*.

Neither the Supreme Court's ruling in *Skinner* nor the revelations of eugenic sterilization abuses in Nazi Germany brought an end to sterilization in America. In the post-*Skinner*, post-World War II years, the number of sterilizations rose. In 1944, a year and a half after the

court struck down Oklahoma's sterilization law, there were 1,183 sterilizations nationally, and the number increased over the next two years, to 1,476 in 1946. By 1950 there were 1,526. After *Buck v. Bell* was decided, Virginia carried out eugenic sterilization on a mass scale, and that continued through the 1940s and 1950s. As late as 1958, Virginia state hospitals were still sterilizing more than one hundred inmates a year.

It was only in the 1960s, when popular attitudes toward marginalized groups, including the developmentally disabled, changed, that sterilization began to lose favor. From 1965 to 1979, at least fifteen states repealed laws, and in 1973 Alabama's sterilization statute was ruled unconstitutional. In Virginia, sterilization began to decline, but it took a long time to disappear entirely. In 1974 the legislature repealed the 1924 law, but other statutory provisions allowing for sterilization of people with hereditary mental defects remained on the books until 1979. The colony performed two sterilizations in 1978, and two more in 1979, the last year it had the legal authority to do so. Nationally, Oregon was among the last holdouts. It ordered its final forced sterilization in 1981 and abolished its Board of Eugenics—renamed the Board of Social Protection—in 1983.

By the end of the twentieth century, legal eugenic sterilization had come to an end, but the number of Americans who had been involuntarily sterilized between 1907 and 1983 was staggering: between sixty and seventy thousand. That number included at least 7,450 people in Virginia, which made the state—and, in particular, the Colony for Epileptics and Feeble-Minded—one of the nation's busiest centers for eugenic sterilization. Virginia was not, however, the most active state: that title went to California, which sterilized about twenty thousand people. California's nation-leading numbers were due in large part to a statute that did not give inmates an adequate mechanism for challenging sterilization orders—as well as the willingness of the state's hospitals to sterilize people for a wide array of minor "defects."

The names of most of the sixty to seventy thousand victims are lost to history. Unlike Carrie and Doris, many never even got the grim

satisfaction of being told what their government had done to them. For the subjects, sterilization took a profound personal toll. "I see people with babies and I think how much I would have loved to have a young one," a sixty-two-year-old woman sterilized in North Carolina told a reporter. "It should have been my choice whether I wanted to have a baby or not," she said. "You just feel like you were held back, like you never had any say in your life."

The pendulum has swung strongly against eugenic sterilization, but the question remains: will it swing back? The philosophy of Dr. Priddy and Laughlin lives on, and periodically it comes to the fore. In 2013 the Center for Investigative Reporting discovered that California had been coercing female prisoners to get salpingectomies as recently as 2010. A year later, the first vice chairman of the Arizona Republican Party, a former state senator, was forced to resign after he publicly called for the sterilization of women on public assistance. And in the spring of 2015, the Associated Press reported that Nashville prosecutors were making sterilization part of plea negotiations with female defendants.

If eugenic sterilization becomes a national movement again, it could, like the last time, be driven by advances in genetics. The Human Genome Project, a massive international research effort, is aiming to map every human gene, and it is already providing vast new amounts of data and insights about hereditary traits. Scientists have raised concerns. One study in the *American Journal of Human Genetics* cautioned that "there is a significant risk that there will be an increased sentiment for instituting eugenic measures in the United States." The official website of the federal government's National Human Genome Research Institute notes that the eugenic implications of the Human Genome Project must be "carefully studied."

There have been major advances in recent years in "DNA editing." Scientists have begun to talk of an era of "designer" babies, whose DNA will be edited to remove genes associated with diseases and other

disfavored traits—and perhaps edited to add more desirable traits. This technology could raise an array of eugenics issues, from whether parents should be allowed to modify the embryos of their future children to whether the government should be allowed to require it.

The intellectual origins of eugenics trace back to the Darwinian revolution of nineteenth-century England. In *On the Origin of Species* and *The Descent of Man*, Darwin explained the role competition and natural selection played in the animal world and in human progress. Francis Galton, Darwin's half cousin, fashioned these ideas into a theory that called on society to help human progress along by giving "the more suitable races or strains of blood" a better chance of prevailing.

It was an idea that had strong appeal in America, particularly during the 1920s, when the middle and upper classes felt threatened by mass immigration, urbanization, and other forces that were profoundly disrupting the social order. Like many movements, eugenics attracted different people for different reasons. Progressives saw in it a way for government to use science to reform society. Conservatives saw in it a confirmation of their view that there were inherent differences among people, and that not everyone could be lifted up simply by improving their economic situation or environment.

Eugenics offered Dr. Albert Priddy, as he saw it, a way of achieving his life's mission: improving the mental health of Virginians. Like many doctors nationwide, he believed eugenic sterilization provided an elegant, scientific way of ending feeble-mindedness. He also used it as a tool to elevate his profession of superintendent. Rather than waste time and resources trying to cure patients who showed few signs of improvement, he would use sterilization to turn the colony into a "clearing house" that could drive a major improvement in the state's germplasm—with the goal of eradicating inherited mental defects.

For Harry Laughlin, who was driven by a combination of missionary zeal and deep-seated bigotry, eugenics was a secular religion, and

he was one of its greatest evangelists. Laughlin believed the nation was threatened by defective germplasm, and he saw traces of it everywhere: in the feeble-minded, in Jewish and Italian immigrants, and in many other varieties of "deficient" people, including epileptics—a group to which he himself belonged. Laughlin sought to use sterilization and other eugenic tools to extirpate the "lowest one-tenth" and redeem a fallen nation.

For Aubrey Strode, the dutiful lawyer and moderate reformer, eugenics was not a passion, or even a deeply held belief, but primarily a subject to which to apply his formidable legal skills. At various junctures, he passed on the opportunity to promote a program of eugenic sterilization, slowed down its adoption, and narrowed its scope. Of course, Strode could have refused to have anything to do with eugenic sterilization, or he could have actively opposed it, if he believed it was morally wrong. Instead, in his slow and deliberate way, he secured the biggest legal victory for eugenics in American history.

Eugenics held a special appeal for people at the top of society's hierarchies, like Oliver Wendell Holmes Jr., who were convinced they belonged there. Born into Boston's elite—its Brahmin class, to use his father's term—Holmes believed his elevated status was part of the natural order. As he saw it, people who were not winning the great struggle of life—whether they were gas stokers striking in England, or black people in Alabama trying to vote—deserved to lose. It followed easily on this philosophy that society's weakest members should be prevented from creating more of their own kind.

These were the intellectual currents that Carrie Buck stumbled into when she had the misfortune to be born into a poor family, to be taken in by a heartless foster family, to be raped, and to be falsely labeled feeble-minded. She was committed to the Colony for Epileptics and Feeble-Minded, and attracted the attention of Dr. Priddy, at just the wrong time. Carrie was not allowed to be an actor in her own story—no one had any interest in telling her what was at stake in the historic legal conflict. In the only words she was recorded as saying in the proceedings over her sterilization, Carrie told Strode and the

Amherst County Circuit Court that she would leave her fate "up to my people." Carrie never understood—and no one ever explained to her that there was no one on her side.

In an era when so much of America was caught up in social Darwinism, and channeling ideas about survival of the fittest into a cruel biological ideology, few paused to contemplate what Charles Darwin himself had said on the subject. In *The Descent of Man*, he conceded there might well be practical advantages to abandoning "the weak and helpless." But doing so, he insisted, also brought with it "an overwhelming present evil." We must allow the weak to "surviv[e] and propagat[e] their kind," Darwin insisted. Doing anything less, he said, would mean abandoning not only the weak and the helpless but "the noblest part of our nature."